

ERRATUM

Due to a clerical error by the office of the code reviser, WSR 08-17-097 as published in issue 08-17 did not contain all the documents filed by the agency. The document below reflects the correct version of WSR 08-17-097 as filed by the agency on August 20, 2008.

WSR 08-17-097**PROPOSED RULES****FOREST PRACTICES BOARD**

[Filed August 20, 2008, 8:47 a.m.]

Supplemental Notice to WSR 08-03-009.

Preproposal statement of inquiry was filed as WSR 05-2-097 [05-20-097].

Title of Rule and Other Identifying Information: Achieving desired future conditions in riparian management zones. This rule proposal amends WAC 222-30-021(1) to change timber harvest and leave tree requirements in riparian management zones adjacent to Type S and F Waters as defined in WAC 222-16-030. It pertains to forest lands in western Washington.

Hearing Location(s): Borst Park, Kitchen 1, 902 Johnson Road, Centralia, on Tuesday, December 16, 2008, at 6:00 p.m.; at the Port Townsend Fire Station, 701 Harrison Street, Port Townsend, on Thursday, December 18, 2008, at 6:00 p.m.; at the DNR Region Office, 713 East Bowers, Ellensburg, on Tuesday, January 6, 2009, at 6:00 p.m.; and at the Mount Vernon Fire Department Station 3, 4701 East Division Street, Mt. Vernon, on Thursday, January 8, 2009, at 6:00 p.m.

Date of Intended Adoption: February 11, 2009.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by January 9, 2009.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by December 1, 2008, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 222-30-021 provides prescriptions and options to harvesting trees in forested "riparian management zones" as defined in WAC 222-16-010. Pursuant to RCW 76.09.370, the forest practices board incorporates a scientific-based adaptive management process to determine the effectiveness of forest practices rules in aiding Washington's salmon recovery effort. Under this adaptive management process, a scientific study was completed by the forest practices board's cooperative monitoring, evaluation, and research committee. The study, entitled *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands*, found that basal area per acre of mature, unmanaged conifer-dominated riparian stands are greater than the values used in the current rule.

In response to the DFC study findings, the board is considering three alternative rule amendments to WAC 222-30-021(1). The intended effects of all of the alternatives are to increase the basal area retained in riparian management zones thereby decreasing allowable harvests.

- The first alternative would increase the target basal area per acre to three 325 square feet for all site classes that a riparian forest stand is projected to reach at one hundred forty years from the year of harvest in the riparian management zone.
- The second alternative would increase the target basal area per acre the same as the first alternative, and would also:
 - allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target; and
 - expand the table, "Option 2. Leaving trees closest to water," to include site classes IV and V on streams greater than ten feet in width.
- The third would increase the target basal area per acre the same as the first alternative, and will allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target.

Reasons Supporting Proposal: The proposed rule changes are based on recommendations resulting from the scientifically-based adaptive management process outlined in WAC 222-12-045. Through this process, the board has determined that the forest practices rules should be adjusted to ensure that appropriate riparian buffers are maintained on forest land covered by the Forest Practices Act.

Statutory Authority for Adoption: RCW 76.09.040 and 76.09.370(6).

Statute Being Implemented: Not applicable.

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; Implementation: Gary Graves, 1111 Washington Street S.E., Olympia, (360) 902-1483; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

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

Small Business Economic Impact Statement

See WSR 08-13-087.

A copy of the statement may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

Note: The small business economic impact statement and the preliminary cost-benefit analysis are combined in the

document, *Preliminary Economic Analysis, Forest Practices Rule Making, Affecting Timber Harvest in Riparian Zones in Western Washington*.

August 19, 2008
Victoria Christiansen
Chair

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See ~~((the))~~ board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	((285)) 325 sq. ft.
II	((275)) 325 sq. ft.

Site Class	Desired future condition target basal area per acre (at 140 years)
III	((258)) 325 sq. ft.
IV	((224)) 325 sq. ft.
V	((190)) 325 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet upstream and 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet upstream and 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);
- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.
- Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:

◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

- Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than 20 inches dbh shall not be harvested;
- Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and
- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and
- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in

WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.
- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;
- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason.

- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.

- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance (measured from outer edge of core zone)		minimum floor distance (measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area

(above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive fea-

ture and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).
- (VI) ~~((Archeological))~~ Archaeological or historical sites registered with the Washington state ~~((office))~~ department of ~~((archeology))~~ archaeology and historic preservation. See WAC 222-16-050 (1)(g); or
- (VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

- (I) Offsets will be measured on a basal area-for-basal area basis.
- (II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.
- (III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.
- (IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bank-full width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the

percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the dis-

turbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See ~~((the))~~ board manual section 7 for riparian design and layout guidelines.

***1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See ~~((tables for))~~ management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the ~~((inner zone))~~ RMZ rules. See ~~((the))~~ board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed ~~((in))~~ within the fifty-foot core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management options as described in this section. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions of three hundred twenty-five square feet per acre for all site classes at age one hundred forty. The growth modeling program provided by the department must be used to calculate whether a particular stand meets the stand requirement and is on a trajectory towards the desired future condition basal area target. ~~((The~~

~~following table defines basal area targets when the stand is 140 years old.~~

Site Class	Desired future condition target basal area per acre (at 140 years)
I	285 sq. ft.
II	275 sq. ft.
III	258 sq. ft.
IV	224 sq. ft.
V	190 sq. ft.

~~Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.)~~

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the ~~((combined core and))~~ inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than ~~((57))~~ fifty-seven conifer trees per acre ~~((8))~~ eight inches or larger dbh in the conversion area;
- There are fewer than ~~((100))~~ one hundred conifer trees per acre larger than ~~((4))~~ four inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns ~~((500))~~ five hundred feet upstream and ~~((500))~~ five hundred feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a ~~((75))~~ seventy-five-foot buffer with trees at least ~~((40))~~ forty feet tall on both sides of the stream for ~~((500))~~ five hundred feet upstream and ~~((500))~~ five hundred feet downstream of the proposed harvest unit (or the length of the stream, if less);
- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than ~~((500))~~ five hundred feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

- Type S and F (Type 1, 2, or 3) Water: Up to ~~((50%))~~ fifty percent of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

- ◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a ~~((75))~~ seventy-five-foot buffer of trees at least ~~((40))~~ forty feet tall or:

- ◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a ~~((75))~~ seventy-five-foot buffer of trees at least ~~((40))~~ forty feet tall.

- Not more than ~~((25%))~~ twenty-five percent of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than ~~((20))~~ twenty inches dbh shall not be harvested;

- Not more than ~~((10%))~~ ten percent of the conifer stems greater than ~~((8))~~ eight inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than ~~((8))~~ eight inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of ~~((150))~~ one hundred fifty conifer trees greater than ~~((8))~~ eight inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	Total RMZ width	((Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)))	Combined core and inner zone width (measured from outer edge of ((core zone)) bankfull width or outer edge of CMZ)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	((50'))	((83')) <u>133'</u>
II	170'	((50'))	((63')) <u>113'</u>	((78')) <u>128'</u>	57'	42'
III	140'	((50'))	((43')) <u>93'</u>	((55')) <u>105'</u>	47'	35'
IV	110'	((50'))	((23')) <u>73'</u>	((33')) <u>83'</u>	37'	27'
V	90'	((50'))	((10')) <u>60'</u>	((18')) <u>68'</u>	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way

as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.

- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of ((75)) seventy-five feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed ((57)) fifty-seven.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) Option 2. Leaving trees closest to the water. ((Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:))

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;
- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;
- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason.
- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.
- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area for basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.)) The objective of this option is to retain an RMZ width that will maintain current riparian functions. The stand must provide sufficient residual conifer trees in the combined core and inner zones to reach the target basal area of three hundred twenty-five square feet per acre at age one hundred forty.

Inner zone harvest may occur under option 2 if the projected future basal area within the combined width of the core

and inner zones exceeds the target basal area. The combined core and inner zone width must be determined using the leaving trees closest to the water table below; the future basal area must then be calculated using the growth model program provided by the department. The model will produce a minimum inner zone floor width. (The minimum floor width extends outward from the outer edge of the fifty-foot core zone.)

Harvest is permitted under option 2 in the following order:

- If the projected basal area within the combined core and inner zones exceeds the target basal area, an even-age harvest may occur starting at the outermost portion of the inner zone and progressing to the inner zone floor edge.
- In any portion of the inner zone where an even-age harvest method occurs, at least twenty conifer trees per acre with a minimum dbh of twelve inches must be retained. The basal area of these trees will be counted towards meeting applicable stand requirements.
- If the projected basal area within the combined core and inner zones still exceeds the target basal area, the conifer trees otherwise required to be left in the outer zone may be harvested on a basal-area-for-basal-area basis; however, only a maximum of ten conifer trees per acre may be harvested in the outer zone. (Tree counts, minimum size and placement of outer zone trees are specified below in (c) of this subsection.)

Option 2. Leaving trees closest to water.

Site class	Total RMZ width	((Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)))	Combined core and inner zone width (measured from outer edge of bankfull width or outer edge of CMZ)				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
			Core and inner zone width ((measured from outer edge of core zone))	minimum floor ((distance)) width (measured from outer edge of core zone)	Core and inner zone width ((measured from outer edge of core zone))	minimum floor ((distance)) width (measured from outer edge of core zone))		
I	200'	((50'))	((84') 134'	((30') 80'	((84') 134'	((50') 100'	66'	66'
II	170'	((50'))	((64') 114'	((30') 80'	((70') 120'	((50') 100'	56'	50'
III	140'	((50'))	((44') 94'	((30') 80'	((**)) 105'	((**)) 80'	46'	((**)) 35'
IV	110'		74'		83'	80'	36'	27'
V	90'		61'		68'		29'	22'

((**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.))

(ii) Where the basal area components of the stand requirement cannot be met within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than ((10)) ten trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone.

Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) Outer zones. Timber harvest in the outer zone must leave ((20)) twenty riparian leave trees per acre after harvest. "Outer zone riparian leave trees" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The ((20)) twenty riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) Dispersal strategy. Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of ((12)) twelve inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of ((12")) twelve inches dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) Clumping strategy. Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be ~~((8))~~ eight inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).

(VI) ~~((Archaeological))~~ Archaeological or historical sites registered with the Washington state ~~((office))~~ department of ~~((archaeology))~~ archaeology and historic preservation. See WAC 222-16-050 (1)(g); or

(VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of ~~((12))~~ twelve inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in ~~((the))~~ board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of ~~((40))~~ ten trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

- (I) Offsets will be measured on a basal area-for-basal area basis.
- (II) Conifer in a CMZ equal to or greater than ~~((6"))~~ six inches dbh will offset conifer in the outer zone at a one-to-one ratio.
- (III) Hardwood in a CMZ equal to or greater than ~~((10"))~~ ten inches dbh will offset hardwood in the outer zone at a one-to-one ratio.
- (IV) Hardwood in a CMZ equal to or greater than ~~((10"))~~ ten inches dbh will offset conifer in the outer zone at a three-to-one ratio.

*** (2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a ~~((30))~~ thirty-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than ~~((10%))~~ ten percent of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A ~~((50))~~ fifty-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within ~~((50))~~ fifty feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within ~~((50))~~ fifty feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a ~~((56))~~ fifty-six-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a ~~((56))~~ fifty-six-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least ~~((50%))~~ fifty percent of a Type Np Waters' length must be protected by buffers on both sides of the stream ~~((2))~~ two-sided buffers). Buffered segments must be

a minimum of ~~((100))~~ one hundred feet in length. If an operating area is located more than ~~((500))~~ five hundred feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than ~~((1,000))~~ one thousand feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than ~~((20%))~~ twenty percent in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

- (i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.
- (ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would

result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following

table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	((285)) 325 sq. ft.
II	((275)) 325 sq. ft.
III	((258)) 325 sq. ft.
IV	((224)) 325 sq. ft.
V	((190)) 325 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet upstream and 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet upstream and 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);
- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two con-

version areas is at least half the length of the larger of the two conversion areas.

• Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:

◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

• Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than 20 inches dbh shall not be harvested;
- Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

• The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

• Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

• Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

• Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand

requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner

chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.
- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;

• Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where even-age harvest occurs. These riparian leave trees will ~~((not))~~ be counted ~~((or considered))~~ towards meeting applicable stand requirements ~~((or can))~~. The number of riparian leave trees cannot be reduced below 20 for any reason.

- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.
- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the

surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance		minimum floor distance		
			(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activi-

ties. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present,

riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).
- (VI) ~~((Archeological))~~ Archaeological or historical sites registered with the Washington state ~~((office))~~ department of ((archeology)) archaeology and historic preservation. See WAC 222-16-050 (1)(g); or
- (VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

- (A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.
- (B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:
 - (I) Offsets will be measured on a basal area-for-basal area basis.
 - (II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.
 - (III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most

extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

**WSR 08-21-002
PROPOSED RULES
PIERCE COLLEGE**

[Filed October 2, 2008, 12:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-17-093.

Title of Rule and Other Identifying Information: Student rights and responsibilities/student code of conduct.

Hearing Location(s): Pierce College, Fort Steilacoom Board Room (325-H), 9401 Farwest Drive S.W., Lakewood, WA 98498, on November 26, 2008, at 12 noon.

Date of Intended Adoption: December 23, 2008.

Submit Written Comments to: Marie Harris, Executive Assistant to the Chancellor, 1601 39th Avenue S.E., Puyallup, WA 98374, e-mail mharris@pierce.ctc.edu, fax (253) 864-3123, by December 3, 2008.

Assistance for Persons with Disabilities: Contact Susan McPhee by November 12, 2008, TTY (253) 964-6228 or (253) 964-6525.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Address current social and technological issues related to student rights, responsibilities and conduct of students at Pierce College.

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

Statute Being Implemented: RCW 28B.50.140(13).

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

Name of Proponent: Pierce College, public.

Name of Agency Personnel Responsible for Drafting: Nancy Houck, Director of Student Success, Pierce College (FS), (253) 964-6581; Implementation: Nancy Houck and Mari Kruger, Pierce College District, (253) 964-6581; and Enforcement: Vice Presidents of Learning and Student Success, Pierce College District, (253) 964-6584.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose any costs for the institution [institution].

A cost-benefit analysis is not required under RCW 34.05.328.

October 3 [2], 2008
Michele L. Johnson
Chancellor

Chapter 132K-126 WAC

STUDENT RIGHTS AND RESPONSIBILITIES AND STUDENT CODE OF CONDUCT

INTRODUCTION

NEW SECTION

WAC 132K-126-010 Title. This chapter shall be known as the Student Code of Community College District No. 11.

NEW SECTION

WAC 132K-126-020 Preamble. Pierce College is a two-year public institution of higher education and is committed to providing a quality, comprehensive student-centered education, committed to lifelong learning, diversity, and educational opportunities to the communities we serve.

Students are encouraged through free inquiry and free expression to develop their capacity for critical judgment and to engage in a sustained and independent search for knowledge. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility.

The student is in the unique position of being a member of the community at large, having the rights and responsibilities of any citizen, and of being a member of the college community. Admission to Pierce College carries with it the expectation that students shall conduct themselves as responsible members of the Pierce College community; that they shall observe the standards of conduct, respect the rights, privileges and property of other members of the academic community, shall maintain a high standard of integrity and honesty; and shall not interfere with legitimate college business appropriate to the pursuit of academic goals.

The student's success is dependent on the district fostering a positive district-wide climate that supports learning, communication, recognition and collaboration among a diverse faculty, staff and student body.

As an agency of the state of Washington, Pierce College must respect and adhere to all laws established by local, state and federal authorities. Pierce College also has developed a set of rules and regulations to ensure the orderly conduct of the affairs of the district. These rules and regulations, if violated, may result in student discipline in accordance with the procedures established in the student code of conduct.

NEW SECTION

WAC 132K-126-030 Procedural standards in disciplinary proceedings. (1) In assisting students to develop responsible behavior, the student code of conduct has been

developed to play a complementary role to counseling, guidance, and other forms of student development action. Pierce College has a duty and the corollary disciplinary powers to protect its educational endeavors through the setting of standards of scholarship and conduct for its students and through the regulations of the use of its facilities.

(2) If any of these rules or regulations are broken, discipline shall be administered so as to guarantee procedural fairness to an accused student. The regular disciplinary procedures, rules of conduct, including the student's right to appeal a decision shall be clearly formulated and communicated. Disciplinary procedures may vary in formality with the gravity of the offense and the sanctions that may be applied. Some student code of conduct violations may be adjudicated informally under prescribed procedures.

(3) Pierce College shall adhere to procedural fairness by requiring that in all situations the student receive, in advance, the nature of the charges against him or her, an opportunity for a hearing including the right to hear evidence against them and question adverse witnesses (counsel may not question witnesses), and substantial evidence to support the determination.

DEFINITIONS

NEW SECTION

WAC 132K-126-040 Definitions. As used in this chapter, the following words and phrases shall be defined as follows:

(1) **Academic dishonesty** means plagiarism, misrepresentation of self or student work product or representation of work of others as your own, or other acts of academic dishonesty.

(2) **Alcoholic beverages** means beer, wine or hard liquor as defined in RCW 66.04.010(15) as now law or hereafter amended.

(3) **Arbitrary and capricious** refers to willful or unreasonable action, taken without consideration of, or in disregard of, fact or circumstances of a particular case. Where there is room for two reasonable opinions, an action shall not be deemed to be arbitrary or capricious when taken honestly and upon due considerations, however much it may be believed that an erroneous conclusion has been reached.

(4) **Assembly** means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information.

(5) **ASPCFS** means the associated students of Pierce College - Fort Steilacoom as defined in the constitution of that body.

(6) **ASPCP** means the associated students of Pierce College - Puyallup as defined in the constitution of that body.

(7) **Board** means the board of trustees of Community College District No. 11, state of Washington.

(8) **Chancellor** means the duly appointed chief executive officer of the district, holding all express or implied authority to carry out the administration and operation of Community College District No. 11.

(9) **Cheating** includes, but is not limited to:

(a) Use of any unauthorized assistance in taking quizzes, tests, or examinations; writing papers, preparing reports, solving problems, or carrying out other assignments; or

(b) The acquisition, without permission, of tests or other academic material belonging to a member of Pierce College faculty or staff;

(c) Allowing one person to represent another person as the enrolled student in any course;

(d) Representing oneself as another person in any course.

(10) **College** includes all land, buildings, facilities, and other property in the possession of, or owned, rented, leased, operated, used on behalf of, or controlled by the college.

(11) **College disciplinary committees** means the judicial bodies provided in this chapter.

(12) **College facilities and infrastructure** means and includes any and all personal property, real property, or electronic networked systems owned, rented, leased, or operated by or used on behalf of the college or associated students and the board of trustees of Community College District No. 11.

(13) **College official** includes any person employed by Pierce College District No. 11 performing assigned administrative or professional responsibilities.

(14) **Controlled substance** includes any illegal drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(15) **Disciplinary sanction** means that action taken as a consequence to any violation of the student code of conduct as provided in this chapter.

(16) **Faculty** means any person hired by Pierce College to conduct one or a combination of instruction, counseling, or library services.

(17) **Hate crimes** shall mean a criminal offense committed against a person or property, which is motivated, in whole or in part, by the offender's bias against the victim's actual or perceived race, ethnicity, religion, sexual orientation, disability or gender.

(18) **Hazing** means 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 any institution of higher education or post secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(19) **Judicial advisor** means a Pierce College official authorized by the vice-president of learning and student success to investigate complaints of alleged conduct violations, determine validity of the complaint, and impose disciplinary sanctions.

(20) **Judicial body** means the Pierce College disciplinary review committee which is authorized to adjudicate the formal hearing of appeals to disciplinary action imposed by the judicial advisor and determine whether a student has violated the student code of conduct and to recommend imposition of sanctions.

(21) **May** is used in the permissive sense.

(22) **Member of Pierce College community** includes any person who is a student, faculty member, staff member,

Pierce College official, trustee, guest on a college owned or controlled facility or any other person employed by Pierce College. A person's status in a particular situation shall be determined by the vice-president of learning and student success or vice-president of human resources.

(23) **Organization** means any number of persons who have complied with the formal requirements for college or student government recognition of clubs or organizations.

(24) **Plagiarism** includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment of the source, to include print or electronic means, using recognized and acceptable citation. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(25) **Policy** is defined as the official, written regulations of Pierce College as found in, but not limited to, the student code of conduct, the *Student Handbook*, class schedules/bulletins, college catalogs, or the Pierce College web site.

(26) **President** means the duly appointed chief executive officer of Pierce College - Fort Steilacoom and Pierce College - Puyallup.

(27) **Rules and regulations of conduct** means those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary sanction.

(28) **Shall** is used in the imperative sense.

(29) **Student** includes all persons enrolled in courses offered by Pierce College, both full time and part time. Persons who are not officially enrolled for a particular term, but who have a continuing academic relationship with Pierce College are considered "students."

(30) **Trespass** means the definition of trespass as contained in chapter 9A.52 RCW as now law or hereafter amended.

(31) **Vice-president of learning and student success** means the administrator responsible for instruction and student services and designated by the college president to be responsible for the administration of this chapter.

JURISDICTION

NEW SECTION

WAC 132K-126-050 Jurisdiction of the college. (1) Scope. The code shall apply to every student whenever the student is present upon or in any college premises, and whenever the student is present at or engaged in any college sponsored offering, event or activity held in noncollege facilities, to include distance learning options. It shall also apply to students who are engaged in official college training and/or activities including places of training internships, cooperative education, practicums or supervised work experiences, trips, conferences, and retreats.

(2) Remedies not exclusive. The remedies provided for in this code are not exclusive. Seeking or obtaining any remedies under this code is not intended to bar the college, the complainant, or any other person or entity from seeking or obtaining such other remedies as may be available under

other college policies, or in any other forum under applicable civil or criminal law.

STUDENT RIGHTS

NEW SECTION

WAC 132K-126-060 Student rights. The college endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college.

NEW SECTION

WAC 132K-126-070 Freedom of access to higher education. Pierce College is an open-door institution that, within the limits of its facilities and subject to the prevailing admissions policy, is open to all students. The facilities and services of the college are open to all of its enrolled students. Provisions allow that the vice-president of learning and student success may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to a member of the campus community.

NEW SECTION

WAC 132K-126-080 Academic freedom. (1) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

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

(3) Students shall be protected against prejudice or arbitrary and capricious academic evaluation. At the same time, they are responsible for maintaining the standards of academic performance established by each of their instructors.

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

(5) Students are protected against improper disclosure of information about their views, beliefs, and political associations that instructors acquire in the course of their work as instructors, advisers, and counselors. Such information is considered confidential. Students have the right to privacy of all student records according to the Family Education Rights and Privacy Act of 1974.

NEW SECTION

WAC 132K-126-090 Freedom of expression. Students and student organizations are free to examine and to discuss all questions of interest to them, and to express opinions publicly and privately. They are free to support causes by orderly

means that do not disrupt the regular and essential operation of the institution. It should be made clear to the campus community and the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

NEW SECTION

WAC 132K-126-100 Freedom of assembly. The college reserves the right to prescribe time, place, and manner restrictions on assembly and protests. Identified forums and locations shall be considered to be consistent with public/private forum practice.

(1) Students shall have the right of "assembly" as defined in WAC 132K-126-040 upon college facilities that are generally available to the public provided that such assembly shall:

(a) Be conducted in an orderly manner;

(b) Not unreasonably interfere with vehicular or pedestrian traffic;

(c) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with educational and administrative functions of the college;

(d) Not unreasonably interfere with the regular activities of the college; and

(e) Not cause damage or destruction to college property or private property on college facilities.

(2) A student or student organization that conducts or participates in an assembly violation of any provision of this code shall be subject to disciplinary action.

(3) Nonstudents who participate in or aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college.

(4) Assemblies which violate these rules may be ordered to disperse by the college in accordance with Washington state statutes.

NEW SECTION

WAC 132K-126-110 Freedom of association. (1) Students are free to organize and join associations to promote any legal purpose, whether it is religious, cultural, political, educational, recreational, or social. Student organizations must be granted a charter by the ASPCP or ASPCFS before they may be officially recognized. Procedures for becoming chartered are located in the student programs office.

(2) Campus organizations, including those affiliated with an intramural or extramural organization, are open to all students. Affiliation with an intramural or extramural organization does not itself disqualify a student organization from institutional recognition provided that other conditions for charter issuance have been met.

NEW SECTION

WAC 132K-126-120 Distribution and posting. Students may distribute or post material subject to official procedures printed and available in the office of student programs. The college may restrict distribution of any publications, where such distribution unreasonably interferes with college

operations. Any person desiring to distribute such publications shall first register with the respective office of student programs so that reasonable areas and times can be assured and the activities of the institution shall not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization and individual.

NEW SECTION

WAC 132K-126-130 Off-campus speaker policy. (1) Student organizations officially recognized by the college shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and in compliance with college procedures available in the respective office of student programs. Speakers are subject to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on college facilities does not represent an endorsement, either implicitly or explicitly, or views or opinions of the speaker by the college, its students, its faculty, its college personnel, its administration, or its board.

NEW SECTION

WAC 132K-126-140 Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction, provided college facilities are not explicitly used for this purpose.

NEW SECTION

WAC 132K-126-150 Commercial activities. (1) College facilities shall not be used for commercial solicitation, advertising, or promotional activities except when such activities clearly serve Community College District No. 11 educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or the request of a college department or the office of student programs of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials as regulated in WAC 132K-126-120.

(3) Credit card companies and associated products shall be prohibited from campus.

NEW SECTION

WAC 132K-126-160 Student participation in college governance. As members of the college community, students shall be free, individually and collectively, to express their views on college policy, and on matters of general interest to the student body. The associated students' constitutions and the college's administrative procedures provide clearly

defined means to participate in the formulation and application of institutional policy affecting academic and student affairs.

NEW SECTION

WAC 132K-126-170 Due process. Students have the right to due process. No disciplinary action shall be imposed without notice to the accused of the nature of the charges. Notice may be given by a judicial advisor verbally and in writing within ten days of a charge being submitted against a student to include the alleged violations of the code and the opportunity for advanced inspection of any affidavits or exhibits the college intends to submit at the hearing. A student accused of violating the code of conduct is entitled to procedural due process as set forth in this chapter.

STUDENT RESPONSIBILITIES

NEW SECTION

WAC 132K-126-180 Student responsibilities. Students who choose to attend Pierce College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their educational goals. In return, the college has the expectation that each student shall assume responsibility for the following:

- (1) Become knowledgeable of and adhere to policies, practices, procedures and rules of the college and its departments;
- (2) Practice personal and academic integrity;
- (3) Respect the dignity, rights and property of all persons;
- (4) Strive to learn from differences in people, ideas and opinions;
- (5) Participate actively in the learning process, in and out of the classroom;
- (6) Refrain from and discourage behaviors which undermine the respect all Pierce College community members deserve;
- (7) Abide by the standards set forth in the student rights and responsibilities/code of conduct policy.

STUDENT CODE OF CONDUCT

NEW SECTION

WAC 132K-126-190 Rules and regulations. Any student found to have committed, aided, or abetted others to commit any of the following violations is subject to the disciplinary actions outlined in this chapter:

- (1) **Acts of dishonesty**, including, but not limited to, the following:
 - (a) Cheating, plagiarism, or other forms of academic dishonesty;
 - (b) Furnishing false information to any Pierce College official, faculty member, staff department;
 - (c) Forgery, alteration, or misuse of a Pierce College document, record, fund or instrument of identification;

(d) Tampering with the election of any Pierce College recognized student organization;

(e) Assuming the identity of another student;

(f) Allowing another student to assume your identity.

(2) **Assault, reckless endangerment, intimidation, physical abuse, harassment, coercion and/or other conduct which threatens or endangers the health and safety of any person.**

(3) **Disorderly, lewd, indecent, or other behavior** which breaches the peace, interferes with the rights of others or which obstructs or disrupts teaching, research, administrative functions, or other college-authorized activities and otherwise interferes with the learning environment.

(4) **Failure to follow the reasonable instructions** of faculty members, staff member, Pierce College official thereby infringing upon the rights and privileges of other members of the college community.

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

(6) **Engaging in hate incidents and/or hate crimes** to include conduct, speech, other expressions and actions motivated by bias against a victim based on his or her actual or perceived race, ethnicity, national origin, religion, gender, age, sexual orientation or disability. Examples of behaviors that may constitute a hate incident or crime include, but are not limited to:

(a) Threatening phone calls or text messages;

(b) Hate mail to include all forms of electronic messages;

(c) Physical assault;

(d) Threats of harm or violence;

(e) Arson;

(f) Vandalism;

(g) Cross burning;

(h) Bombing and bomb threats.

(7) **Attempted or actual theft** of, and/or damage to property of the college or property of a member of the college community or other personal or public property.

(8) **Possession or unauthorized use of college equipment** and supplies including, but not limited to, converting college equipment or supplies for personal gain or use without proper authority.

(9) **Intentionally gaining access, without authorization, to a computer system** or electronic data owned or used by the Washington state Community College District No. 11 shall be subject both to disciplinary action pursuant to this chapter and to criminal prosecution pursuant to RCW 9A.52.110 through 9A.52.130, and any or all other statutory laws or regulations pertaining thereto.

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

(11) **Smoking in college vehicles or on college premises** outside of designated smoking areas.

(12) **Use, possession or distribution or being under the influence of alcoholic beverages**, except as expressly permitted by law and college regulations.

(13) **Use, possession, distribution, or being demonstrably under the influence of narcotics** or other controlled substances, except as expressly permitted by law.

(14) **Possession or use (to include exhibiting, displaying or drawing any weapon) of firearms, explosives, other weapons or dangerous chemicals or any other device or substance which can be used to inflict bodily harm on college premises or at college-sponsored or supervised activities, except for authorized college purposes or for law enforcement officers.**

(15) **Failure to comply with the directions of Pierce College officials** or law enforcement officers acting in performance of their duties, and/or failure to identify oneself to these persons when requested to do so.

(16) **Refusal to provide positive identification** (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of that employee's duties.

(17) **Participating in a campus demonstration** or other activity which disrupts the normal operations of the college and infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus or at college-sponsored activities.

(18) **Intentionally and repeatedly following another person** to that person's home, school, place of employment, business, or any other location, or following the person while in transit between locations may be subject to disciplinary action if the person being followed is intimidated, harassed, or placed in fear that the stalker intends to injure the person or property of the person being followed, or another person. The feeling of fear, intimidation, or harassment must be one that a reasonable person in the same situation would experience under all the circumstances. RCW 9A.46.110 and 10.14.020 shall be guidance for this regulation.

(19) **Any act of misconduct, which substantially disrupts any college function** or renders it difficult or impossible to continue such a function in an orderly manner.

(20) **Abuse of the judicial system**, including, but not limited to:

(a) Failure to obey the summons of a judicial advisor or body or Pierce College official.

(b) Falsification, distortion, or misrepresentation of information before a judicial advisor or body.

(c) Disruption or interference with the orderly conduct of a judicial proceeding.

(d) Knowingly initiating a judicial proceeding without cause (i.e., filing a false report).

(e) Attempting to discourage an individual's proper participation in, or use of, the judicial system or to encourage sharing of false testimony or information.

(f) Attempting to improperly influence the impartiality of a member of a judicial body prior to and/or during the course of the judicial proceeding.

(g) Harassment (verbal or physical) and/or intimidation of a member of the judicial advisor or judicial body prior to, during, and/or after a judicial proceeding.

(h) Failure to comply with the sanction(s) imposed under the code of conduct.

(i) Influencing or attempting to influence another person to abuse the judicial system.

(21) Violation of:

(a) Pierce College policies, rules or regulations; and/or

(b) Federal, state or local law on Pierce College facilities at Pierce College sponsored or supervised activities.

NEW SECTION

WAC 132K-126-200 Trespass. (1) The vice-president of learning and student success or his/her designee is authorized in the instance of any event deemed to be disruptive of order or deemed to impede the movement of persons or vehicles or which the vice-president of learning and student success deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities. The vice-president of learning and student success or such other person designated by the vice-president of learning and student success, shall have the authority and power to:

(a) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of college property or of a college facility; or

(b) To give notice against trespass by any manner provided by law, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from, entering onto or remaining upon all or any portion of college property or a college facility; or

(c) To order any person, persons, or group of persons to leave or vacate all of any portion of college property or of a college facility.

(2) Any individual who shall disobey a lawful order given by the vice-president of learning and student success, or his or her designee, shall be subject to disciplinary action and/or charges of criminal trespass

NEW SECTION

WAC 132K-126-210 Hazing policy. (1) Hazing is prohibited.

(2) Penalties.

(a) Any organization, association or student living group that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing; and

(ii) Be denied recognition by Pierce College as an official organization, association, or student living group on this campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) A person who participates or conspires to participate in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of not less than one quarter and up to permanent forfeiture.

(c) An act of hazing, in addition to violating this policy, may constitute a violation of the student code of conduct.

WAC 132K-126-190(2) assault, reckless endangerment, etc. These offenses are subject to disciplinary action.

(d) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(3) Sanctions for impermissible conduct not amounting to hazing.

(a) Impermissible conduct associated with initiation into a student organization or living group or any pastime or amusement engaged in, with respect to the organization or living group, shall not be tolerated.

(b) Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

(c) Impermissible conduct not amounting to hazing is subject to any sanction available under the student code of conduct, depending upon the seriousness of the violation.

JUDICIAL AUTHORITY

NEW SECTION

WAC 132K-126-220 Judicial authority. (1) Administration of this chapter is the responsibility of the vice-president of learning and student success.

(2) The college president shall be notified of any disciplinary action in which there is a recommendation that a student be suspended or expelled from the college.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are reasonably necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be as serious as to result in summary suspension from the class, the instructor must report the infraction in writing to the vice-president of learning and student success within twenty-four hours of the infraction and the specific steps taken by the instructor.

(4) The student has the right to appeal any disciplinary action of an instructor to the vice-president of learning and student success in accordance with the procedures set forth in WAC 132K-126-270 through 132K-126-280.

NEW SECTION

WAC 132K-126-230 Violation of law and college discipline. (1) College disciplinary proceedings may be initiated against a student charged with violation of a law that is also a violation of the code of conduct. This would apply if both violations result from the same factual situation, without regard to pending civil litigation in court, or criminal arrest and prosecution. Proceedings under the code of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

(2) When a student is charged by federal, state, or local authorities with a violation of law, the college may advise off-campus authorities of the existence of the code of conduct and of how such matters shall be handled internally within the college community. The college shall cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators.

Individual members of the Pierce College community acting in their personal capacities remain free to interact with government representatives as they deem appropriate.

PROCEEDINGS

NEW SECTION

WAC 132K-126-240 Initiation of disciplinary proceedings. (1) **Complaints.** Any member of the Pierce College community may file charges against any student for misconduct. Complaints shall be submitted as soon as reasonably possible, preferably within five academic days after the occurrence of the incident. Charges shall be prepared in writing and directed to the judicial advisor responsible for the administration of the Pierce College judicial system. Information and location of the judicial advisor is available in the vice-president of learning and student success office.

(2) **Notice to accused student.** When a complaint is filed against a student, the judicial advisor shall, within ten days, serve written notice on the accused student, including a statement of the charges, notice of the opportunity for advance inspection of any affidavits or exhibits the college intends to submit at the hearing, the right to bring council to the hearing to advise them (but not to question witnesses), and the opportunity to present their own version of the facts, by personal statements as well as affidavits and witnesses. The notice shall be sent to the student's last known address shown on college records. Under specific conditions, the judicial advisor may determine it to be beneficial to the college and/or student to meet with a student immediately. In those circumstances, due process procedures shall follow.

(3) **Informal process.** The judicial advisor may, but not be required to, conduct an investigation to determine the merit of the complaint and if it can be disposed of informally by mutual consent of the parties involved. For adverse parties who agree to settle the complaint informally, the judicial advisor shall facilitate communication between the complainant(s) and the accused (respondent(s)). The judicial advisor shall determine the best means of conducting the informal process, the purpose of which is to reach an agreement that is mutually satisfactory to the parties, if possible. Interim sanctions may be imposed at any time during the informal process with good reason (see interim sanction section). If the matter cannot be resolved by mutual consent, a summary determination shall be initiated by the judicial advisor. The complainant and the respondent have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney, but advisors are not permitted to speak or participate directly in any hearing before a judicial body, except as permitted by the hearing chair. If the student chooses to be advised by a licensed attorney in the state of Washington, she/he must notify the judicial advisor at least five working days prior to the meeting or conference.

(4) **Summary proceedings.**

(a) **Disposition.** After considering the evidence in the case and interviewing the respondent in a summary hearing (if the respondent has appeared at the scheduled conference), the judicial advisor may:

(i) Terminate the proceeding exonerating the student(s);

(ii) Dismiss the case after whatever counseling and advice the judicial advisor deems appropriate; or

(iii) Impose any of the sanctions listed in this code. A written statement of the judicial advisor's decision and findings of fact shall be issued within ten days and shall be served on both the respondent and the complainant. The statement shall indicate in that decision the review and appeals process.

(b) **Request for formal hearing.** After the judicial advisor's decision, the respondent and/or the complainant may request a formal hearing to challenge a decision reached, or a sanction imposed by the judicial advisor pursuant to the informal disciplinary hearing. Such requests shall be in writing and shall be delivered to the judicial advisor within ten days after the judicial advisor's decision. A time shall be set for a formal hearing not less than seven days or not more than fifteen calendar days after the request for a formal hearing. Notification shall be given if the hearing shall be conducted by telephone. Notification shall be given that the college shall provide an interpreter if required. Written notices shall be in student's primary language or where to get help in interpreting it. Finally, written notices shall include the following: Names of all parties to whom notice is sent; name and address of office representing the college; name, official title, mailing address, and telephone number of the presiding officer; time, place, and nature of the proceeding; statement of the authority and jurisdiction; reference to the statutes and rules involved; plan statement of the matters asserted by the college; and a statement that a party who fails to attend shall default. If there is good reason and the complainant(s) and the respondent(s) agree, time limits for scheduling a hearing may be extended at the discretion of the judicial advisor.

(5) **Formal hearings.** Formal hearings shall be convened by the judicial advisor and conducted by a judicial body (disciplinary review committee) according to the following guidelines:

(a) Hearing shall be conducted in private. Hearings shall be chaired by the administrative representative of the college disciplinary committees.

(b) The complainant(s) and the respondent(s) shall be expected to attend the formal hearing. Admission of any person to the hearing shall be at the discretion of the committee chair.

(c) In hearings involving more than one accused student, the hearing chair, at his/her discretion, may permit separate hearings for each respondent.

(d) The complainant and the respondent have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney, but advisors are not permitted to speak or participate directly in any hearing before a judicial body, except as permitted by the hearing chair. If the student chooses to be advised by a licensed attorney in the state of Washington, she/he must notify the judicial advisor at least five working days prior to the hearing.

(e) The complainant, the respondent and the college disciplinary committee shall have the right of presenting witnesses and evidence, subject to the right of questioning by the committee, the complainant or the respondent. The hearing chair may limit the scope and number of questions to witnesses.

(f) Pertinent records, exhibits and written statements may be accepted for consideration as evidence prior to, or during, a hearing by the hearing committee at the discretion of the hearing chair.

(g) If at any time during the conduct of a hearing visitors disrupt the proceedings, the committee chair may exclude such persons from the hearing room.

(h) All procedural questions are subject to the final decision of the hearing chair.

(i) After the hearing, the hearing committee shall determine whether the student has violated the code of conduct as charged.

(j) The hearing committee's determination shall be made on the basis of whether it is more likely than not that the respondent violated the code of conduct.

(k) If the hearing committee determines that the student has violated the code of conduct, the body shall determine whether the sanction(s) imposed pursuant to the informal disciplinary conference were appropriate for the violation of the code of conduct that the student was found to have committed.

(l) The hearing committee may reduce or increase the sanctions imposed by the judicial advisor pursuant to the informal disciplinary conference.

(6) The hearing shall be recorded (shorthand, audio, video, stenographer). The record shall be the property of the college and shall be preserved until the decision is final (after the time for appeals has passed).

(7) Any party, at their own expense, may prepare a transcript from the college's record, or cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption.

SANCTIONS

NEW SECTION

WAC 132K-126-250 Sanctions. (1) Appropriate action taken shall be based on the facts of the investigation, and such action shall be consistent with policy and practice. The standard to determine a sanction is based upon a preponderance or clear and convincing determination that a violation occurred. The following sanctions may be imposed by the judicial advisor upon any student, group, or organization found to have violated the code of conduct by the judicial advisor or judicial body at any time during the informal process or formal hearings:

(a) Warning—A notice in writing to the student that the student has violated this code and that further violation may result in additional disciplinary proceedings and sanctions.

(b) Probation—A written reprimand placing conditions upon the student's continued attendance. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be in further violation of the code of conduct. Notice shall be made in writing and shall specify the period of probation and the conditions, such as limiting the student's participating in extracurricular activities.

(c) Loss of privileges—Denial of specified privileges for a designated period of time.

(d) Fines—Fines may be imposed.

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

(f) Discretionary sanctions—Work assignments, service to the college, or other related discretionary assignments.

(g) Deactivation—(Applies to student groups or organization.) Loss of all privileges including college recognition, for a specified period of time.

(h) No contact orders—An order of no contact may be placed on a student, complainant, or any involved parties if determined to be in the best interest of the college and/or student(s).

(i) College suspension—Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.

(j) College expulsion—Permanent separation of the student from the college. There shall be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter shall be refunded.

(2) More than one of the sanctions listed above may be imposed for any single violation.

(3) Disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's confidential record. Upon graduation and application to the judicial advisor, the student's confidential record may be expunged of disciplinary actions **other than** college suspension or expulsion, consistent with the college's schedule of record disposition.

NEW SECTION

WAC 132K-126-260 Interim sanctions. In certain circumstances, the judicial advisor may impose any of the above sanctions pending a hearing before, or decision by the college disciplinary committee. Minimum action shall be taken that is deemed necessary to prevent immediate danger.

(1) Interim sanctions may be imposed only:

(a) To ensure the public health, safety, or welfare of members of the college community or the preservation of college property;

(b) To ensure the student's own physical or emotional safety and well-being; or

(c) If the student poses a threat of disruption to, or interference with, the educational process or other normal operations of the college.

(2) Notice of interim sanctions shall be made in writing and shall state:

(a) The charges against the student, including reference to the provisions of this code that were allegedly violated; findings of facts, conclusions of law, and policy reasons for the decision; and

(b) That the student charged has the right to an informal hearing before the judicial advisor to challenge the interim sanctions.

(3) If such a hearing is requested, it shall be held as soon as practical after the interim sanctions have been imposed. The judicial advisor shall decide whether there is probable cause to believe that continuation of the sanctions is neces-

sary, and/or whether some other disciplinary action is appropriate.

(4) The judicial advisor may continue to enforce the interim sanctions if, following the informal hearing, he or she finds that there is probable cause to believe that interim sanctioning of that student is necessary for the safety of the student, of other students, or persons on college facilities, the educational process of the institution, or to restore order to the campus.

(5) The result of the informal hearing shall be given to the student in writing. Written statements shall include: Findings, conclusions, reasons and basis for material issues of fact, law or discretion, sanction(s), and procedures and time limits for appeal. If sanctions are continued, the written notice shall stipulate the duration of the sanctions and conditions under which they may be terminated.

STUDENT APPEAL

NEW SECTION

WAC 132K-126-270 Appeal. (1) Following a formal hearing, a decision reached by the college disciplinary committee may be appealed by the respondent or complainant to the vice-president for learning and student success within ten school days of the date of the written decision. Such appeals shall be in writing and shall be delivered to the judicial advisor. The notice of appeal is deemed delivered on the date it is postmarked or the date it is hand-delivered to the office of the judicial advisor.

(2) Appeals shall be limited to review of the record of the formal hearing and supporting documents, except as required to explain the basis of new evidence, for any of the following:

(a) To determine whether the formal hearing was conducted fairly in light of the charges and evidence presented and in conformity with the prescribed procedures, giving the complaining party a reasonable opportunity to prepare and present evidence that the student code of conduct was violated, and giving the respondent a reasonable opportunity to prepare and to present a rebuttal to those allegations.

(b) To determine whether the decision reached regarding the respondent was based on substantial evidence; that is, whether the facts in the case were sufficient to establish the fact that a violation of the student code of conduct had occurred.

(c) To determine whether the sanction(s) imposed were appropriate for the violation committed.

(d) To consider new evidence, sufficient to alter a decision or other relevant facts not brought out in the formal hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

(3) The vice-president of learning and student success reviews the entire record. The vice-president of learning and student success must afford each party the opportunity to present written argument. The vice-president of learning and student success may afford each party the opportunity to present oral argument.

(4) The vice-president of learning and student success may, upon review of the case, reduce or increase the sanctions imposed by the college disciplinary committee. The

vice-president of learning and student success shall provide a written finding to each party to include findings, conclusions, reasons and basis for materials of fact, law, law or discretion, sanction, and appeal procedures.

(5) The vice-president's decision shall be final.

NEW SECTION

WAC 132K-126-280 Readmission after dismissal.

Any student dismissed from the college for disciplinary cases may be readmitted only on written petition to the office of the vice-president of learning and student success. Such petitions must indicate how specified conditions have been met and, if the term of the dismissal has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions dismissing students from the college, decisions on such petitions of readmission must be reviewed and approved by the president before readmission is granted.

TECHNICAL PROVISIONS

NEW SECTION

WAC 132K-126-290 Interpretation and revision.

Code interpretation. Any question of interpretation regarding the student code of conduct shall be referred to the vice-president of learning and student success or his or her designee for final determination.

Code revision. The student code of conduct shall be reviewed at least every five years under the direction of the vice-president of learning and student success. Review shall include representation from the respective student government associations, faculty, staff, and Pierce College officials.

NEW SECTION

WAC 132K-126-300 Prior rules. The rules contained within this chapter supersede all former rules relating to student conduct.

NEW SECTION

WAC 132K-126-310 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 132K-126-320 Effective date. WAC 132K-126-010 through 132K-126-310 shall take effect on, and shall apply to all rule-making actions and proceedings begun on or after that date.

Approved by Pierce College Board of Trustees

WSR 08-21-003
PROPOSED RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed October 2, 2008, 12:49 p.m.]

Continuance of WSR 08-17-033.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: SRCAA Regulation I, Article VI, Section 6.01 - Outdoor Burning and SRCAA Regulation I, Article X, Section 10.13 - Outdoor Burning Permit Fees.

Hearing Location(s): Spokane County Public Works Building, Lower Level Hearing Room, 1026 West Broadway, Spokane, WA 99201, on November 6, 2008, at 9:00 a.m.

Date of Intended Adoption: November 6, 2008.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on October 30, 2008, (509) 477-4727.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Spokane Clean Air Board meeting was postponed from October 2, 2008, to November 6, 2008. As such, the public hearing will be postponed until November 6, 2008.

October 2, 2008

Matt Holmquist
Compliance Administrator

WSR 08-21-011
PROPOSED RULES
HORSE RACING COMMISSION

[Filed October 3, 2008, 8:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-17-053.

Title of Rule and Other Identifying Information: WAC 260-24-650 Clocker.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on December 11, 2008, at 9:30 a.m.

Date of Intended Adoption: December 11, 2008.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by December 5, 2008.

Assistance for Persons with Disabilities: Contact Patty Sorby by December 5, 2008, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To provide language that would enable commission clockers (state employees) to enter daily workout records into the Equibase database as long as (1) it is at a Class A racing association; (2) the Class A racing association has been designated as a racing association, in which commission employees will clock horses; and (3) the Class A racing association compensates

the commission the full cost associated with entering the daily workout record information.

Reasons Supporting Proposal: Allows state employees, who are clocking morning workouts to also enter the daily workout record information to a for-profit company without violating the Ethics in Public Service Act, chapter 42.52 RCW.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

October 3, 2008

R. J. Lopez

Deputy Secretary

AMENDATORY SECTION (Amending WSR 08-05-088, filed 2/15/08, effective 3/17/08)

WAC 260-24-650 Clocker. (1) The clocker is responsible for the following duties:

(a) Be present during training hours at each association to record the time and distance of each horse's official workout. (A clocker is not required to be present for any other workouts);

(b) Prepare a daily record of all official workouts, which must include:

(i) The name of each horse;

(ii) The name of the track and training center where the official workout occurred; and

(iii) The time and distance of each horse's official workout;

(c) Deliver the daily record of all official workouts occurring on association grounds to the racing secretary at the end of each day's training.

(2) At those Class A racing associations designated by the commission, a commission clocker may enter into equibase the daily record of all official workouts occurring on association grounds as long as the commission is compensated by the racing association for the full cost associated with entering the daily record information.

(3) The clocker recording official workouts off the association grounds, during the association's scheduled race meet and training dates, will deliver the daily record of all official workouts to the racing secretary within twenty-four hours.

((3)) (4) Approval for a clocker's license will be based on the individual's knowledge of and proficiency in performing clocking activities.

WSR 08-21-030
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed October 7, 2008, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-14-033.

Title of Rule and Other Identifying Information: New rule WAC 308-124C-050 Home inspector referrals (by real estate licensees).

Hearing Location(s): Department of Licensing, 2000th [2000 4th] Avenue West, 2nd Floor Conference Room, Olympia, WA, on November 25, 2008, at 10:00 a.m.

Date of Intended Adoption: November 25, 2008, or after.

Submit Written Comments to: Jerry McDonald, P.O. Box 2445, Olympia, WA 98507-2445, e-mail jmcdonald@dol.wa.gov, fax (360) 570-7051.

Assistance for Persons with Disabilities: Contact Gale Mitchell by November 17, 2008, TTY (360) 664-8885 or (360) 664-6426.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To establish a mandatory procedure that ensures consumer rights when a real estate licensee refers a home inspector.

Reasons Supporting Proposal: Mandated by section 24, chapter 119, Laws of 2008.

Statutory Authority for Adoption: RCW 18.85.040(1) and section 24, chapter 119, Laws of 2008.

Statute Being Implemented: RCW 18.85.035.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry McDonald, 2000 4th Avenue West, Olympia, WA, (360) 664-6524.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is for individual licensees and not small business enterprises.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed change has no financial impact upon the department.

October 7, 2008

Jerry McDonald

Assistant Administrator

NEW SECTION

WAC 308-124C-050 Home inspector referrals. Each licensed designated broker will establish a written office policy that includes a procedure for referring home inspectors to buyers or sellers. The policy will address the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent any collusion between the home inspector and a real estate licensee.

If a licensee refers a home inspector to a buyer or seller that they have or have had a relationship including, but not limited to, a business or familial relationship, then full disclo-

sure of the relations must be provided in writing prior to the buyer or seller using the services of the home inspector.

WSR 08-21-036
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed October 8, 2008, 9:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-04-109.

Title of Rule and Other Identifying Information: The department is amending WAC 388-76-10000 Definitions, 388-76-10230 Pets, 388-76-10235 Guardianship, 388-76-10330 Resident assessment, 388-76-10355 Negotiated care plan, 388-76-10650 Medical devices, 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring, 388-76-10725 Electronic monitoring equipment—Resident requested use, 388-76-10775 Temperature and ventilation, 388-76-10840 Emergency food supply, 388-76-10845 Emergency drinking water supply, 388-76-10870 Resident evacuation capability levels—Identification required, 388-76-10930 Plan of correction (POC)—Required, and 388-76-10995 Notice, hearing rights, and effective dates relating to imposition of remedies.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on November 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 25, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by November 12, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to clarify requirements and make grammatical correction:

- Clarified the definitions of inspection, resident, and vulnerable adult.
- Added definitions for domestic partners and water hazard.
- Clarified pet vaccination requirements.
- Clarified that no one who owns or works in an AFH may be the guardian of an AFH resident.
- Clarified that prospective resident assessments must be accurate and contain information about the prospective resident's current needs and preferences.

- Clarified electronic monitoring requirements.
- Added clarifying language regarding maximum and minimum room temperatures.
- Clarified emergency food and water supply.
- Clarified the required plan of correction process.
- Clarified where to find the address to send an appeal request.

Reasons Supporting Proposal: The impact of the proposed rule is to make the rule clearer, easier to read, understand and apply.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapter 70.128 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Maureen Lally, P.O. Box 45600, Olympia, WA 98513 [98504-5600], (360) 725-3204; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513 [98504-5600], (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined that the amendments result in no more than "minor costs" as defined in RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Maureen Lally, Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3204, fax (360) 438-7903, e-mail lallyma@dshs.wa.gov.

September 30, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10000 Definitions. "Abandonment" means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult:

(1) In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain or mental anguish; and

(2) Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) **"Sexual abuse"** means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a

program authorized under chapter 71A.12 RCW, whether or not consensual.

(b) **"Physical abuse"** means a willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or chemical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

"Adult family home" means:

(1) A residential home in which a person or entity are licensed to provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services; and

(2) For the purposes of this chapter, any person or entity who has been granted a license to operate an adult family home.

"Affiliated with an applicant" means any person listed on the application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse or domestic partner of the applicant.

"Applicant" means an individual, partnership, corporation, or other entity seeking a license to operate an adult family home.

"Capacity" means the maximum number of ~~((persons))~~ residents in need of personal or special care permitted in an adult family home at a given time ~~((and includes related children or adults in the home who receive personal or special care and services))~~.

"Caregiver" for purposes other than training, means any person eighteen years of age or older responsible for providing direct personal or special care to a resident and who is not the provider, entity representative, a student or volunteer.

"Dementia" is defined as a condition documented through the assessment process required by WAC 388-76-10335.

"Department" means the Washington state department of social and health services.

"Department case manager" means the department authorized staff person or designee assigned to negotiate, monitor, and facilitate a care and services plan for residents receiving services paid for by the department.

"Developmental disability" means:

(1) A person who meets the eligibility criteria defined by the division of developmental disabilities under WAC 388-823-0040; or

(2) A person with a severe, chronic disability which is attributable to cerebral palsy or epilepsy, or any other condi-

tion, other than mental illness, found to be closely related to mental retardation which results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and requires treatment or services similar to those required for these persons (i.e., autism); and

(a) The condition was manifested before the person reached age eighteen;

(b) The condition is likely to continue indefinitely; and

(c) The condition results in substantial functional limitations in three or more of the following areas of major life activities:

- (i) Self-care;
- (ii) Understanding and use of language;
- (iii) Learning;
- (iv) Mobility;
- (v) Self-direction; and
- (vi) Capacity for independent living.

"Direct supervision" means oversight by a person who has demonstrated competency in the basic training and specialty training if required, or who has been exempted from the basic training requirements and is:

- (1) On the premises; and
- (2) Quickly and easily available to the caregiver.

"Domestic partners" means two adults who meet the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who have been issued a certificate of state registered domestic partnership.

"Entity provider" means any corporation, partnership, association, or limited liability company that is licensed under this chapter to operate an adult family home.

"Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage.

"Entity representative" means the individual designated by an entity provider who is responsible for the daily operation of the adult family home.

"Home" means adult family home.

"Indirect supervision" means oversight by a person who:

- (1) Has demonstrated competency in the basic training and specialty training if required; or
- (2) Has been exempted from the basic training requirements; and
- (3) Is quickly and easily available to the care giver, but not necessarily on-site.

"Inspection" means ~~((an on-site visit))~~ a review by department personnel to determine the adult family home's compliance with this chapter and chapters 70.128, 70.129, 74.34 RCW, and other applicable rules and regulations. The department's review may include an on-site visit.

"Mandated reporter" means an employee of the department, law enforcement, officer, social worker, professional school personnel, individual provider, an employee of a facility, an employee of a social service, welfare, mental health, adult day health, adult day care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130

RCW. For the purpose of the definition of a mandated reporter, **"Facility"** means a residence licensed or required to be licensed under chapter 18.20 RCW (boarding homes), chapter 18.51 RCW (nursing homes), chapter 70.128 RCW (adult family homes), chapter 72.36 RCW (soldiers' homes), chapter 71A.20 RCW (residential habilitation centers), or any other facility licensed by the department.

"Medical device" as used in this chapter, means any piece of medical equipment used to treat a resident's assessed need.

(1) A medical device is not always a restraint and should not be used as a restraint;

(2) Some medical devices have considerable safety risks associated with use; and

(3) Examples of medical devices with known safety risks when used are transfer poles, Posey or lap belts, and side rails.

"Medication administration" means giving resident medications by a person legally authorized to do so, such as a physician, pharmacist or nurse.

"Medication organizer" is a container with separate compartments for storing oral medications organized in daily doses.

"Mental illness" is defined as an Axis I or II diagnosed mental illness as outlined in volume IV of the Diagnostic and Statistical Manual of Mental Disorders (a copy is available for review through the aging and disability services administration).

"Multiple facility provider" means an individual or entity provider who is licensed to operate more than one adult family home.

"Neglect" means:

(1) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or

(2) An act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.41.100.

"Nurse delegation" means a registered nurse transfers the performance of selected nursing tasks to competent nursing assistants in selected situations. The registered nurse delegating the task retains the responsibility and accountability for the nursing care of the resident.

"Over-the-counter medication" is any medication that can be purchased without a prescriptive order, including but not limited to vitamin, mineral, or herbal preparations.

"Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs and does not include assistance with tasks performed by a licensed health professional.

"Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for dis-

cipline or convenience, and is not required to treat the resident's medical symptoms.

"Practitioner" includes a physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant licensed in the state of Washington.

"Prescribed medication" refers to any medication (legend drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

"Provider" means any person or entity that is licensed under this chapter to operate an adult family home.

"Qualified staff" means a person who:

(1) Is employed, directly or by contract, by an adult family home; and

(2) Meets all of the requirements of a provider, entity representative, resident manager or caregiver.

"Resident" means any adult unrelated to the provider who lives in the adult family home and who is in need of care ~~((and))~~. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker ~~((following))~~ acting under state law ((or at the resident's request)).

"Resident manager" means a person employed or designated by the provider or entity representative to manage the adult family home.

"Significant change" means:

(1) A lasting change, decline or improvement in the resident's baseline physical, mental or psychosocial status;

(2) The change is significant enough so the current assessment and/or negotiated care plan do not reflect the resident's current status; and

(3) A new assessment may be needed when the resident's condition does not return to baseline within a two week period of time.

"Special care" means care beyond personal care services as defined in this section.

"Staff" means any person who:

(1) Is employed, directly or by contract, by an adult family home; and

(2) Provides care and services to any resident.

"Unsupervised" means not in the presence of:

(1) Another employee or volunteer from the same business or organization; or

(2) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the employee, student or volunteer has access during the course of his or her employment or involvement with the business or organization.

"Usable floor space" means resident bedroom floor space exclusive of:

(1) Toilet rooms;

(2) Closets;

(3) Lockers;

(4) Wardrobes;

(5) Vestibules, and

(6) The space required for the door to swing if the bedroom door opens into the resident bedroom.

"Water hazard" means any body of water over twenty-four inches in depth that can be accessed by a resident, and includes but not limited to:

(1) In-ground, above-ground, and on-ground pools;

(2) Hot tubs, spas;

(3) Fixed-in-place wading pools;

(4) Decorative water features;

(5) Ponds; or

(6) Natural bodies of water such as streams, lakes, rivers, and oceans.

"Willful" means the deliberate or nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause a negative outcome, including harm, injury, pain or anguish.

"Vulnerable adult" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself;

(2) Found incapacitated under chapter 11.88 RCW;

(3) Who has a developmental disability as defined under RCW 71A.10.020;

(4) Admitted to any facility;

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; ~~((or))~~

(6) Receiving services from an individual provider; or

(7) With a functional disability who lives in his or her own home, who is directing and supervising a paid personal aide to perform a health care task as authorized by RCW 74.39.050.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10230 Pets. The adult family home must ensure any animal visiting or living on the premises:

(1) Does not compromise any resident rights, preferences or medical needs;

(2) Has a suitable temperament, is clean and healthy, and otherwise poses no significant health or safety risks to any resident, staff, or visitors; and

(3) Has proof of ~~((regular immunizations))~~ up-to-date rabies vaccinations.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10235 Guardianship. The adult family home ~~((may be))~~ must ensure that no provider, entity representative, resident manager, or staff is a resident's guardian ((if:

(1) A court has appointed the home to be the guardian under chapter 11.88 RCW; and

(2) The home has petitioned the court in writing according to RCW 11.92.040(6) to:

(a) Inform the court:

(i) The home provides care for the resident in the home;

(ii) The fees the home is paid to care for the resident, the home's duties, and the types of care provided to the resident for those fees; and

(iii) Why the guardianship fees would not be duplicative of the fees paid.

~~(b) Request the court to direct payment to the home from the resident's funds for the resident's care, maintenance and education).~~

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10330 Resident assessment. The adult family home must:

(1) Obtain a ~~((new))~~ written assessment that contains accurate information about the prospective resident's current needs and preferences before admitting a resident to the home;

(2) Not admit a resident without an assessment except in cases of a genuine emergency;

(3) Ensure the assessment contains all of the information required in WAC 388-76-10335 unless the assessor can not:

(a) Obtain an element of the required assessment information; and

(b) The assessor documents the attempt to obtain the information in the assessment.

(4) Be knowledgeable about the needs and preferences of each resident documented in the assessment.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10355 Negotiated care plan. The adult family home must use the resident assessment and preliminary service plan to develop a written negotiated care plan. The home must ensure each resident's negotiated care plan includes:

(1) A list of the care and services to be provided;

(2) Identification of who will provide the care and services;

(3) When and how the care and services will be provided;

(4) How medications will be managed, including how the resident will get their medications when the resident is not in the home;

(5) The resident's activities preferences and how the preferences will be met;

(6) Other preferences and choices about issues important to the resident, including, but not limited to:

(a) Food;

(b) Daily routine;

(c) Grooming; and

(d) How the home will accommodate the preferences and choices.

(7) If needed, a plan to:

(a) Follow in case of a foreseeable crisis due to a resident's assessed needs;

(b) Reduce tension, agitation and problem behaviors;

(c) Respond to resident's special needs, including, but not limited to medical ~~((devises))~~ devices and related safety plans;

(d) Respond to a resident's refusal of care or treatment, including when the resident's physician or practitioner should be notified of the refusal;

(8) Identification of any communication barriers the resident may have and how the home will use behaviors and nonverbal gestures to communicate with the resident;

(9) A statement of the ability for resident to be left unattended for a specific length of time; and

(10) A hospice care plan if the resident is receiving services for hospice care delivered by a licensed hospice agency.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10650 Medical devices. Before the adult family home uses medical devices for any resident, the home must:

(1) Review the resident assessment to determine the resident's need for and use of a medical device;

(2) Ensure the resident negotiated care plan includes the resident use of a medical device or devices; and

(3) Provide the resident and family with enough information about the significance and level of the safety risk of use of the device to enable them to make an informed decision about whether or not ~~((the))~~ to use the device.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10720 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-76-10725, the adult family home must not use the following in the home:

(a) Audio monitoring equipment~~((:~~

~~((a) In the home)); or~~

~~((b) ((In combination with video monitoring equipment; and~~

~~((c) Except as provided in section WAC 388-76-10725))~~
Video monitoring equipment if it includes an audio component.

(2) The home may video monitor and video record activities in the home, without an audio component, only in the following areas:

(a) Entrances and exits if the cameras are:

(i) Focused only on the entrance or exit doorways; and

(ii) Not focused on areas where residents gather.

(b) Outdoor areas not commonly used by residents; and

(c) Designated smoking areas, subject to the following conditions ~~((when))~~:

(i) Residents are assessed as needing supervision for smoking;

(ii) A staff person watches the video monitor at any time the area is used by such residents;

(iii) The video camera is clearly visible;

(iv) The video monitor is not viewable by general public; and

(v) The home notifies all residents in writing of the video monitoring equipment.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10725 Electronic monitoring equipment—Resident requested use. (1) The adult family home must ~~((limit resident requested))~~ not use audio or video monitoring equipment to ~~((the sleeping room of the))~~ monitor any resident ~~((who requested the monitoring))~~ unless:

(a) The resident has requested the monitoring; and

(b) The monitoring is only used in the sleeping room of the resident who requested the monitoring.

(2) If the resident requests audio or video monitoring, before any electronic monitoring occurs the home must ensure:

(a) ~~((Appropriate actions are taken to ensure))~~ That the electronic monitoring ~~((is consistent with and))~~ does not violate chapter 9.73 RCW;

(b) The resident has identified a threat to the resident's health, safety or personal property ~~((and has requested electronic monitoring));~~

(c) The resident's roommate has provided written consent to electronic monitoring, if the resident has a roommate; and

(d) The resident and the home have agreed upon a specific duration for the electronic monitoring documented in writing.

(3) The home must:

(a) Reevaluate the need for the electronic monitoring with the resident at least quarterly ~~((and:~~

~~(a) Must document the reevaluation in writing)); and~~

(b) Have each reevaluation in writing signed and dated by the resident.

(4) The home must immediately stop electronic monitoring if the:

(a) Resident no longer wants electronic monitoring;

(b) Roommate objects or withdraws the consent to the electronic monitoring, or

(c) Resident becomes unable to give consent.

(5) For the purposes of consenting to video electronic monitoring, without an audio component, the term "resident" includes the resident's decision maker.

(6) For the purposes of consenting to audio electronic monitoring, the term "resident includes only:

(a) The resident residing in the home; or

(b) The resident's court-appointed guardian or attorney-in-fact who has obtained a court order specifically authorizing the court-appointed guardian or attorney-in-fact to consent to audio electronic monitoring of the resident.

(7) If the resident's decision maker consents to audio electronic monitoring as specified in subsection (6) above, the home must maintain a copy of the court order authorizing such consent in the resident's record.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10775 Temperature and ventilation. The adult family home must:

(1) Ensure that the maximum and minimum temperature of any room used by a resident is comfortable for the resident and does not compromise the resident's health and safety.

(2) At a minimum, keep room temperature at:

(a) Sixty-eight degrees Fahrenheit or more during waking hours; and

(b) Sixty degrees Fahrenheit or more during sleeping hours; ~~((and~~

~~(e) Not more than seventy-eight degrees Fahrenheit day or night)).~~

~~((2))~~ (3) Provide ventilation in the home to ensure the health and comfort of each resident is met.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10840 Emergency food supply. The adult family home must have an on-site emergency food supply that can be stored with other food in the home and that:

(1) Will last for a minimum of seventy-two hours for each resident and each household member; and

(2) Meets the dietary needs of each resident, including any specific dietary restrictions any resident may have.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10845 Emergency drinking water supply. The adult family home must have an on-site emergency supply of drinking water that:

(1) Will last for a minimum of seventy-two hours for each resident and each household member;

(2) Is at least three gallons for each resident and each household member;

(3) Is stored in food grade or glass containers;

(4) Is chemically treated or replaced every six months; and

(5) Is stored appropriately.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10870 Resident evacuation capability levels—Identification required. The adult family home must ensure that each resident preliminary service plan and negotiated care plan contains the resident's ability to evacuate the home according to the following levels:

(1) **Level 1** - resident is ~~((capable of walking or traversing a normal pathway to safety))~~ able to get out of the home safely and independently without ~~((the physical))~~ any assistance ~~((of))~~ from another individual;

(2) **Level 2** - resident is physically and mentally capable of traversing a normal pathway to safety with mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual; and

(3) **Level 3** - resident is unable to walk or transverse a normal pathway to safety without the physical assistance of another individual.

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

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10930 Plan of correction (POC)—Required. ~~((The plan of correction included on the inspection report must:~~

~~(1) Be completed by the adult family home and returned to the department within ten days of receiving the inspection report;~~

~~(2) Include an attestation statement stating:~~

~~(a) What the home did or will do to correct each deficiency;~~

~~(b) That all deficiencies are or will be corrected;~~

~~(c) The home will stay in compliance with the licensing requirements;~~

~~(d) Dates, acceptable to the department, by which each cited deficiency has been or will be corrected; and~~

~~(e) A signature by the home, certifying that the home has or will correct each deficiency)) (1) The adult family home must comply with all licensing laws and regulations at all times.~~

(2) When the department finds the home out of compliance with any regulation, the department will:

(a) Send the home an inspection report with an attestation of correction statement for each cited deficiency; or

(b) Send the home a report that does not include the attestation of correction statement for revocations or summary suspensions.

(3) For the purposes of this section an "attestation of correction statement" means a statement, developed by the department and signed and dated by the home, that the home:

(a) Has or will correct each cited deficiency; and

(b) Will maintain correction of each cited deficiency.

(4) On each attestation of correction statement, the home must:

(a) Give a date, approved by the department, showing when the cited deficiency has been or will be corrected; and

(b) By signature and date show that the home has or will correct, and maintain correction, of each deficiency.

(5) The home must return the inspection report, with completed attestation of correction statements, to the department within ten calendar days of receiving the report.

(6) The home must be able to show the department, upon request, that, for each deficiency cited, the home has:

(a) A plan of correcting and maintaining correction;

(b) Corrected or is correcting each deficiency; and

(c) Maintained compliance.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10995 Notice, hearing rights, and effective dates relating to imposition of remedies. (1) Chapter 34.05 RCW applies to department actions under this chapter and chapter 70.128 RCW, except that orders of the department imposing license suspension, stop placement, or conditions on license are effective immediately upon notice and must continue pending a final administrative decision.

(2) A provider contesting any decision by the department to impose a remedy must within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt ~~((with)) to the ((board of appeals at the)) agency at the mailing address contained in ~~((WAC 388-02-0030)) the department's notice imposing the remedy;~~ and~~

(b) Include in or with the application:

(i) The reasons for contesting the department decision; and

(ii) A copy of the contested department decision.

(3) Administrative proceedings are governed by chapter 34.05 RCW, RCW 43.20A.215, where applicable, this section, and chapter 388-02 WAC. If any provision in this section conflicts with chapter 388-02 WAC, the provision in this section governs.

WSR 08-21-043

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 8, 2008, 5:18 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Chapter 246-10 WAC, Administrative procedure—Adjudicative proceeding and chapter 246-11 WAC, Model procedural rules for boards; amending rules and adding new section to implement show cause hearing process for summary actions against licensed health care providers.

Hearing Location(s): Department of Health, Point Plaza East Building, 310 Israel Rd S.E., Tumwater, WA 98501, on November 25, 2008, at 9:00 a.m.

Date of Intended Adoption: November 25, 2008.

Submit Written Comments to: Margaret Gilbert, Department of Health, P.O. Box 47873, Olympia, WA 98504-7873, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4930, by November 25, 2008.

Assistance for Persons with Disabilities: Contact Margaret Gilbert by November 18, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement the show cause hearing process established by RCW 18.130.135 in 2008 legislation. The rules would eliminate the current prompt hearing option to eliminate dual and simultaneous proceedings on the same case, while still assuring an expeditious hearing right for all summary actions. The proposed rules provide the show cause option in those cases authorized by the bill, while retaining the prompt hearing option for all other cases.

The proposed rules also make technical corrections providing the current physical address of the adjudicative clerk's office and eliminating cease and desist orders from chapter 246-11 WAC, Model rules for boards and commissions, because unlicensed practice is solely under the secretary's authority.

Reasons Supporting Proposal: RCW 18.130.135, enacted in 2008, establishes the show cause hearing for summary actions resulting in suspension, restriction or limitation

of the practice of a licensed health care provider. These rules would make the show cause the expeditious [expeditious] hearing process for those cases while retaining other prompt hearing rights for other cases.

Statutory Authority for Adoption: RCW 34.05.250, 43.70.040.

Statute Being Implemented: Section 6 of 4SHB 1106 (chapter 134, Laws of 2008).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret Gilbert, Department of Health, (360) 236-4913; Implementation and Enforcement: Laura Farris, Department of Health, (360) 236-4677.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(g)(i), a small business economic impact statement is not required for proposed rules that adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernment party.

October 7, 2008

B. White

for Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 97-12-089, filed 6/4/97, effective 7/5/97)

WAC 246-10-102 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

"Adjudicative clerk office" shall mean the unit with responsibility for: Docketing; service of orders; and maintaining custody of the adjudicative proceeding record, whose address is:

Department of Health
Adjudicative Clerk Office
(~~2413 Pacific Avenue~~)
310 Israel Rd. S.E.
P.O. Box 47879
Olympia, WA 98504-7879

"Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the department prior to the entry of a final order under this chapter.

"Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

"Department" shall mean the Washington state department of health and, where appropriate, the secretary of the

Washington state department of health or the secretary's designee.

"Docket" or "docketing" shall mean the list or calendar of causes set to be heard at a specified time, prepared by the adjudicative clerk office for the use of the department.

"Filing" shall mean receipt by the adjudicative clerk office.

"Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license or recipient of benefits and which creates the right to an adjudicative proceeding. It may be entitled a statement of charges, notice of intent to deny, order, or by any other designation indicating the action or proposed action to be taken.

"License" shall have the meaning set forth in RCW 34.05.010, and includes any license, certification, registration, permit, approval, or any similar form of authorization required by law to be obtained from the department.

"Office of professional standards" shall mean the unit responsible for conducting adjudicative proceedings.

"Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding. The presiding officer may be an employee of the department who is authorized to issue a final decision as designee of the secretary, or an administrative law judge employed by the office of administrative hearings.

"Presiding officer for brief adjudicative proceedings" shall mean an employee of the department who is authorized to conduct brief adjudicative proceedings.

"Program" shall mean the administrative unit within the department responsible for implementation of a particular statute or rule.

"Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the (~~license holder or applicant for license~~) respondent following summary action taken in accord with this chapter (~~against that license holder or applicant~~).

"Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

"Recipient of benefits" shall mean an individual who has qualified for benefits administered by the department.

"Respondent" shall mean a person eligible to request an adjudicative proceeding in a program under the jurisdiction of the department who is named in an initiating document.

"Secretary" shall mean the secretary of the department of health or his/her designee.

"Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or welfare and shall include, but not be limited to, a cease and desist order, an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-304 Adjudicative proceedings upon summary action. (~~Following summary action taken by the department, the respondent may:~~)

(1) Except as identified in subsection (2) of this section, following a summary action taken by the department, the respondent may:

(a) Request a prompt adjudicative proceeding conducted in accordance with this chapter; or

~~((2))~~ (b) Waive the prompt adjudicative proceeding and request a regularly scheduled adjudicative proceeding conducted in accordance with this chapter; or

~~((3))~~ (c) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

~~((4))~~ (d) Waive the opportunity to be heard.

(2) For summary actions to suspend, restrict or limit the practice of a license holder of a secretary profession, the respondent may:

(a) Request a hearing as provided in RCW 18.130.090 and request a show cause hearing conducted in accordance with RCW 18.130.135 and WAC 246-10-307; or

(b) Request a regularly scheduled adjudicative proceeding conducted in accordance with this chapter; or

(c) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(d) Waive the opportunity to be heard.

(3) In this section, "secretary profession" means a health care profession for which the secretary of health is the disciplining authority under RCW 18.130.040 (2)(a).

AMENDATORY SECTION (Amending WSR 94-04-079, filed 1/31/94, effective 3/3/94)

WAC 246-10-305 Opportunity for prompt adjudicative proceeding. ~~((4))~~ Except as provided in WAC 246-10-304(2), any respondent affected by a summary action shall be provided the opportunity to request a prompt adjudicative proceeding.

(1) Notice of the opportunity shall be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.

(2) Any respondent affected by a summary action may request a prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accordance with WAC 246-10-203.

(3) Any request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.

(4) If requested by the respondent, a prompt adjudicative proceeding shall be conducted within twenty days of service of a summary action.

(5) Regardless of whether a prompt adjudicative proceeding is requested, the matter shall be resolved as quickly as feasible in accordance with all other applicable rules.

NEW SECTION

WAC 246-10-307 Show cause hearing. (1) A license holder's request for a show cause hearing must be filed within

twenty days of the service of the summary action. A license holder must also respond to the statement of charges by requesting a hearing or an extension of time as provided in RCW 18.130.090.

(2) The show cause hearing will be conducted within fourteen days of the license holder filing the show cause hearing request.

(3) By noon on the fourth calendar day after filing the show cause hearing request, the license holder must file, and deliver a copy to the department's attorney, any documents or written testimony to be admitted into evidence at the show cause hearing.

(4) By noon on the eighth calendar day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause hearing, the department must file, and deliver a copy to the license holder's attorney or to the license holder if not represented by counsel, any rebuttal documents or written testimony to be admitted into evidence at the show cause hearing.

(5) In reviewing the order of summary action, the presiding officer will consider the statement of charges, the motions and documents supporting the request for summary action, the license holder's answer to the statement of charges, any documentary evidence or written testimony presented by the license holder and department in rebuttal, and unless waived, the parties will be given an opportunity for oral argument.

(6) At the show cause hearing, the department has the burden of proving it is more probable than not that the license holder poses an immediate threat to the public health and safety.

(7) The presiding officer will issue an order and may overturn, uphold, or amend the summary suspension or restriction.

(8) Within forty-five days of a determination by the secretary to sustain the summary suspension or place restrictions on the license, the license holder may request a full hearing on the merits of the disciplining authority's decision to suspend or restrict the license. A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise.

AMENDATORY SECTION (Amending WSR 97-13-015, filed 6/6/97, effective 7/7/97)

WAC 246-11-010 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

"Adjudicative clerk office" shall mean the unit with responsibility for: Docketing; service of orders; and maintaining custody of the adjudicative proceeding record, whose address is:

Department of Health
Adjudicative Clerk Office
~~((2413 Pacific Avenue))~~
310 Israel Rd. S.E.
P.O. Box 47879
Olympia, WA 98504-7879

"Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the board prior to the entry of a final order under this chapter.

"Board" shall mean a disciplining authority under RCW 18.130.040 (2)(b) and (3).

"Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

"Department" shall mean the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

"Docket" or "docketing" shall mean the list or calendar of causes set to be heard at a specified time, prepared by the adjudicative clerk office for the use of the department.

"Filing" shall mean receipt by the adjudicative clerk office.

"Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license and which creates the right to an adjudicative proceeding. It may be entitled a statement of charges, notice of intent to deny, or by any other designation indicating the action or proposed action to be taken.

"License" shall have the meaning set forth in RCW 34.05.010 and includes license to practice the profession for which the board is the disciplining authority and any approval of school or curriculum required by law or rule to be obtained from the board.

"Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding and who may either be a member of the board, an individual appointed pursuant to RCW 18.130.095(3), or an administrative law judge employed by the office of administrative hearings.

"Presiding officer for brief adjudicative proceedings" shall mean an employee of the department authorized by the board to conduct brief adjudicative proceedings.

"Program" shall mean the administrative unit within the department responsible for implementation of that chapter of Title 18 RCW establishing the board or its powers and responsibilities.

~~("Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the license holder or applicant for license following summary action taken in accord with this chapter against that license holder or applicant.)~~

"Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

"Respondent" shall mean a license holder or applicant for license under the jurisdiction of the board who is named in an initiating document.

"Secretary" shall mean the secretary of the department of health or his/her designee.

"Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or welfare and shall include, but not be limited to, ~~((a cease and desist order,))~~ an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-330 Adjudicative proceedings upon summary action. Following summary action taken by the board, the respondent may:

(1) Request a ~~((prompt adjudicative proceeding conducted in accordance with this chapter))~~ hearing as provided in RCW 18.130.090 and request a show cause hearing conducted in accordance with RCW 18.130.135 and WAC 246-11-340; or

(2) ~~((Waive the prompt adjudicative proceeding and))~~ Request a regularly scheduled adjudicative proceeding conducted in accordance with this chapter; or

(3) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(4) Waive the opportunity to be heard.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-340 Opportunity for ~~((prompt adjudicative proceeding))~~ show cause hearing. ~~((1) Any respondent affected by a summary action shall be provided the opportunity to request a prompt adjudicative proceeding. Notice of the opportunity shall be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.~~

~~(2) Any respondent affected by a summary action may request an prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accord with WAC 246-11-270.~~

~~(3) Any request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.~~

~~(4) If requested by the respondent, a prompt adjudicative proceeding shall be conducted within twenty days of service of a summary action.~~

~~(5) Regardless whether a prompt adjudicative proceeding is requested, the matter shall be resolved as quickly as feasible in accordance with all other applicable rules.)~~ (1) A license holder's request for a show cause hearing must be filed within twenty days of the service of the summary action. A license holder must also respond to the statement of charges by requesting a hearing or an extension of time as provided in RCW 18.130.090.

(2) The show cause hearing will be conducted by a panel of the board within fourteen days of the license holder filing the show cause hearing request.

(3) By noon on the fourth calendar day after filing the show cause hearing request, the license holder must file, and deliver a copy to the department's attorney, any documents or written testimony to be admitted into evidence at the show cause hearing.

(4) By noon on the eighth calendar day after the date the show cause hearing request was filed, but no less than the close of business two business days before the show cause

hearing, the department must file, and deliver a copy to the license holder's attorney or to the license holder if not represented by counsel, any rebuttal documents or written testimony to be admitted into evidence at the show cause hearing.

(5) In reviewing the order of summary action, the show cause hearing panel will consider the statement of charges, the motions and documents supporting the request for summary action, the license holder's answer to the statement of charges, any documentary evidence or written testimony presented by the license holder and department in rebuttal, and unless waived, the parties will be given an opportunity for oral argument.

(6) At the show cause hearing, the department has the burden of proving it is more probable than not that the license holder poses an immediate threat to the public health and safety.

(7) The show cause panel will issue an order and may overturn, uphold or amend the summary suspension or restriction.

(8) Within forty-five days of a determination by the panel of the board to sustain the summary suspension or place restrictions on the license, the license holder may request a full hearing on the merits of the disciplining authority's decision to suspend or restrict the license. A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise.

WSR 08-21-055

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 9, 2008, 1:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-049.

Title of Rule and Other Identifying Information: The proposed rule clarifies the conditions under which an individual may voluntarily quit a job to enter into an approved apprenticeship training program.

Hearing Location(s): Employment Security Department, Maple Leaf Conference Room, 212 Maple Park, Olympia, WA, on December 10, 2008, at 10:00 a.m.

Date of Intended Adoption: December 15, 2008.

Submit Written Comments to: Pamela Ames, ESD Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, e-mail pames@esd.wa.gov, fax (360) 902-9799, by December 9, 2008.

Assistance for Persons with Disabilities: Contact Beverly Peterson by December 9, 2008, TTY (360) 902-9569 or (360) 902-92334 [902-9234].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule implements SSB 6751, adopted by the 2008 legislature, which establishes good cause for individuals who voluntarily quit a job to enter into an approved apprenticeship training program. Existing rules are not affected.

Reasons Supporting Proposal: The rule provides guidance to agency staff, workers, and employers concerning the criteria the department will use to determine if the worker has

established good cause for leaving work to enter an approved apprenticeship training program.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.20.010.

Statute Being Implemented: RCW 50.20.050 (2)(b)(xi).

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Nan Thomas, 212 Maple Park, Olympia, (360) 902-9303.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not create or modify any eligibility requirements for receiving unemployment benefits. Any increase in costs to employers as a result of permitting claimants to quit work with good cause are a result of the underlying legislation, not the proposed rule. In addition, employers who pay unemployment taxes are automatically noncharged for benefits paid to former employees under the amended statute.

A cost-benefit analysis is not required under RCW 34.05.328. The rule is not a significant legislative rule as defined by RCW 34.05.328.

October 8, 2008

Karen T. Lee

Commissioner

NEW SECTION

WAC 192-150-160 Entering approved apprenticeship training—RCW 50.20.050 (2)(b)(xi). (1) **Effective date.** RCW 50.20.050 (2)(b)(xi) and this section apply to job separations that occur on or after June 12, 2008.

(2) **Application.** This section applies only if you quit work to enter into related/supplemental (classroom) instruction that is part of an apprenticeship program. If you quit work to begin employment for an employer who is a party to an apprenticeship agreement, the department will review the separation under RCW 50.20.050 (2)(b)(i) and WAC 192-150-050 to determine if you left work to accept a bona fide job offer.

(3) **Definitions.** For purposes of this chapter:

(a) "To enter" means to begin participation in the apprenticeship program.

(i) The term "to enter" includes:

(A) Apprentices who accept temporary work with an employer who is not a party to the apprenticeship agreement and quit work to re-enter training.

(B) Apprentices who quit work for a participating employer to enter a different apprenticeship program.

(ii) The term "to enter" does not include:

(A) Claimants applying for an apprenticeship program who at the time of quitting work are not enrolled in apprenticeship or pre-apprenticeship training. Their eligibility for benefits will be reviewed under RCW 50.20.050(2).

(B) Current apprentices who temporarily stop work for a participating employer to attend related/supplemental instruction that is a required component of their apprentice-

ship agreement. Claimants in this situation are considered to be on temporary layoff from work. Their eligibility for commissioner approved training will be reviewed under WAC 192-200-020(3).

(b) "Active participation" means attending classes or engaging in other activities that are part of the related/supplemental instruction.

(c) The terms "apprentice," "apprenticeship agreement," "apprenticeship program," "approved," and "related/supplemental instruction" have the meanings described in WAC 296-05-003.

(4) **Establishing good cause.** If you quit work to enter an apprenticeship program, you will have good cause within the meaning of RCW 50.20.050 (2)(b)(xi) if you satisfactorily demonstrate that:

(a) You are entering an apprenticeship program approved by the Washington state apprenticeship training council;

(b) Prior to leaving work, you had a confirmed start date for related/supplemental instruction; and

(c) You continued in your employment for as long as was reasonably consistent with whatever arrangements were necessary to begin the related/supplemental instruction. In any event, you will not be eligible for benefits until the week prior to the week the related/supplemental instruction begins.

WSR 08-21-066
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed October 10, 2008, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-17-010.

Title of Rule and Other Identifying Information: WAC 392-121-108 Definition—Enrollment exclusions.

Hearing Location(s): Office of the Superintendent of Public Instruction, Old Capitol Building, 600 South Washington, Olympia, WA, on November 25, 2008, at 9:30 a.m.

Date of Intended Adoption: November 26, 2008.

Submit Written Comments to: Mitch Thompson, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Mitch.Thompson@k12.wa.us, fax (360) 725-6306, by November 24, 2008.

Assistance for Persons with Disabilities: Contact Clarice Nnanabu by November 24, 2008, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended to include the exclusion of tuition paying students. The rule is also amended to clarify the twenty day absence exclusion to be twenty regular scheduled school days for the general student population of the school district. An exclusion previously listed under the enrollment limitations (WAC 392-121-136) is also being deleted from that WAC and added to WAC 392-121-108 to align with exclusions instead of limitations.

Reasons Supporting Proposal: This facilitates the placement of an exclusion for enrollment reporting under the correct WAC. Many districts have asked whether the twenty school days relate to individual part-time schedules or entire school population schedules. This gives that question clarity. Tuition paying students are excluded from enrollment counts in the RCW, this simply adds them to the WAC.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Mitch Thompson, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: Calvin W. Brodie, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301; and Enforcement: Jennifer Priddy, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328.

October 10, 2008
Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending WSR 07-23-008, filed 11/8/07, effective 12/9/07)

WAC 392-121-108 Definition—Enrollment exclusions. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences - except as provided in (a) and (b) of this subsection, a student whose consecutive days of absence from school exceed twenty school days, or a part-time student that has not attended school at least once within a time period consisting of twenty consecutive school days, shall not be counted as an enrolled student until attendance is resumed. School days are defined as the regularly scheduled instructional days for the general population of the school or district the student is enrolled in, regardless of the student's individualized schedule.

(a) If there is a written agreement between the appropriate school official and a student's parent or guardian pursuant to RCW 28A.225.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress, the absent student may be counted as an enrolled student for up to two monthly enrollment count dates as specified in WAC 392-121-122.

(b) A student receiving home and/or hospital service pursuant to WAC ((392-172-218)) 392-172A-02100 shall be counted as an enrolled student as provided in WAC 392-122-145.

(2) Dropouts - a student for whom the school district has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student until attendance is resumed.

(3) Transfers - a student who has transferred to another public or private school and for whom the school district has received notification of transfer from the school to which the student has transferred, from the student, or from the student's parent or guardian shall not be counted as an enrolled student unless the student reenrolls in the school district.

(4) Suspensions - a student who has been suspended from school pursuant to WAC 392-400-260, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions - a student who has been expelled from all school subjects or classes by the school district pursuant to WAC 392-400-275 or 392-400-290 shall not be counted as an enrolled student; a student who has been partially expelled, such as from a single school subject or class, by the school district pursuant to WAC 392-400-275 or 392-400-290 may be considered a part-time enrolled student.

(6) Graduates - a student who has met the high school graduation requirements of chapter 180-51 WAC by the beginning of the school year.

(7) Tuition - a student paying tuition including, but not limited to, students on an F-1 visa or students enrolled in a tuition-based summer school program.

(8) An institution student who is claimed as a 1.0 FTE by any institution as an enrolled student eligible for state institutional education support pursuant to chapter 392-122 WAC where the institution's count date occurs prior to the school district count date for the month. Where the count dates occur on the same date, the institution shall have priority for counting the student.

WSR 08-21-099

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 16, 2008, 10:54 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Chapters 246-220, 246-221, 246-232, 246-233, 246-235, and 246-240 WAC, radiation protection.

Hearing Location(s): Department of Health, Town Center 2, Room 530, 111 Israel Road S.E., Olympia, WA 98504, on December 2, 2008, at 2:00 p.m.

Date of Intended Adoption: December 2, 2008.

Submit Written Comments to: C. DeMaris, P.O. Box 47827, Olympia, WA 98504-7827, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2255, by November 25, 2008.

Assistance for Persons with Disabilities: Contact Joy Redman by November 25, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to protect public health by better regulating sources of ionizing radiation, address two new federal rules, and correct minor grammatical errors in previously adopted

rules. The proposed rules incorporate the nuclear regulatory commission's expanded definition of by-product material and National Source Tracking System (NSTS) requirements. The rules affect radium 226, accelerator-produced materials, and discrete sources of naturally occurring radioactive material. The NSTS adds a measure of security by fostering licensee awareness and concern for sources in their inventory.

Reasons Supporting Proposal: This rule is required for compliance with a formal agreement signed in 1966 between the state of Washington and the Atomic Energy Commission under section 274 of the Atomic Energy Act of 1954 as amended (42 U.S.C. Section 2021), the Energy Policy Act of 2005, and RCW 70.98.050.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Statute Being Implemented: RCW 70.98.050.

Rule is necessary because of federal law, 69 F.R. 3,698 (2004); 71 F.R. 65,686 (2006); 72 F.R. 45,147 (2007); 72 F.R. 55,864 (2007); 72 F.R. 59,162 (2007).

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Anine Grumbles, 101 Israel Road S.E., Tumwater, WA, (360) 236-3222; Implementation and Enforcement: Arden Scroggs, 101 Israel Road S.E., Tumwater, WA, (360) 236-3221.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310 (4)(c), an SBEIS is not required for proposed rules that adopt or incorporate by reference - without material change - federal statutes or regulations, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

October 15, 2008

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-220-010 Definitions. As used in ~~((these regulations))~~ chapters 246-220 through 246-254 WAC, these terms have the definitions set forth below. Additional definitions used only in a certain ~~((part))~~ chapter will be found in that ~~((part))~~ chapter.

~~((+))~~ **"Absorbed dose"** means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

~~((=))~~ **"Accelerator produced material"** means any material made radioactive by exposing it in a particle accelerator.

((3)) **"Act"** means Nuclear energy and radiation, chapter 70.98 RCW.

((4)) **"Activity"** means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

((5)) **"Adult"** means an individual eighteen or more years of age.

((6)) **"Agreement state"** means any state with which the 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).

((7)) **"Airborne radioactive material"** means any radioactive material dispersed in the air in the form of particulates, dusts, fumes, mists, vapors, or gases.

((8)) **"Airborne radioactivity area"** means a room, enclosure, or operating area in which airborne radioactive material exists in concentrations (a) in excess of the derived air concentration (DAC) specified in WAC 246-221-290, Appendix A, or (b) to the degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or twelve DAC-hours.

((9)) **"Air purifying respirator"** means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

((10)) **"Alert"** means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

((11)) **"Annual limit on intake"** (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in WAC 246-221-290.

((12)) **"Assigned protection factor"** (APF) means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

((13)) **"Atmosphere-supplying respirator"** means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

((14)) **"Background radiation"** means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the con-

trol of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the department.

((15)) **"Becquerel"** (Bq) means the SI unit of activity. One becquerel is equal to 1 disintegration or transformation per second (s^{-1}).

((16)) **"Bioassay"** means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

((17)) **"Byproduct material"** means: (a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition; (c) any material that has been made radioactive by use of a particle accelerator; (d) any discrete source of radium 226 that is produced, extracted, or converted after extraction for commercial, medical or research use; and (e) any discrete source of naturally occurring radioactive materials which pose a threat similar to the threat posed by a discrete source of radium 226 to the health and safety or the common defense and security, that is produced, extracted, or converted after extraction for use for commercial, medical or research activities.

((18)) **"Calendar quarter"** means at least twelve but no more than fourteen consecutive weeks. The first calendar quarter of each year begins in January and subsequent calendar quarters shall be arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant may not change the method of determining calendar quarters for purposes of these regulations.

((19)) **"Calibration"** means the determination of (a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or (b) the strength of a source of radiation relative to a standard.

((20)) **"CFR"** means Code of Federal Regulations.

((21)) **"Class"** means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: For Class D, Days, of less than ten days, for Class W, Weeks, from ten to one hundred days, and for Class Y, Years, of greater than one hundred days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms. For "class of waste" see WAC 246-249-040.

((22)) **"Collective dose"** means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

((23)) **"Committed dose equivalent"** ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that

will be received from an intake of radioactive material by an individual during the fifty-year period following the intake.

((24)) **"Committed effective dose equivalent"** ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \sum S_{gr}; w_T H_{T,50}$).

"Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

((25)) **"Constraint"** or dose constraint means a value above which specified licensee actions are required.

((26)) **"Controlled area."** See "Restricted area."

((27)) **"Curie"** means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

((28)) **"Declared pregnant woman"** means a woman who has voluntarily informed the licensee or registrant, in writing, of her pregnancy, and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

((29)) **"Deep dose equivalent"** (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

((30)) **"Demand respirator"** means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

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

((32)) **"Depleted uranium"** means the source material uranium in which the isotope Uranium-235 is less than 0.711 percent by weight of the total uranium present. Depleted uranium does not include special nuclear material.

((33)) **"Derived air concentration"** (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of two thousand hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for two thousand hours in a year. DAC values are given in WAC 246-221-290.

((34)) **"Derived air concentration-hour"** (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take two thousand DAC-hours to represent one

ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

((35)) **"Discrete source"** means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical or research activities.

"Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

((36)) **"Dose"** is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

((37)) **"Dose commitment"** means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed fifty years.

((38)) **"Dose equivalent"** (H_T) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

((39)) **"Dose limits"** means the permissible upper bounds of radiation doses established in accordance with these regulations. For purposes of these regulations, "limits" is an equivalent term.

((40)) **"Dosimetry processor"** means a person that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

((41)) **"dpm"** means disintegrations per minute. See also "curie."

((42)) **"Effective dose equivalent"** (H_E) means the sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \sum S_{gr}; w_T H_T$).

((43)) **"Embryo/fetus"** means the developing human organism from conception until the time of birth.

((44)) **"Entrance or access point"** means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, without respect to their intended use.

((45)) **"Exposure"** means (a) being exposed to ionizing radiation or to radioactive material, or (b) the quotient of ΔQ by Δm where " ΔQ " is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass " Δm " are completely stopped in air. The special unit of exposure is the roentgen (R) and the SI equivalent is the coulomb per kilogram. One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

((46)) "**Exposure rate**" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

((47)) "**External dose**" means that portion of the dose equivalent received from any source of radiation outside the body.

((48)) "**Extremity**" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

((49)) "**Filtering facepiece**" (dust mask) means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

((50)) "**Fit factor**" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

((51)) "**Fit test**" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

((52)) "**Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities**" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

((53)) "**Generally applicable environmental radiation standards**" means standards issued by the United States Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

((54)) "**Gray**" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule/kilogram (100 rad).

((55)) "**Healing arts**" means the disciplines of medicine, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine.

((56)) "**Helmet**" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

((57)) "**High radiation area**" means any area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from any source of radiation or 30 centimeters from any surface that the radiation penetrates. For purposes of these regulations, rooms or areas in which diagnostic X-ray systems are used for healing arts purposes are not considered high radiation areas.

((58)) "**Hood**" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

((59)) "**Human use**" means the intentional internal or external administration of radiation or radioactive material to human beings.

((60)) "**Immediate**" or "**immediately**" means as soon as possible but no later than four hours after the initiating condition.

((61)) "**IND**" means investigatory new drug for which an exemption has been claimed under the United States Food, Drug and Cosmetic Act (Title 21 CFR).

((62)) "**Individual**" means any human being.

((63)) "**Individual monitoring**" means the assessment of:

(a) Dose equivalent (i) by the use of individual monitoring devices or (ii) by the use of survey data; or

(b) Committed effective dose equivalent (i) by bioassay or (ii) by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

((64)) "**Individual monitoring devices**" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent e.g., as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

((65)) "**Inspection**" means an official examination or observation by the department including but not limited to, tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the department.

((66)) "**Interlock**" means a device arranged or connected so that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

((67)) "**Internal dose**" means that portion of the dose equivalent received from radioactive material taken into the body.

((68)) "**Irretrievable source**" means any sealed source containing licensed material which is pulled off or not connected to the wireline downhole and for which all reasonable effort at recovery, as determined by the department, has been expended.

((69)) "**Lens dose equivalent**" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm²).

((70)) "**License**" means a license issued by the department.

((71)) "**Licensed material**" means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the department.

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

((73)) "**Licensing state**" means any state with regulations equivalent to the suggested state regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM and which has been granted final designation by the Conference of Radiation Control Program Directors, Inc.

((74)) "**Loose-fitting facepiece**" means a respiratory inlet covering that is designed to form a partial seal with the face.

((75)) "**Lost or missing licensed material**" means licensed material whose location is unknown. This definition includes licensed material that has been shipped but has not

reached its planned destination and whose location cannot be readily traced in the transportation system.

((76)) **"Member of the public"** means an individual except when the individual is receiving an occupational dose.

((77)) **"Minor"** means an individual less than eighteen years of age.

((78)) **"Monitoring"** means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, radiation monitoring and radiation protection monitoring are equivalent terms.

((79)) **"NARM"** means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material. For the purpose of meeting the definition of a licensing state by the Conference of Radiation Control Program Directors, Inc. (CRCPD), NARM refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

((80)) **"Nationally tracked source"** means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in WAC 246-221-236. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

((81)) **"NDA"** means a new drug application which has been submitted to the United States Food and Drug Administration.

((82)) **"Negative pressure respirator"** (tight-fitting) means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

((83)) **"Nonstochastic effect"** means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, a "deterministic effect" is an equivalent term.

((84)) **"Nuclear Regulatory Commission"** (NRC) means the United States Nuclear Regulatory Commission or its duly authorized representatives.

((85)) **"Occupational dose"** means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: From background radiation, from any medical administration the individual has received, from exposure to

individuals administered radioactive material and released under chapter 246-240 WAC, from voluntary participation in medical research programs, or as a member of the public.

((86)) **"Ore refineries"** means all processors of a radioactive material ore.

((87)) **"Particle accelerator"** means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "accelerator" is an equivalent term.

((88)) **"Permittee"** means a person who has applied for, and received, a valid site use permit for use of the low-level waste disposal facility at Hanford, Washington.

((89)) **"Person"** means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies.

((90)) **"Personal supervision"** means supervision where the supervisor is physically present at the facility and in sufficient proximity that contact can be maintained and immediate assistance given as required.

((91)) **"Personnel monitoring equipment."** See individual monitoring devices.

"PET" means positron emission tomography.

((92)) **"Pharmacist"** means an individual licensed by this state to compound and dispense drugs, and poisons.

((93)) **"Physician"** means a medical doctor or doctor of osteopathy licensed by this state to prescribe and dispense drugs in the practice of medicine.

((94)) **"Planned special exposure"** means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

((95)) **"Positive pressure respirator"** means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

((96)) **"Powered air-purifying respirator"** (PAPR) means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

((97)) **"Practitioner"** means an individual licensed by the state in the practice of a healing art (i.e., physician, dentist, podiatrist, chiropractor, etc.).

((98)) **"Pressure demand respirator"** means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

((99)) **"Public dose"** means the dose received by a member of the public from exposure to sources of radiation under the licensee's or registrant's control or to radiation or radioactive material released by the licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released under chapter 246-240 WAC, or from voluntary participation in medical research programs.

~~((100))~~ **"Qualified expert"** means an individual who has demonstrated to the satisfaction of the department he/she has the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. The department reserves the right to recognize the qualifications of an individual in specific areas of radiation protection.

~~((101))~~ **"Qualitative fit test"** (QLFT) means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

~~((102))~~ **"Quality factor"** (Q) means the modifying factor, listed in Tables I and II, that is used to derive dose equivalent from absorbed dose.

TABLE I
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to A Unit Dose Equivalent ^a
X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

^a Absorbed dose in rad equal to 1 rem or the absorbed dose in gray equal to 1 Sv.

If it is more convenient to measure the neutron fluence rate rather than to determine the neutron dose equivalent rate in sievert per hour or rem per hour as required for Table I, then 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal) 2.5 x 10 ⁻⁸	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁷	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁶	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁵	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁴	2	840 x 10 ⁶	840 x 10 ⁸
1 x 10 ⁻³	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻²	2.5	1010 x 10 ⁶	1010 x 10 ⁸
1 x 10 ⁻¹	7.5	170 x 10 ⁶	170 x 10 ⁸
5 x 10 ⁻¹	11	39 x 10 ⁶	39 x 10 ⁸

Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
1	11	27 x 10 ⁶	27 x 10 ⁸
2.5	9	29 x 10 ⁶	29 x 10 ⁸
5	8	23 x 10 ⁶	23 x 10 ⁸
7	7	24 x 10 ⁶	24 x 10 ⁸
10	6.5	24 x 10 ⁶	24 x 10 ⁸
14	7.5	17 x 10 ⁶	17 x 10 ⁸
20	8	16 x 10 ⁶	16 x 10 ⁸
40	7	14 x 10 ⁶	14 x 10 ⁸
60	5.5	16 x 10 ⁶	16 x 10 ⁸
1 x 10 ²	4	20 x 10 ⁶	20 x 10 ⁸
2 x 10 ²	3.5	19 x 10 ⁶	19 x 10 ⁸
3 x 10 ²	3.5	16 x 10 ⁶	16 x 10 ⁸
4 x 10 ²	3.5	14 x 10 ⁶	14 x 10 ⁸

^a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.

^b Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

~~((103))~~ **"Quantitative fit test"** (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

~~((104))~~ **"Quarter"** means a period of time equal to one-fourth of the year observed by the licensee, approximately thirteen consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

~~((105))~~ **"Rad"** means the special unit of absorbed dose. One rad equals one-hundredth of a joule per kilogram of material; for example, if tissue is the material of interest, then 1 rad equals 100 ergs per gram of tissue. One rad is equal to an absorbed dose of 100 erg/gram or 0.01 joule/kilogram (0.01 gray).

~~((106))~~ **"Radiation"** means alpha particles, beta particles, gamma rays, X rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these regulations, ionizing radiation is an equivalent term. Radiation, as used in these regulations, does not include magnetic fields or nonionizing radiation, like radiowaves or microwaves, visible, infrared, or ultraviolet light.

~~((107))~~ **"Radiation area"** means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at thirty centimeters from the source of radiation or from any surface that the radiation penetrates.

~~((108))~~ **"Radiation machine"** means any device capable of producing ionizing radiation except those devices with radioactive materials as the only source of radiation.

~~((109))~~ **"Radiation safety officer"** means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned that responsibility by the licensee or registrant.

~~((110))~~ **"Radiation source."** See "Source of radiation."

((111)) **"Radioactive material"** means any material (solid, liquid, or gas) which emits radiation spontaneously.

((112)) **"Radioactive waste"** means any radioactive material which is no longer of use and intended for disposal or treatment for the purposes of disposal.

((113)) **"Radioactivity"** means the transformation of unstable atomic nuclei by the emission of radiation.

((114)) **"Reference man"** means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

((115)) **"Registrable item"** means any radiation machine except those exempted by RCW 70.98.180 or exempted by the department under the authority of RCW 70.98.080.

((116)) **"Registrant"** means any person who is registered by the department or is legally obligated to register with the department in accordance with these rules and the act.

((117)) **"Registration"** means registration with the department in accordance with the regulations adopted by the department.

((118)) **"Regulations of the United States Department of Transportation"** means the regulations in 49 CFR Parts 170-189, 14 CFR Part 103, and 46 CFR Part 146.

((119)) **"Rem"** means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

((120)) **"Research and development"** means: (a) Theoretical analysis, exploration, or experimentation; or (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

((121)) **"Respiratory protective equipment"** means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

((122)) **"Restricted area"** means any area to which access is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive material. "Restricted area" does not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

((123)) **"Roentgen"** (R) means the special unit of exposure. One roentgen equals 2.58×10^{-4} coulombs/kilogram of air.

((124)) **"Sanitary sewerage"** means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

((125)) **"Sealed source"** means any radioactive material that is encased in a capsule designed to prevent leakage or the escape of the radioactive material.

((126)) **"Self-contained breathing apparatus"** (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

((127)) **"Shallow dose equivalent"** (H_s), which applies to the external exposure of the skin of the whole body or the skin of an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

((128)) **"SI"** means an abbreviation of the International System of Units.

((129)) **"Sievert"** means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

((130)) **"Site area emergency"** means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

((131)) **"Site boundary"** means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

((132)) **"Source container"** means a device in which radioactive material is transported or stored.

((133)) **"Source material"** means: (a) Uranium or thorium, or any combination thereof, in any physical or chemical form, or (b) ores which contain by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

((134)) **"Source material milling"** means the extraction or concentration of uranium or thorium from any ore processing primarily for its source material content.

((135)) **"Source of radiation"** means any radioactive material, or any device or equipment emitting or capable of producing ionizing radiation.

((136)) **"Special nuclear material"** means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States Nuclear Regulatory Commission, under the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched in any of the foregoing, but does not include source material.

((137)) **"Special nuclear material in quantities not sufficient to form a critical mass"** means uranium enriched in the isotope U-235 in quantities not exceeding three hundred fifty grams of contained U-235; uranium-233 in quantities not exceeding two hundred grams; plutonium in quantities not exceeding two hundred grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of the ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e., unity). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} < 1$$

((138)) **"Stochastic effect"** means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, probabilistic effect is an equivalent term.

((139)) **"Supplied-air respirator"** (SAR) or "airline respirator" means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

((140)) **"Survey"** means an evaluation of the radiological conditions and potential hazards incident to the production, use, release, disposal, or presence of sources of radiation. When appropriate, the evaluation includes, but is not limited to, tests, physical examinations, calculations and measurements of levels of radiation or concentration of radioactive material present.

((141)) **"Test"** means (a) the process of verifying compliance with an applicable regulation, or (b) a method for determining the characteristics or condition of sources of radiation or components thereof.

((142)) **"These rules"** mean all parts of the rules for radiation protection of the state of Washington.

((143)) **"Tight-fitting facepiece"** means a respiratory inlet covering that forms a complete seal with the face.

((144)) **"Total effective dose equivalent"** (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

((145)) **"Total organ dose equivalent"** (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ or tissue receiving the highest dose.

((146)) **"United States Department of Energy"** means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the United States Atomic Energy Commission, its chairman, members, officers and components and transferred to the United States Energy Research and Development Administration and to the administrator thereof under sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814 effective January 19, 1975) and retransferred to the Secretary of Energy under section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

((147)) **"Unrefined and unprocessed ore"** means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

((148)) **"Unrestricted area"** (uncontrolled area) means any area which is not a restricted area. Areas where the external dose exceeds 2 mrem in any one hour or where the public dose, taking into account occupancy factors, will exceed 100 mrem total effective dose equivalent in any one year must be restricted.

((149)) **"User seal check"** (fit check) means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

((150)) **"Very high radiation area"** means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a source of radiation or one meter from any surface that the radiation penetrates.

((151)) **"Waste"** means those low-level radioactive wastes containing source, special nuclear or byproduct material that are acceptable for disposal in a land disposal facility. For purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in this section.

"Waste handling licensees" mean persons licensed to receive and store radioactive wastes prior to disposal and/or persons licensed to dispose of radioactive waste.

((152)) **"Week"** means seven consecutive days starting on Sunday.

((153)) **"Weighting factor"** w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b

^a 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

^b For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

((154)) **"Whole body"** means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

~~((155))~~ **"Worker"** means an individual engaged in activities under a license or registration issued by the department and controlled by a licensee or registrant but does not include the licensee or registrant. Where the licensee or registrant is an individual rather than one of the other legal entities defined under "person," the radiation exposure limits for the worker also apply to the individual who is the licensee or registrant. If students of age eighteen years or older are subjected routinely to work involving radiation, then the students are considered to be workers. Individuals of less than eighteen years of age shall meet the requirements of WAC 246-221-050.

~~((156))~~ **"Working level"** (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon daughters are — for radon-222: Polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: Polonium-216, lead-212, bismuth-212, and polonium-212.

~~((157))~~ **"Working level month"** (WLM) means an exposure to one working level for one hundred seventy hours — two thousand working hours per year divided by twelve months per year is approximately equal to one hundred seventy hours per month.

~~((158))~~ **"Year"** means the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

NEW SECTION

WAC 246-221-235 Reports of transactions involving nationally tracked sources. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in subsections (1) through (5) of this section for each type of transaction.

(1) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The manufacturer, model, and serial number of the source;
- (d) The radioactive material in the source;
- (e) The initial source strength in becquerels (curies) at the time of manufacture; and
- (f) The manufacture date of the source.

(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- (a) The name, address, and license number of the reporting licensee;

- (b) The name of the individual preparing the report;
- (c) The name and license number of the recipient facility and the shipping address;
- (d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- (e) The radioactive material in the source;
- (f) The initial or current source strength in becquerels (curies);
- (g) The date for which the source strength is reported;
- (h) The shipping date;
- (i) The estimated arrival date; and
- (j) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The name, address, and license number of the person that provided the source;
- (d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- (e) The radioactive material in the source;
- (f) The initial or current source strength in becquerels (curies);
- (g) The date for which the source strength is reported;
- (h) The date of receipt; and
- (i) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- (d) The radioactive material in the source;
- (e) The initial or current source strength in becquerels (curies);
- (f) The date for which the source strength is reported;
- (g) The disassemble date of the source.

(5) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The waste manifest number;

(d) The container identification with the nationally tracked source;

(e) The date of disposal; and

(f) The method of disposal.

(6) The reports discussed in subsections (1) through (5) of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(a) The on-line National Source Tracking System;

(b) Electronically using a computer-readable format;

(c) By facsimile;

(d) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or

(e) By telephone with follow-up by facsimile or mail.

(7) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subsections (1) through (5) of this section.

By January 31, of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

(8) Each licensee that possesses Category 1 or 2 nationally tracked sources shall report its initial inventory of Category 1 or 2 nationally tracked sources to the National Source Tracking System by January 31, 2009. The information may be submitted by using any of the methods identified in subsection (6)(a) through (d) of this section. The initial inventory report shall include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the sealed source;

(e) The initial or current source strength in becquerels (curies); and

(f) The date for which the source strength is reported.

NEW SECTION

WAC 246-221-236 Nationally tracked source thresholds. The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-328	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-221-290 Appendix A—Annual limits on intake (ALI) and derived air concentrations (DAC) of radionuclides for occupational exposure; effluent concentrations; concentrations for release to sanitary sewerage.

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μm (micron) and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than ten days, for W from ten to one hundred days, and for Y greater than one hundred days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

Note: The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents $6 \times (10^2)$ or 600, and 6E+0 represents 6×10^0 or 6.

Table I "Occupational Values"

Note that the columns in Table I of this appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC," are applicable to occupational exposure to radioactive material.

The ALIs in this appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either: A committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI; or a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, w_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of w_T are listed under the definition of weighting factor in WAC 246-221-005. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $w_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract — stomach, small intestine, upper large intestine, and lower large intestine — are to be treated as four separate organs.

Note that the dose equivalents for an extremity, elbows, arms below the elbows, feet and lower legs, knees, and legs below the knees, skin, and lens of the eye are not considered

in computing the committed effective dose equivalent, but are subject to limits that must be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the non-stochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall = lower large intestine wall;
St. wall = stomach wall;
Blad wall = bladder wall; and
Bone surf = bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, $\sum (\text{intake (in } \mu\text{Ci)}) / ALI_{ns} \leq 1.0$. If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$$\text{DAC} = \text{ALI (in } \mu\text{Ci)} / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [\text{ALI} / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where 2×10^4 ml per minute is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: Either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides should be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See WAC 246-221-015. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as, Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

Table II "Effluent Concentrations"

The columns in Table II of this appendix captioned "Effluents," "Air" and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of WAC 246-221-070. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.50 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason, the DAC and airborne effluent limits are not always proportional as was the case in the previous Appendix A of this chapter.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of three hundred. The factor of three hundred includes the following components: A factor of fifty to

relate the 0.05 Sv (5 rem) annual occupational dose limit to the 1 mSv (0.1 rem) limit for members of the public, a factor of three to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of two to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by two hundred nineteen. The factor of two hundred nineteen is composed of a factor of fifty, as described above, and a factor of 4.38 relating occupational exposure for two thousand hours per year to full-time exposure (eight thousand seven hundred sixty hours per year). Note that an additional factor of two for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: The factors of fifty and two described above and a factor of 7.3×10^5 (ml) which is the annual water intake of Reference Man.

Note 2 of this appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in WAC 246-221-190. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by $7.3 \times ((\pm\Theta)) 10^6$ (ml). The factor of $7.3 \times ((\pm\Theta)) 10^6$ (ml) is composed of a factor of $7.3 \times ((\pm\Theta)) 10^5$ (ml), the annual water intake by Reference Man, and a factor of ten, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 5 mSv (0.5 rem).

LIST OF ELEMENTS

Name	Symbol	Atomic Number	Name	Symbol	Atomic Number
Actinium	Ac	89	((Mercury)) <u>Molbdenum</u>	((Hg)) <u>Mo</u>	((80)) <u>42</u>
Aluminum	Al	13	((Molybdenum)) <u>Neodymium</u>	((Mo)) <u>Nd</u>	((42)) <u>60</u>
Americium	Am	95	((Neodymium)) <u>Neptunium</u>	((Nd)) <u>Np</u>	((60)) <u>93</u>
Antimony	Sb	51	((Neptunium)) <u>Nickel</u>	((Np)) <u>Ni</u>	((93)) <u>28</u>
Argon	Ar	18	((Nickel)) <u>Nitrogen</u>	((Ni)) <u>N</u>	((28)) <u>7</u>
Arsenic	As	33	Niobium	Nb	41
Astatine	At	85	Osmium	Os	76

LIST OF ELEMENTS

Name	Symbol	Atomic Number	Name	Symbol	Atomic Number
Barium	Ba	56	((Palladium)) <u>Oxygen</u>	((Pd)) <u>O</u>	((46)) <u>8</u>
Berkelium	Bk	97	((Phosphorus)) <u>Palladium</u>	((P)) <u>Pd</u>	((15)) <u>46</u>
Beryllium	Be	4	((Platinum)) <u>Phosphorus</u>	((Pt)) <u>P</u>	((78)) <u>15</u>
Bismuth	Bi	83	((Plutonium)) <u>Platinum</u>	((Pu)) <u>Pt</u>	((94)) <u>78</u>
Bromine	Br	35	((Polonium)) <u>Plutonium</u>	((Po)) <u>Pu</u>	((84)) <u>94</u>
Cadmium	Cd	48	((Potassium)) <u>Polonium</u>	((K)) <u>Po</u>	((19)) <u>84</u>
Calcium	Ca	20	((Praseodymium)) <u>Potas- sium</u>	((Pr)) <u>K</u>	((59)) <u>19</u>
Californium	Cf	98	((Promethium)) <u>Praseody- mium</u>	((Pm)) <u>Pr</u>	((61)) <u>59</u>
Carbon	C	6	((Protactinium)) <u>Prometh- ium</u>	((Pa)) <u>Pm</u>	((91)) <u>61</u>
Cerium	Ce	58	((Radium)) <u>Protactinium</u>	((Ra)) <u>Pa</u>	((88)) <u>91</u>
Cesium	Cs	55	((Radon)) <u>Radium</u>	((Rn)) <u>Ra</u>	((86)) <u>88</u>
Chlorine	Cl	17	((Rhenium)) <u>Radon</u>	((Re)) <u>Rn</u>	((75)) <u>86</u>
Chromium	Cr	24	((Rhodium)) <u>Rhenium</u>	((Rh)) <u>Re</u>	((45)) <u>75</u>
Cobalt	Co	27	((Rubidium)) <u>Rhodium</u>	((Rb)) <u>Rh</u>	((37)) <u>45</u>
Copper	Cu	29	((Ruthenium)) <u>Rubidium</u>	((Ru)) <u>Rb</u>	((44)) <u>37</u>
Curium	Cm	96	((Samarium)) <u>Ruthenium</u>	((Sm)) <u>Ru</u>	((62)) <u>44</u>
Dysprosium	Dy	66	((Seandium)) <u>Samarium</u>	((Se)) <u>Sm</u>	((21)) <u>62</u>
Einsteinium	Es	99	((Selenium)) <u>Scandium</u>	((Se)) <u>Sc</u>	((34)) <u>21</u>
Erbium	Er	68	((Silicon)) <u>Selenium</u>	((Si)) <u>Se</u>	((14)) <u>34</u>
Europium	Eu	63	((Silver)) <u>Silicon</u>	((Ag)) <u>Si</u>	((47)) <u>14</u>
Fermium	Fm	100	((Sodium)) <u>Silver</u>	((Na)) <u>Ag</u>	((11)) <u>47</u>
Fluorine	F	9	((Strontium)) <u>Sodium</u>	((Sr)) <u>Na</u>	((38)) <u>11</u>
Francium	Fr	87	((Sulfur)) <u>Strontium</u>	((S)) <u>Sr</u>	((16)) <u>38</u>
Gadolinium	Gd	64	((Tantalum)) <u>Sulfur</u>	((Ta)) <u>S</u>	((73)) <u>16</u>
Gallium	Ga	31	((Technetium)) <u>Tantalum</u>	((Tc)) <u>Ta</u>	((43)) <u>73</u>
Germanium	Ge	32	((Tellurium)) <u>Technetium</u>	((Te)) <u>Tc</u>	((52)) <u>43</u>
Gold	Au	79	((Terbium)) <u>Tellurium</u>	((Tb)) <u>Te</u>	((65)) <u>52</u>
Hafnium	Hf	72	((Thallium)) <u>Terbium</u>	((Tl)) <u>Tb</u>	((81)) <u>65</u>
Holmium	Ho	67	((Thorium)) <u>Thallium</u>	((Th)) <u>Tl</u>	((90)) <u>81</u>
Hydrogen	H	1	((Thulium)) <u>Thorium</u>	((Tm)) <u>Th</u>	((69)) <u>90</u>
Indium	In	49	((Tin)) <u>Thulium</u>	((Sn)) <u>Tm</u>	((50)) <u>69</u>
Iodine	I	53	((Titanium)) <u>Tin</u>	((Ti)) <u>Sn</u>	((22)) <u>50</u>
Iridium	Ir	77	((Tungsten)) <u>Titanium</u>	((W)) <u>Ti</u>	((74)) <u>22</u>
Iron	Fe	26	((Uranium)) <u>Tungsten</u>	((U)) <u>W</u>	((92)) <u>74</u>
Krypton	Kr	36	((Vanadium)) <u>Uranium</u>	((V)) <u>U</u>	((23)) <u>92</u>
Lanthanum	La	57	((Xenon)) <u>Vanadium</u>	((Xe)) <u>V</u>	((54)) <u>23</u>
Lead	Pb	82	((Ytterbium)) <u>Xenon</u>	((Yb)) <u>Xe</u>	((70)) <u>54</u>
Lutetium	Lu	71	((Yttrium)) <u>Ytterbium</u>	((Y)) <u>Yb</u>	((39)) <u>70</u>
Magnesium	Mg	12	((Zinc)) <u>Yttrium</u>	((Zn)) <u>Y</u>	((30)) <u>39</u>
Manganese	Mn	25	((Zirconium)) <u>Zinc</u>	((Zr)) <u>Zn</u>	((40)) <u>30</u>
Mendelevium	Md	101	<u>Zirconium</u>	<u>Zr</u>	<u>40</u>
<u>Mercury</u>	<u>Hg</u>	<u>80</u>			

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1 Air	Col. 2 Water	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	μCi/ml	μCi/ml	
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
Gas (HT or T ₂) Submersion ¹ : Use above values as HT and T ₂ oxidize in air and in the body to HTO.								
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ⁷ Be	1E+3	2E+2	6E-8	2E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ⁷ Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 ²	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	<u>Nitrogen-13²</u>	<u>Submersion¹</u>	=	=	<u>4E-6</u>	<u>2E-8</u>	=	=
8	<u>Oxygen-15²</u>	<u>Submersion¹</u>	=	=	<u>4E-6</u>	<u>2E-8</u>	=	=
9	Fluorine-18 ²	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see ³¹ Si	2E+3	2E+2	1E-7	3E-10	-	-
		LLI wall (3E+3)	-	-	-	4E-5	4E-4	
		W, see ³¹ Si	-	1E+2	5E-8	2E-10	-	-
		Y, see ³¹ Si	-	5E+0	2E-9	7E-12	-	-
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn ²⁺ , S ³⁺ , Mg ²⁺ , Fe ³⁺ , Bi ³⁺ , and lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see ³² P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see ³² P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	-	1E+4	6E-6	2E-8	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		LLI wall (8E+3)	-	-	-	1E-4	1E-3	
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	-	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38 ²	D, see ³⁶ Cl	2E+4	4E+4	2E-5	6E-8	-	-
		St wall (3E+4)	-	-	-	3E-4	3E-3	
		W, see ³⁶ Cl	-	5E+4	2E-5	6E-8	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
17	Chlorine-39 ²	D, see ³⁶ Cl	2E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, see ³⁶ Cl	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion ¹	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion ¹	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion ¹	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 ²	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
19	Potassium-45 ²	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
		Bone surf (4E+3)	4E+3	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 ²	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC $\mu\text{Ci/ml}$	Air $\mu\text{Ci/ml}$	Water $\mu\text{Ci/ml}$	$\mu\text{Ci/ml}$			
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see ⁴⁴ Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ⁴⁴ Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see ⁴⁴ Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-472	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see ⁴⁷ V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see ⁴⁷ V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see ⁴⁷ V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see ⁴⁷ V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49 ²	D, see ⁴⁸ Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see ⁴⁸ Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see ⁴⁸ Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see ⁴⁸ Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see ⁴⁸ Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see ⁴⁸ Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51 ²	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-
25	Manganese-52m ²	D, see ⁵¹ Mn	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ⁵¹ Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see ⁵¹ Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see ⁵¹ Mn	-	9E+2	4E-7	1E-9	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
25	Manganese-53	D, see ⁵¹ Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
		W, see ⁵¹ Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see ⁵¹ Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ⁵¹ Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see ⁵¹ Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁵¹ Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see ⁵² Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ⁵² Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see ⁵² Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ⁵² Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see ⁵² Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ⁵² Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see ⁵⁵ Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ⁵⁵ Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see ⁵⁵ Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ⁵⁵ Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see ⁵⁵ Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ⁵⁵ Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see ⁵⁵ Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ⁵⁵ Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m ²	W, see ⁵⁵ Co	1E+6	4E+6	2E-3	6E-6	-	-
		Y, see ⁵⁵ Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see ⁵⁵ Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see ⁵⁵ Co	2E+2	3E+1	1E-8	5E-11	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air	Water	
ALI μ Ci	ALI μ Ci	DAC μ Ci/ml	Air μ Ci/ml	Water μ Ci/ml	μ Ci/ml			
27	Cobalt-61 ²	W, see ⁵⁵ Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ⁵⁵ Co	2E+4	6E+4	2E-5	8E-8	-	-
27	Cobalt-62m ²	W, see ⁵⁵ Co	4E+4	2E+5	7E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see ⁵⁵ Co	-	2E+5	6E-5	2E-7	-	-
28	Nickel-56	D, all compounds except those given for W	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		W, oxides, hydroxides, and carbides	-	1E+3	5E-7	2E-9	-	-
		Vapor	-	1E+3	5E-7	2E-9	-	-
28	Nickel-57	D, see ⁵⁶ Ni	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ⁵⁶ Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	6E+3	3E-6	9E-9	-	-
28	Nickel-59	D, see ⁵⁶ Ni	2E+4	4E+3	2E-6	5E-9	3E-4	3E-3
		W, see ⁵⁶ Ni	-	7E+3	3E-6	1E-8	-	-
		Vapor	-	2E+3	8E-7	3E-9	-	-
28	Nickel-63	D, see ⁵⁶ Ni	9E+3	2E+3	7E-7	2E-9	1E-4	1E-3
		W, see ⁵⁶ Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	8E+2	3E-7	1E-9	-	-
28	Nickel-65	D, see ⁵⁶ Ni	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ⁵⁶ Ni	-	3E+4	1E-5	4E-8	-	-
		Vapor	-	2E+4	7E-6	2E-8	-	-
28	Nickel-66	D, see ⁵⁶ Ni	4E+2	2E+3	7E-7	2E-9	-	-
		LLI wall (5E+2)	-	-	-	-	6E-6	6E-5
		W, see ⁵⁶ Ni	-	6E+2	3E-7	9E-10	-	-
		Vapor	-	3E+3	1E-6	4E-9	-	-
29	Copper-60 ²	D, all compounds except those given for W and Y	3E+4	9E+4	4E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	4E-5	1E-7	-	-
29	Copper-61	D, see ⁶⁰ Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ⁶⁰ Cu	-	4E+4	2E-5	6E-8	-	-
		Y, see ⁶⁰ Cu	-	4E+4	1E-5	5E-8	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
29	Copper-64	D, see ⁶⁰ Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ⁶⁰ Cu	-	2E+4	1E-5	3E-8	-	-
		Y, see ⁶⁰ Cu	-	2E+4	9E-6	3E-8	-	-
29	Copper-67	D, see ⁶⁰ Cu	5E+3	8E+3	3E-6	1E-8	6E-5	6E-4
		W, see ⁶⁰ Cu	-	5E+3	2E-6	7E-9	-	-
		Y, see ⁶⁰ Cu	-	5E+3	2E-6	6E-9	-	-
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 ²	Y, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall (3E+4)	-	-	-	-	3E-4	3E-3
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 ²	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		D, all compounds except those given for W	5E+4	2E+5	7E-5	2E-7	-	-
		St wall (6E+4)	-	-	-	-	9E-4	9E-3
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ⁶⁵ Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ⁶⁵ Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 ²	D, see ⁶⁵ Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ⁶⁵ Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 ²	D, see ⁶⁵ Ga	5E+4	2E+5	7E-5	2E-7	-	-
		St wall (7E+4)	-	-	-	-	1E-3	1E-2
		W, see ⁶⁵ Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
31	Gallium-73	D, see ⁶⁵ Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁶⁵ Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 ²	D, see ⁶⁶ Ge	3E+4	9E+4	4E-5	1E-7	-	-
		St wall (4E+4)	-	-	-	-	6E-4	6E-3
		W, see ⁶⁶ Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ⁶⁶ Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ⁶⁶ Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ⁶⁶ Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ⁶⁶ Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see ⁶⁶ Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see ⁶⁶ Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75 ²	D, see ⁶⁶ Ge	4E+4	8E+4	3E-5	1E-7	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see ⁶⁶ Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see ⁶⁶ Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see ⁶⁶ Ge	-	6E+3	2E-6	8E-9	-	-
32	Germanium-78 ²	D, see ⁶⁶ Ge	2E+4	2E+4	9E-6	3E-8	-	-
		St wall (2E+4)	-	-	-	-	3E-4	3E-3
		W, see ⁶⁶ Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69 ²	W, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall (4E+4)	-	-	-	-	6E-4	6E-3
33	Arsenic-70 ²	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
33	Arsenic-77	W, all compounds	4E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	6E-5	6E-4
33	Arsenic-78 ²	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70 ²	D, all compounds except those given for W W, oxides, hydroxides, carbides, and elemental Se	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
			1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m ²	D, see ⁷⁰ Se W, see ⁷⁰ Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
			3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see ⁷⁰ Se W, see ⁷⁰ Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
			-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see ⁷⁰ Se W, see ⁷⁰ Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
			-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see ⁷⁰ Se W, see ⁷⁰ Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
			-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m ²	D, see ⁷⁰ Se W, see ⁷⁰ Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
			2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81 ²	D, see ⁷⁰ Se W, see ⁷⁰ Se	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
			-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 ²	D, see ⁷⁰ Se W, see ⁷⁰ Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
			3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m ²	D, bromides of H, Li, Na, K, Rb, Cs, and Fr W, bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	1E+4	4E+4	2E-5	5E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
			-	4E+4	2E-5	6E-8	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
35	Bromine-74 ²	D, see ^{74m} Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall (4E+4)	-	-	-	-	5E-45E-3	-
		W, see ^{74m} Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75 ²	D, see ^{74m} Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m} Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m} Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m} Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m} Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m} Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m} Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 ²	D, see ^{74m} Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ^{74m} Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m} Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m} Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m} Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84 ²	D, see ^{74m} Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74 ²	Submersion ¹	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion ¹	-	-	9E-6	4E-8	-	-
36	Krypton-77 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
36	Krypton-79	Submersion ¹	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion ¹	-	-	7E-4	3E-6	-	-
36	Krypton-83m ²	Submersion ¹	-	-	1E-2	5E-5	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
				ALI μCi	DAC μCi/ml			
36	Krypton-85m	Submersion ¹	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion ¹	-	-	1E-4	7E-7	-	-
36	Krypton-87 ²	Submersion ¹	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion ¹	-	-	2E-6	9E-9	-	-
37	Rubidium-79 ²	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
37	Rubidium-81m ²	D, all compounds	2E+5	3E+5	1E-4	5E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium-82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88 ²	D, all compounds	2E+4	6E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
37	Rubidium-89 ²	D, all compounds	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
38	Strontium-80 ²	D, all soluble compounds except SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		Y, all insoluble compounds and SrTiO	-	1E+4	5E-6	2E-8	-	-
38	Strontium-81 ²	D, see ⁸⁰ Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ⁸⁰ Sr	2E+4	8E+4	3E-5	1E-7	-	-
38	Strontium-82	D, see ⁸⁰ Sr	3E+2	4E+2	2E-7	6E-10	-	-
			LLI wall (2E+2)	-	-	-	3E-6	3E-5
		Y, see ⁸⁰ Sr	2E+2	9E+1	4E-8	1E-10	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
38	Strontium-83	D, see ⁸⁰ Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ⁸⁰ Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m ²	D, see ⁸⁰ Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see ⁸⁰ Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see ⁸⁰ Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see ⁸⁰ Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see ⁸⁰ Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ⁸⁰ Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see ⁸⁰ Sr	6E+2	8E+2	4E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, see ⁸⁰ Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see ⁸⁰ Sr	3E+1	2E+1	8E-9	-	-	-
			Bone surf (4E+1)	Bone surf (2E+1)	-	3E-11	5E-7	5E-6
		Y, see ⁸⁰ Sr	-	4E+0	2E-9	6E-12	-	-
38	Strontium-91	D, see ⁸⁰ Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see ⁸⁰ Sr	-	4E+3	1E-6	5E-9	-	-
38	Strontium-92	D, see ⁸⁰ Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ⁸⁰ Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m ²	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m} Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m} Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m} Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m} Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m} Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m} Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m} Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m} Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m} Y	4E+2	7E+2	3E-7	9E-10	-	-
			LLI wall (5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{86m} Y	-	6E+2	3E-7	9E-10	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
39	Yttrium-91m ²	W, see ^{86m} Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m} Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m} Y	5E+2	2E+2	7E-8	2E-10	-	-
		Y, see ^{86m} Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see ^{86m} Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{86m} Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see ^{86m} Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{86m} Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94 ²	W, see ^{86m} Y	2E+4	8E+4	3E-5	1E-7	-	-
		Y, see ^{86m} Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95 ²	W, see ^{86m} Y	4E+4	2E+5	6E-5	2E-7	-	-
		Y, see ^{86m} Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see ⁸⁶ Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see ⁸⁶ Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-89	D, see ⁸⁶ Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
		Y, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see ⁸⁶ Zr	1E+3	6E+0	3E-9	-	-	-
		W, see ⁸⁶ Zr	-	2E+1	1E-8	-	-	-
		Y, see ⁸⁶ Zr	-	6E+1	2E-8	-	-	-
		Y, see ⁸⁶ Zr	-	7E+1	-	9E-11	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
40	Zirconium-95	D, see ⁸⁶ Zr	1E+3	1E+2	5E-8	-	2E-5	2E-4
				Bone surf (3E+2)	-	4E-10	-	-
		W, see ⁸⁶ Zr	-	4E+2	2E-7	5E-10	-	-
		Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see ⁸⁶ Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see ⁸⁶ Zr	-	1E+3	6E-7	2E-9	-	-
		Y, see ⁸⁶ Zr	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88 ²	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41	Niobium-89 ² (66 min)	W, see ⁸⁸ Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see ⁸⁸ Nb	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see ⁸⁸ Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ⁸⁸ Nb	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see ⁸⁸ Nb	9E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+4)	-	-	-	2E-4	2E-3
		Y, see ⁸⁸ Nb	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see ⁸⁸ Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see ⁸⁸ Nb	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see ⁸⁸ Nb	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ⁸⁸ Nb	-	2E+3	9E-7	3E-9	-	-
41	Niobium-95	W, see ⁸⁸ Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see ⁸⁸ Nb	-	1E+3	5E-7	2E-9	-	-
41	Niobium-96	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97 ²	W, see ⁸⁸ Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ⁸⁸ Nb	-	7E+4	3E-5	1E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
41	Niobium-98 ²	W, see ⁸⁸ Nb Y, see ⁸⁸ Nb	1E+4 -	5E+4 5E+4	2E-5 2E-5	8E-8 7E-8	2E-4 -	2E-3 -
42	Molybdenum-90	D, all compounds except those given for Y Y, oxides, hydroxides, and MoS	4E+3 2E+3	7E+3 5E+3	3E-6 2E-6	1E-8 6E-9	3E-5 -	3E-4 -
42	Molybdenum-93m	D, see ⁹⁰ Mo Y, see ⁹⁰ Mo	9E+3 4E+3	2E+4 1E+4	7E-6 6E-6	2E-8 2E-8	6E-5 -	6E-4 -
42	Molybdenum-93	D, see ⁹⁰ Mo Y, see ⁹⁰ Mo	4E+3 2E+4	5E+3 2E+2	2E-6 8E-8	8E-9 2E-10	5E-5 -	5E-4 -
42	Molybdenum-99	D, see ⁹⁰ Mo LLI wall (1E+3) Y, see ⁹⁰ Mo	2E+3 1E+3	3E+3 - 1E+3	1E-6 - 6E-7	4E-9 - 2E-9	- 2E-5 -	- 2E-4 -
42	Molybdenum-101 ²	D, see ⁹⁰ Mo St wall (5E+4) Y, see ⁹⁰ Mo	4E+4 -	1E+5 - 1E+5	6E-5 - 6E-5	2E-7 - 2E-7	- 7E-4 -	- 7E-3 -
43	Technetium-93m ²	D, all compounds except those given for W W, oxides, hydroxides, halides, and nitrates	7E+4 -	2E+5 3E+5	6E-5 1E-4	2E-7 4E-7	1E-3 -	1E-2 -
43	Technetium-93	D, see ^{93m} Tc W, see ^{93m} Tc	3E+4 -	7E+4 1E+5	3E-5 4E-5	1E-7 1E-7	4E-4 -	4E-3 -
43	Technetium-94m ²	D, see ^{93m} Tc W, see ^{93m} Tc	2E+4 -	4E+4 6E+4	2E-5 2E-5	6E-8 8E-8	3E-4 -	3E-3 -
43	Technetium-94	D, see ^{93m} Tc W, see ^{93m} Tc	9E+3 -	2E+4 2E+4	8E-6 1E-5	3E-8 3E-8	1E-4 -	1E-3 -
43	Technetium-95m	D, see ^{93m} Tc W, see ^{93m} Tc	4E+3 -	5E+3 2E+3	2E-6 8E-7	8E-9 3E-9	5E-5 -	5E-4 -
43	Technetium-95	D, see ^{93m} Tc W, see ^{93m} Tc	1E+4 -	2E+4 2E+4	9E-6 8E-6	3E-8 3E-8	1E-4 -	1E-3 -
43	Technetium-96m ²	D, see ^{93m} Tc W, see ^{93m} Tc	2E+5 -	3E+5 2E+5	1E-4 1E-4	4E-7 3E-7	2E-3 -	2E-2 -
43	Technetium-96	D, see ^{93m} Tc W, see ^{93m} Tc	2E+3 -	3E+3 2E+3	1E-6 9E-7	5E-9 3E-9	3E-5 -	3E-4 -

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
43	Technetium-97m	D, see ^{93m} Tc	5E+3	7E+3	3E-6	-	6E-5	6E-4
		W, see ^{93m} Tc	-	St wall (7E+3)	-	1E-8	-	-
43	Technetium-97	D, see ^{93m} Tc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93m} Tc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93m} Tc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93m} Tc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93m} Tc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93m} Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93m} Tc	4E+3	5E+3	2E-6	-	6E-5	6E-4
		W, see ^{93m} Tc	-	St wall (6E+3)	-	8E-9	-	-
43	Technetium-101 ²	D, see ^{93m} Tc	9E+4	3E+5	1E-4	5E-7	-	-
		W, see ^{93m} Tc	-	St wall (1E+5)	-	-	2E-3	2E-2
43	Technetium-104 ²	D, see ^{93m} Tc	2E+4	7E+4	3E-5	1E-7	-	-
		W, see ^{93m} Tc	-	St wall (3E+4)	-	-	4E-4	4E-3
44	Ruthenium-94 ²	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ⁹⁴ Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ⁹⁴ Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ⁹⁴ Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ⁹⁴ Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ⁹⁴ Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁹⁴ Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ⁹⁴ Ru	2E+2	9E+1	4E-8	1E-10	-	-
		LLI wall (2E+2)	-	-	-	-	3E-6	3E-5

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
		W, see ⁹⁴ Ru	-	5E+1	2E-8	8E-11	-	-
		Y, see ⁹⁴ Ru	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see ^{99m} Rh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99m} Rh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99m} Rh	-	2E+3	8E-7	3E-9	-	-
45	Rhodium-100	D, see ^{99m} Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{99m} Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{99m} Rh	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see ^{99m} Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{99m} Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see ^{99m} Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see ^{99m} Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{99m} Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{99m} Rh	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see ^{99m} Rh	1E+3	5E+2	2E-7	7E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		W, see ^{99m} Rh	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{99m} Rh	-	1E+2	5E-8	2E-10	-	-
45	Rhodium-102	D, see ^{99m} Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see ^{99m} Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{99m} Rh	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m ²	D, see ^{99m} Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see ^{99m} Rh	-	1E+6	5E-4	2E-6	-	-
		Y, see ^{99m} Rh	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see ^{99m} Rh	4E+3	1E+4	5E-6	2E-8	-	-
		LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
		W, see ^{99m} Rh	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{99m} Rh	-	6E+3	2E-6	8E-9	-	-
45	Rhodium-106m	D, see ^{99m} Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{99m} Rh	-	4E+4	2E-5	5E-8	-	-
		Y, see ^{99m} Rh	-	4E+4	1E-5	5E-8	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
45	Rhodium-107 ²	D, see ^{99m} Rh	7E+4	2E+5	1E-4	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ^{99m} Rh	-	3E+5	1E-4	4E-7	-	-
		Y, see ^{99m} Rh	-	3E+5	1E-4	3E-7	-	-
46	Palladium-100	D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
46	Palladium-101	D, see ¹⁰⁰ Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ¹⁰⁰ Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ¹⁰⁰ Pd	-	3E+4	1E-5	4E-8	-	-
46	Palladium-103	D, see ¹⁰⁰ Pd	6E+3	6E+3	3E-6	9E-9	-	-
		LLI wall (7E+3)	-	-	-	-	1E-4	1E-3
		W, see ¹⁰⁰ Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁰⁰ Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ¹⁰⁰ Pd	3E+4	2E+4	9E-6	-	-	-
		LLI wall (4E+4)	-	Kidneys (2E+4)	-	3E-8	5E-4	5E-3
		W, see ¹⁰⁰ Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ¹⁰⁰ Pd	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see ¹⁰⁰ Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see ¹⁰⁰ Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see ¹⁰⁰ Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102 ²	D, all compounds except those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
		St wall (6E+4)	-	-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103 ²	D, see ¹⁰² Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m ²	D, see ¹⁰² Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104 ²	D, see ¹⁰² Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹⁰² Ag	-	1E+5	6E-5	2E-7	-	-
		Y, see ¹⁰² Ag	-	1E+5	6E-5	2E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air μCi/ml	Water μCi/ml	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
47	Silver-105	D, see ¹⁰² Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see ¹⁰² Ag	-	2E+3	7E-7	2E-9	-	-
		Y, see ¹⁰² Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see ¹⁰² Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see ¹⁰² Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ¹⁰² Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106 ²	D, see ¹⁰² Ag	6E+4	2E+5	8E-5	3E-7	-	-
		St. wall (6E+4)	-	-	-	-	9E-4	9E-3
		W, see ¹⁰² Ag	-	2E+5	9E-5	3E-7	-	-
47	Silver-108m	D, see ¹⁰² Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see ¹⁰² Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see ¹⁰² Ag	-	2E+1	1E-8	3E-11	-	-
47	Silver-110m	D, see ¹⁰² Ag	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see ¹⁰² Ag	-	2E+2	8E-8	3E-10	-	-
		Y, see ¹⁰² Ag	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see ¹⁰² Ag	9E+2	2E+3	6E-7	-	-	-
		LLI wall (1E+3)	-	Liver (2E+3)	-	2E-9	2E-5	2E-4
		W, see ¹⁰² Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	D, see ¹⁰² Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ¹⁰² Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ¹⁰² Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115 ²	D, see ¹⁰² Ag	3E+4	9E+4	4E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, see ¹⁰² Ag	-	9E+4	4E-5	1E-7	-	-
48	Cadmium-104 ²	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ¹⁰⁴ Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ¹⁰⁴ Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ¹⁰⁴ Cd	-	5E+4	2E-5	7E-8	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
48	Cadmium-109	D, see ¹⁰⁴ Cd	3E+2	4E+1	1E-8	-	-	-
			Kidneys (4E+2)	Kidneys (5E+1)	-	7E-11	6E-6	6E-5
		W, see ¹⁰⁴ Cd	-	1E+2	5E-8	-	-	-
		Y, see ¹⁰⁴ Cd	-	Kidneys (1E+2)	-	2E-10	-	-
			-	1E+2	5E-8	2E-10	-	-
48	Cadmium-113m	D, see ¹⁰⁴ Cd	2E+1	2E+0	1E-9	-	-	-
			Kidneys (4E+1)	Kidneys (4E+0)	-	5E-12	5E-7	5E-6
		W, see ¹⁰⁴ Cd	-	8E+0	4E-9	-	-	-
		Y, see ¹⁰⁴ Cd	-	Kidneys (1E+1)	-	2E-11	-	-
			-	1E+1	5E-9	2E-11	-	-
48	Cadmium-113	D, see ¹⁰⁴ Cd	2E+1	2E+0	9E-10	-	-	-
			Kidneys (3E+1)	Kidneys (3E+0)	-	5E-12	4E-7	4E-6
		W, see ¹⁰⁴ Cd	-	8E+0	3E-9	-	-	-
		Y, see ¹⁰⁴ Cd	-	Kidneys (1E+1)	-	2E-11	-	-
			-	1E+1	6E-9	2E-11	-	-
48	Cadmium-115m	D, see ¹⁰⁴ Cd	3E+2	5E+1	2E-8	-	4E-6	4E-5
			-	Kidneys (8E+1)	-	1E-10	-	-
		W, see ¹⁰⁴ Cd	-	1E+2	5E-8	2E-10	-	-
		Y, see ¹⁰⁴ Cd	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see ¹⁰⁴ Cd	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
		W, see ¹⁰⁴ Cd	-	1E+3	5E-7	2E-9	-	-
		Y, see ¹⁰⁴ Cd	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see ¹⁰⁴ Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ¹⁰⁴ Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ¹⁰⁴ Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ¹⁰⁴ Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ¹⁰⁴ Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ¹⁰⁴ Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	9E-8	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
49	Indium-110 ² (69.1 min)	D, see ¹⁰⁹ In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁰⁹ In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see ¹⁰⁹ In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see ¹⁰⁹ In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ¹⁰⁹ In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ¹⁰⁹ In	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 ²	D, see ¹⁰⁹ In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see ¹⁰⁹ In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m ²	D, see ¹⁰⁹ In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see ¹⁰⁹ In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ¹⁰⁹ In	3E+2	6E+1	3E-8	9E-11	-	-
		LLI wall (4E+2)	-	-	-	-	5E-6	5E-5
49	Indium-115m	W, see ¹⁰⁹ In	-	1E+2	4E-8	1E-10	-	-
		D, see ¹⁰⁹ In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
49	Indium-115	W, see ¹⁰⁹ In	-	5E+4	2E-5	7E-8	-	-
		D, see ¹⁰⁹ In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
49	Indium-116m ²	W, see ¹⁰⁹ In	-	5E+0	2E-9	8E-12	-	-
		D, see ¹⁰⁹ In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
49	Indium-117m ²	W, see ¹⁰⁹ In	-	1E+5	5E-5	2E-7	-	-
		D, see ¹⁰⁹ In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
49	Indium-117 ²	W, see ¹⁰⁹ In	-	4E+4	2E-5	6E-8	-	-
		D, see ¹⁰⁹ In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
49	Indium-119m ²	W, see ¹⁰⁹ In	-	2E+5	9E-5	3E-7	-	-
		D, see ¹⁰⁹ In	4E+4	1E+5	5E-5	2E-7	-	-
50	Tin-110	St wall (5E+4)	-	-	-	-	7E-4	7E-3
		W, see ¹⁰⁹ In	-	1E+5	6E-5	2E-7	-	-
50	Tin-110	D, all compounds except those given for W	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	-	1E+4	5E-6	2E-8	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
50	Tin-111 ²	D, see ¹¹⁰ Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
		W, see ¹¹⁰ Sn	-	3E+5	1E-4	4E-7	-	-
50	Tin-113	D, see ¹¹⁰ Sn	2E+3	1E+3	5E-7	2E-9	-	-
		LLI wall (2E+3)	-	-	-	-	3E-5	3E-4
50	Tin-117m	D, see ¹¹⁰ Sn	2E+3	1E+3	5E-7	-	-	-
		LLI wall (2E+3)	-	Bone surf (2E+3)	-	3E-9	3E-5	3E-4
50	Tin-119m	D, see ¹¹⁰ Sn	3E+3	2E+3	1E-6	3E-9	-	-
		LLI wall (4E+3)	-	-	-	-	6E-5	6E-4
50	Tin-121m	D, see ¹¹⁰ Sn	3E+3	9E+2	4E-7	1E-9	-	-
		LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
50	Tin-121	D, see ¹¹⁰ Sn	6E+3	2E+4	6E-6	2E-8	-	-
		LLI wall (6E+3)	-	-	-	-	8E-5	8E-4
50	Tin-123m ²	D, see ¹¹⁰ Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
		W, see ¹¹⁰ Sn	-	1E+5	6E-5	2E-7	-	-
50	Tin-123	D, see ¹¹⁰ Sn	5E+2	6E+2	3E-7	9E-10	-	-
		LLI wall (6E+2)	-	-	-	-	9E-6	9E-5
50	Tin-125	D, see ¹¹⁰ Sn	4E+2	9E+2	4E-7	1E-9	-	-
		LLI wall (5E+2)	-	-	-	-	6E-6	6E-5
50	Tin-126	D, see ¹¹⁰ Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
		W, see ¹¹⁰ Sn	-	7E+1	3E-8	9E-11	-	-
50	Tin-127	D, see ¹¹⁰ Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		W, see ¹¹⁰ Sn	-	2E+4	8E-6	3E-8	-	-
50	Tin-128 ²	D, see ¹¹⁰ Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ¹¹⁰ Sn	-	4E+4	1E-5	5E-8	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3 Inhalation	Col. 1 Air μCi/ml	Col. 2 Water μCi/ml	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml			
51	Antimony-115 ²	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m ²	D, see ¹¹⁵ Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 ²	D, see ¹¹⁵ Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see ¹¹⁵ Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see ¹¹⁵ Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see ¹¹⁵ Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see ¹¹⁵ Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹¹⁵ Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120 ² (16 min)	D, see ¹¹⁵ Sb	1E+5	4E+5	2E-4	6E-7	-	-
		St wall (2E+5)	-	-	-	-	2E-3	2E-2
		W, see ¹¹⁵ Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see ¹¹⁵ Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ¹¹⁵ Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see ¹¹⁵ Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m ²	D, see ¹¹⁵ Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see ¹¹⁵ Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see ¹¹⁵ Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see ¹¹⁵ Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see ¹¹⁵ Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m ²	D, see ¹¹⁵ Sb	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
		W, see ¹¹⁵ Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see ¹¹⁵ Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ¹¹⁵ Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	9E+2	4E-7	1E-9	-	-
51	Antimony-128 ² (10.4 min)	D, see ¹¹⁵ Sb	8E+4	4E+5	2E-4	5E-7	-	-
		St wall (1E+5)	-	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ¹¹⁵ Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see ¹¹⁵ Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see ¹¹⁵ Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see ¹¹⁵ Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130 ²	D, see ¹¹⁵ Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131 ²	D, see ¹¹⁵ Sb	1E+4	2E+4	1E-5	-	-	-
		Thyroid (2E+4)	-	Thyroid (4E+4)	-	6E-8	2E-4	2E-3
		W, see ¹¹⁵ Sb	-	2E+4	1E-5	-	-	-
		Thyroid (4E+4)	-	Thyroid (4E+4)	-	6E-8	-	-
52	Tellurium-116	D, all compounds except those given for W	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, oxides, hydroxides, and nitrates	-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see ¹¹⁶ Te	5E+2	2E+2	8E-8	-	-	-
		Bone surf (7E+2)	-	Bone surf (4E+2)	-	5E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ¹¹⁶ Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ¹¹⁶ Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see ¹¹⁶ Te	6E+2	2E+2	9E-8	-	-	-
		Bone surf (1E+3)	-	Bone surf (5E+2)	-	8E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	5E+2	2E-7	8E-10	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
52	Tellurium-123	D, see ¹¹⁶ Te	5E+2	2E+2	8E-8	-	-	-
		W, see ¹¹⁶ Te	Bone surf (1E+3)	Bone surf (5E+2)	-	7E-10	2E-5	2E-4
			-	4E+2	2E-7	-	-	-
52	Tellurium-125m	D, see ¹¹⁶ Te	1E+3	4E+2	2E-7	-	-	-
		W, see ¹¹⁶ Te	Bone surf (1E+3)	Bone surf (1E+3)	-	1E-9	2E-5	2E-4
			-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see ¹¹⁶ Te	6E+2	3E+2	1E-7	-	9E-6	9E-5
		W, see ¹¹⁶ Te	-	Bone surf (4E+2)	-	6E-10	-	-
			-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ¹¹⁶ Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹¹⁶ Te	-	2E+4	7E-6	2E-8	-	-
52	Tellurium-129m	D, see ¹¹⁶ Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see ¹¹⁶ Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129 ²	D, see ¹¹⁶ Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ¹¹⁶ Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see ¹¹⁶ Te	3E+2	4E+2	2E-7	-	-	-
		W, see ¹¹⁶ Te	Thyroid (6E+2)	Thyroid (1E+3)	-	2E-9	8E-6	8E-5
			-	4E+2	2E-7	-	-	-
52	Tellurium-131 ²	D, see ¹¹⁶ Te	3E+3	5E+3	2E-6	-	-	-
		W, see ¹¹⁶ Te	Thyroid (6E+3)	Thyroid (1E+4)	-	2E-8	8E-5	8E-4
			-	5E+3	2E-6	-	-	-
52	Tellurium-132	D, see ¹¹⁶ Te	2E+2	2E+2	9E-8	-	-	-
		W, see ¹¹⁶ Te	Thyroid (7E+2)	Thyroid (8E+2)	-	1E-9	9E-6	9E-5
			-	2E+2	9E-8	-	-	-
			-	Thyroid (6E+2)	-	9E-10	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
52	Tellurium-133m ²	D, see ¹¹⁶ Te	3E+3 Thyroid (6E+3)	5E+3 Thyroid (1E+4)	2E-6	-	-	-
		W, see ¹¹⁶ Te	-	5E+3 Thyroid (1E+4)	2E-6	-	-	-
52	Tellurium-133 ²	D, see ¹¹⁶ Te	1E+4 Thyroid (3E+4)	2E+4 Thyroid (6E+4)	9E-6	-	-	-
		W, see ¹¹⁶ Te	-	2E+4 Thyroid (6E+4)	9E-6	8E-8	4E-4	4E-3
52	Tellurium-134 ²	D, see ¹¹⁶ Te	2E+4 Thyroid (2E+4)	2E+4 Thyroid (5E+4)	1E-5	-	-	-
		W, see ¹¹⁶ Te	-	2E+4 Thyroid (5E+4)	1E-5	7E-8	3E-4	3E-3
53	Iodine-120m ²	D, all compounds	1E+4 Thyroid (1E+4)	2E+4	9E-6	3E-8	-	-
				-	-	-	2E-4	2E-3
53	Iodine-120 ²	D, all compounds	4E+3 Thyroid (8E+3)	9E+3 Thyroid (1E+4)	4E-6	-	-	-
				-	-	2E-8	1E-4	1E-3
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6	-	-	-
				-	-	7E-8	4E-4	4E-3
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6	-	-	-
				-	-	2E-8	1E-4	1E-3
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8	-	-	-
				-	-	4E-10	2E-6	2E-5
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8	-	-	-
				-	-	3E-10	2E-6	2E-5
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8	-	-	-
				-	-	2E-10	1E-6	1E-5

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
53	Iodine-128 ²	D, all compounds	4E+4 St wall (6E+4)	ALI μCi 1E+5	DAC μCi/ml 5E-5	2E-7	- 8E-4	- 8E-3
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9	- 4E-11	- 2E-7	- 2E-6
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7	- 3E-9	- 2E-5	- 2E-4
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8	- 2E-10	- 1E-6	- 1E-5
53	Iodine-132m ²	D, all compounds	4E+3 Thyroid (1E+4)	8E+3 Thyroid (2E+4)	4E-6	- 3E-8	- 1E-4	- 1E-3
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6	- 2E-8	- 1E-4	- 1E-3
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7	- 1E-9	- 7E-6	- 7E-5
53	Iodine-134 ²	D, all compounds	2E+4 Thyroid (3E+4)	5E+4	2E-5	6E-8	- 4E-4	- 4E-3
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7	- 6E-9	- 3E-5	- 3E-4
54	Xenon-120 ²	Submersion ¹	-	-	1E-5	4E-8	-	-
54	Xenon-121 ²	Submersion ¹	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion ¹	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion ¹	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion ¹	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion ¹	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion ¹	-	-	2E-4	9E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
				ALI μCi	DAC μCi/ml			
54	Xenon-131m	Submersion ¹	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion ¹	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion ¹	-	-	1E-4	5E-7	-	-
54	Xenon-135m ²	Submersion ¹	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion ¹	-	-	1E-5	7E-8	-	-
54	Xenon-138 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
55	Cesium-125 ²	D, all compounds	5E+4 St wall (9E+4)	1E+5	6E-5	2E-7	- 1E-3	- 1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130 ²	D, all compounds	6E+4 St wall (1E+5)	2E+5	8E-5	3E-7	- 1E-3	- 1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5 St wall (1E+5)	1E+5	6E-5	2E-7	- 2E-3	- 2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m ²	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 ²	D, all compounds	2E+4 St wall (3E+4)	6E+4	2E-5	8E-8	- 4E-4	- 4E-3
56	Barium-126 ²	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
56	Barium-131m ²	D, all compounds	4E+5 St wall (5E+5)	1E+6	6E-4	2E-6	- 7E-3	- 7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3 LLI wall (3E+3)	9E+3	4E-6	1E-8	- 4E-5	- 4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 ²	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2 LLI wall (6E+2)	1E+3	6E-7	2E-9	- 8E-6	- 8E-5
56	Barium-141 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 ²	D, all compounds except those given for W W, oxides and hydroxides	5E+4 -	1E+5 2E+5	5E-5 7E-5	2E-7 2E-7	6E-4 -	6E-3 -
57	Lanthanum-132	D, see ¹³¹ La W, see ¹³¹ La	3E+3 -	1E+4 1E+4	4E-6 5E-6	1E-8 2E-8	4E-5 -	4E-4 -
57	Lanthanum-135	D, see ¹³¹ La W, see ¹³¹ La	4E+4 -	1E+5 9E+4	4E-5 4E-5	1E-7 1E-7	5E-4 -	5E-3 -
57	Lanthanum-137	D, see ¹³¹ La W, see ¹³¹ La	1E+4 -	6E+1 Liver (7E+1) 3E+2 Liver (3E+2)	3E-8 -	- 1E-10 -	2E-4 -	2E-3 -
57	Lanthanum-138	D, see ¹³¹ La W, see ¹³¹ La	9E+2 -	4E+0 1E+1	1E-9 6E-9	5E-12 2E-11	1E-5 -	1E-4 -
57	Lanthanum-140	D, see ¹³¹ La W, see ¹³¹ La	6E+2 -	1E+3 1E+3	6E-7 5E-7	2E-9 2E-9	9E-6 -	9E-5 -
57	Lanthanum-141	D, see ¹³¹ La W, see ¹³¹ La	4E+3 -	9E+3 1E+4	4E-6 5E-6	1E-8 2E-8	5E-5 -	5E-4 -

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
57	Lanthanum-142 ²	D, see ¹³¹ La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹³¹ La	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143 ²	D, see ¹³¹ La	4E+4	1E+5	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ¹³¹ La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see ¹³⁴ Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ¹³⁴ Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see ¹³⁴ Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ¹³⁴ Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see ¹³⁴ Ce	2E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ¹³⁴ Ce	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	2E+3	7E-7	2E-9	-	-
58	Cerium-144	W, see ¹³⁴ Ce	2E+2	3E+1	1E-8	4E-11	-	-
			LLI wall (3E+2)	-	-	-	3E-6	3E-5
		Y, see ¹³⁴ Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 ²	W, all compounds except those given for Y	5E+4	2E+5	1E-4	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 ²	W, see ¹³⁶ Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ¹³⁶ Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ¹³⁶ Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ¹³⁶ Pr	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see ¹³⁶ Pr	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ¹³⁶ Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m ²	W, see ¹³⁶ Pr	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see ¹³⁶ Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see ¹³⁶ Pr	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see ¹³⁶ Pr	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see ¹³⁶ Pr	9E+2	8E+2	3E-7	1E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ¹³⁶ Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 ²	W, see ¹³⁶ Pr	3E+4	1E+5	5E-5	2E-7	-	-
		St wall (4E+4)	-	-	-	-	6E-4	6E-3
		Y, see ¹³⁶ Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see ¹³⁶ Pr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ¹³⁶ Pr	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147 ²	W, see ¹³⁶ Pr	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (8E+4)	-	-	-	-	1E-3	1E-2
		Y, see ¹³⁶ Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 ²	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ¹³⁶ Nd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see ¹³⁶ Nd	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see ¹³⁶ Nd	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see ¹³⁶ Nd	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139 ²	W, see ¹³⁶ Nd	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see ¹³⁶ Nd	-	3E+5	1E-4	4E-7	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
60	Neodymium-141	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	2E+5 -	7E+5 6E+5	3E-4 3E-4	1E-6 9E-7	2E-3 -	2E-2 -
60	Neodymium-147	W, see ¹³⁶ Nd LLI wall (1E+3) Y, see ¹³⁶ Nd	1E+3 - -	9E+2 - 8E+2	4E-7 - 4E-7	1E-9 - 1E-9	- 2E-5 -	- 2E-4 -
60	Neodymium-149 ²	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	1E+4 -	3E+4 2E+4	1E-5 1E-5	4E-8 3E-8	1E-4 -	1E-3 -
60	Neodymium-151 ²	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	7E+4 -	2E+5 2E+5	8E-5 8E-5	3E-7 3E-7	9E-4 -	9E-3 -
61	Promethium-141 ²	W, all compounds except those given for Y St wall (6E+4) Y, oxides, hydroxides, carbides, and fluorides	5E+4 - -	2E+5 - 2E+5	8E-5 - 7E-5	3E-7 - 2E-7	- 8E-4 -	- 8E-3 -
61	Promethium-143	W, see ¹⁴¹ Pm Y, see ¹⁴¹ Pm	5E+3 -	6E+2 7E+2	2E-7 3E-7	8E-10 1E-9	7E-5 -	7E-4 -
61	Promethium-144	W, see ¹⁴¹ Pm Y, see ¹⁴¹ Pm	1E+3 -	1E+2 1E+2	5E-8 5E-8	2E-10 2E-10	2E-5 -	2E-4 -
61	Promethium-145	W, see ¹⁴¹ Pm Bone surf (2E+2) Y, see ¹⁴¹ Pm	1E+4 - -	2E+2 2E+2	7E-8 - 8E-8	- 3E-10 3E-10	1E-4 - -	1E-3 - -
61	Promethium-146	W, see ¹⁴¹ Pm Y, see ¹⁴¹ Pm	2E+3 -	5E+1 4E+1	2E-8 2E-8	7E-11 6E-11	2E-5 -	2E-4 -
61	Promethium-147	W, see ¹⁴¹ Pm LLI wall (5E+3) Y, see ¹⁴¹ Pm	4E+3 - -	1E+2 Bone surf (2E+2) 1E+2	5E-8 - 6E-8	- 3E-10 2E-10	- 7E-5 -	- 7E-4 -
61	Promethium-148m	W, see ¹⁴¹ Pm Y, see ¹⁴¹ Pm	7E+2 -	3E+2 3E+2	1E-7 1E-7	4E-10 5E-10	1E-5 -	1E-4 -
61	Promethium-148	W, see ¹⁴¹ Pm LLI wall (5E+2) Y, see ¹⁴¹ Pm	4E+2 - -	5E+2 - 5E+2	2E-7 - 2E-7	8E-10 - 7E-10	- 7E-6 -	- 7E-5 -

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
61	Promethium-149	W, see ¹⁴¹ Pm	1E+3	2E+3	8E-7	3E-9	-	-
		Y, see ¹⁴¹ Pm	LLI wall (1E+3)	-	-	-	2E-5	2E-4
61	Promethium-150	W, see ¹⁴¹ Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ¹⁴¹ Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see ¹⁴¹ Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ¹⁴¹ Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
62	Samarium-141 ²	W, all compounds	5E+4	2E+5	8E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
62	Samarium-142 ²	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1	4E-2	1E-11	-	-	-
			Bone surf (3E+1)	Bone surf (6E-2)	-	9E-14	3E-7	3E-6
62	Samarium-147	W, all compounds	2E+1	4E-2	2E-11	-	-	-
			Bone surf (3E+1)	Bone surf (7E-2)	-	1E-13	4E-7	4E-6
62	Samarium-151	W, all compounds	1E+4	1E+2	4E-8	-	-	-
			LLI wall (1E+4)	Bone surf (2E+2)	-	2E-10	2E-4	2E-3
62	Samarium-153	W, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
62	Samarium-155 ²	W, all compounds	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
63	Europium-148	W, all compounds	1E+3	ALI μCi	DAC μCi/ml	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3	9E+1	4E-8	-	5E-5	5E-4
			-	Bone surf (1E+2)	-	2E-10	-	-
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 ²	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 ²	D, all compounds except those given for W	5E+4	2E+5	6E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	6E-4	6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ¹⁴⁵ Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ¹⁴⁵ Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ¹⁴⁵ Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁴⁵ Gd	-	4E+3	1E-6	5E-9	-	-
64	Gadolinium-148	D, see ¹⁴⁵ Gd	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see ¹⁴⁵ Gd	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see ¹⁴⁵ Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see ¹⁴⁵ Gd	-	2E+3	1E-6	3E-9	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
64	Gadolinium-151	D, see ¹⁴⁵ Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4
				Bone surf (6E+2)	-	9E-10	-	-
		W, see ¹⁴⁵ Gd	-	1E+3	5E-7	2E-9	-	-
64	Gadolinium-152	D, see ¹⁴⁵ Gd	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see ¹⁴⁵ Gd	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see ¹⁴⁵ Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see ¹⁴⁵ Gd	-	6E+2	2E-7	8E-10	-	-
64	Gadolinium-159	D, see ¹⁴⁵ Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ¹⁴⁵ Gd	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147 ²	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
			LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3
65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
65	Terbium-161	W, all compounds	2E+3	2E+3	7E-7	2E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155 ²	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 ²	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 ²	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m ²	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 ²	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m ²	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 ²	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
68	Erbium-169	W, all compounds	3E+3 LLI wall (4E+3)	3E+3	1E-6	4E-9	-	5E-5 5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3 LLI wall (E+3)	1E+3	6E-7	2E-9	-	2E-5 2E-4
69	Thulium-162 ²	W, all compounds	7E+4 St wall (7E+4)	3E+5	1E-4	4E-7	-	1E-3 1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3 LLI wall (2E+3)	2E+3	8E-7	3E-9	-	3E-5 3E-4
69	Thulium-170	W, all compounds	8E+2 LLI wall (1E+3)	2E+2	9E-8	3E-10	-	1E-5 1E-4
69	Thulium-171	W, all compounds	1E+4 LLI wall (1E+4)	3E+2 Bone surf (6E+2)	1E-7	-	-	8E-10 2E-4 2E-3
69	Thulium-172	W, all compounds	7E+2 LLI wall (8E+2)	1E+3	5E-7	2E-9	-	1E-5 1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 ²	W, all compounds	7E+4 St wall (9E+4)	3E+5	1E-4	4E-7	-	1E-3 1E-2
70	Ytterbium-162 ²	W, all compounds except those given for Y Y, oxides, hydroxides, and fluorides	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
			-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ¹⁶² Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167 ²	W, see ¹⁶² Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see ¹⁶² Yb	-	7E+5	3E-4	1E-6	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air μCi/ml	Water μCi/ml	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
70	Ytterbium-169	W, see ¹⁶² Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ¹⁶² Yb	3E+3	4E+3	1E-6	5E-9	-	-
		Y, see ¹⁶² Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 ²	W, see ¹⁶² Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178 ²	W, see ¹⁶² Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ¹⁶⁹ Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see ¹⁶⁹ Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ¹⁶⁹ Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see ¹⁶⁹ Lu	-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see ¹⁶⁹ Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
		Y, see ¹⁶⁹ Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ¹⁶⁹ Lu	2E+3	2E+2	1E-7	-	-	-
		Y, see ¹⁶⁹ Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ¹⁶⁹ Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
		Y, see ¹⁶⁹ Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ¹⁶⁹ Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see ¹⁶⁹ Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ¹⁶⁹ Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
		Y, see ¹⁶⁹ Lu	-	5E+0	2E-9	2E-11	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
		Y, see ¹⁶⁹ Lu	-	8E+0	3E-9	1E-11	-	-
71	Lutetium-177m	W, see ¹⁶⁹ Lu	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf (1E+2)	-	2E-10	-	-
		Y, see ¹⁶⁹ Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ¹⁶⁹ Lu	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m ²	W, see ¹⁶⁹ Lu	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall (6E+4)	-	-	-	8E-4	8E-3
		Y, see ¹⁶⁹ Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 ²	W, see ¹⁶⁹ Lu	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		Y, see ¹⁶⁹ Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ¹⁶⁹ Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ¹⁶⁹ Lu	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ¹⁷⁰ Hf	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf (2E+1)	-	3E-11	-	-
		W, see ¹⁷⁰ Hf	-	4E+1	2E-8	-	-	-
				Bone surf (6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ¹⁷⁰ Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ¹⁷⁰ Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ¹⁷⁰ Hf	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf (1E+3)	-	1E-9	-	-
		W, see ¹⁷⁰ Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m ²	D, see ¹⁷⁰ Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ¹⁷⁰ Hf	-	9E+4	4E-5	1E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
72	Hafnium-178m	D, see ¹⁷⁰ Hf	3E+2	1E+0	5E-10	-	3E-6	3E-5
		W, see ¹⁷⁰ Hf	-	Bone surf (2E+0)	-	3E-12	-	-
			-	5E+0	2E-9	-	-	-
72	Hafnium-179m	D, see ¹⁷⁰ Hf	1E+3	3E+2	1E-7	-	1E-5	1E-4
		W, see ¹⁷⁰ Hf	-	Bone surf (6E+2)	-	8E-10	-	-
			-	6E+2	3E-7	8E-10	-	-
72	Hafnium-180m	D, see ¹⁷⁰ Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹⁷⁰ Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ¹⁷⁰ Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
		W, see ¹⁷⁰ Hf	-	Bone surf (4E+2)	-	6E-10	-	-
			-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m ²	D, see ¹⁷⁰ Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see ¹⁷⁰ Hf	-	1E+5	6E-5	2E-7	-	-
72	Hafnium-182	D, see ¹⁷⁰ Hf	2E+2	8E-1	3E-10	-	-	-
		W, see ¹⁷⁰ Hf	-	Bone surf (4E+2)	-	2E-12	5E-6	5E-5
			-	3E+0	1E-9	-	-	-
72	Hafnium-183 ²	D, see ¹⁷⁰ Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see ¹⁷⁰ Hf	-	Bone surf (2E+0)	-	8E-8	-	-
			-	6E+4	2E-5	8E-8	-	-
72	Hafnium-184	D, see ¹⁷⁰ Hf	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ¹⁷⁰ Hf	-	Bone surf (7E+0)	-	9E-9	-	-
			-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172 ²	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see ¹⁷² Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ¹⁷² Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174 ²	W, see ¹⁷² Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see ¹⁷² Ta	-	9E+4	4E-5	1E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
				ALI μCi	DAC μCi/ml			
73	Tantalum-175	W, see ¹⁷² Ta Y, see ¹⁷² Ta	6E+3 -	2E+4 1E+4	7E-6 6E-6	2E-8 2E-8	8E-5 -	8E-4 -
73	Tantalum-176	W, see ¹⁷² Ta Y, see ¹⁷² Ta	4E+3 -	1E+4 1E+4	5E-6 5E-6	2E-8 2E-8	5E-5 -	5E-4 -
73	Tantalum-177	W, see ¹⁷² Ta Y, see ¹⁷² Ta	1E+4 -	2E+4 2E+4	8E-6 7E-6	3E-8 2E-8	2E-4 -	2E-3 -
73	Tantalum-178	W, see ¹⁷² Ta Y, see ¹⁷² Ta	2E+4 -	9E+4 7E+4	4E-5 3E-5	1E-7 1E-7	2E-4 -	2E-3 -
73	Tantalum-179	W, see ¹⁷² Ta Y, see ¹⁷² Ta	2E+4 -	5E+3 9E+2	2E-6 4E-7	8E-9 1E-9	3E-4 -	3E-3 -
73	Tantalum-180m	W, see ¹⁷² Ta Y, see ¹⁷² Ta	2E+4 -	7E+4 6E+4	3E-5 2E-5	9E-8 8E-8	3E-4 -	3E-3 -
73	Tantalum-180	W, see ¹⁷² Ta Y, see ¹⁷² Ta	1E+3 -	4E+2 2E+1	2E-7 1E-8	6E-10 3E-11	2E-5 -	2E-4 -
73	Tantalum-182m ²	W, see ¹⁷² Ta Y, see ¹⁷² Ta	2E+5 St wall (2E+5) -	5E+5 - 4E+5	2E-4 - 2E-4	8E-7 - 6E-7	- 3E-3 -	- 3E-2 -
73	Tantalum-182	W, see ¹⁷² Ta Y, see ¹⁷² Ta	8E+2 -	3E+2 1E+2	1E-7 6E-8	5E-10 2E-10	1E-5 -	1E-4 -
73	Tantalum-183	W, see ¹⁷² Ta Y, see ¹⁷² Ta	9E+2 LLI wall (1E+3) -	1E+3 - 1E+3	5E-7 - 4E-7	2E-9 - 1E-9	- 2E-5 -	- 2E-4 -
73	Tantalum-184	W, see ¹⁷² Ta Y, see ¹⁷² Ta	2E+3 -	5E+3 5E+3	2E-6 2E-6	8E-9 7E-9	3E-5 -	3E-4 -
73	Tantalum-185 ²	W, see ¹⁷² Ta Y, see ¹⁷² Ta	3E+4 -	7E+4 6E+4	3E-5 3E-5	1E-7 9E-8	4E-4 -	4E-3 -
73	Tantalum-186 ²	W, see ¹⁷² Ta Y, see ¹⁷² Ta	5E+4 St wall (7E+4) -	2E+5 - 2E+5	1E-4 - 9E-5	3E-7 - 3E-7	- 1E-3 -	- 1E-2 -
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air μCi/ml	Water μCi/ml	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 ²	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3 LLI wall (3E+3)	7E+3	3E-6	9E-9	- 4E-5	- 4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2 LLI wall (5E+2)	1E+3	5E-7	2E-9	- 7E-6	- 7E-5
75	Rhenium-177 ²	D, all compounds except those given for W	9E+4 St wall (1E+5)	3E+5	1E-4	4E-7	- 2E-3	- 2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 ²	D, see ¹⁷⁷ Re	7E+4 St wall (1E+5)	3E+5	1E-4	4E-7	- 1E-3	- 1E-2
		W, see ¹⁷⁷ Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ¹⁷⁷ Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ¹⁷⁷ Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see ¹⁷⁷ Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see ¹⁷⁷ Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182 (64.0 h)	D, see ¹⁷⁷ Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	2E+3	9E-7	3E-9	-	-
75	Rhenium-184m	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ¹⁷⁷ Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see ¹⁷⁷ Re	1E+3 St wall (2E+3)	2E+3	7E-7	-	- 2E-5	- 2E-4
		W, see ¹⁷⁷ Re	-	2E+2	6E-8	2E-10	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
75	Rhenium-186	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ¹⁷⁷ Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
		W, see ¹⁷⁷ Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m ²	D, see ¹⁷⁷ Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ¹⁷⁷ Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ¹⁷⁷ Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ¹⁷⁷ Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 ²	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 ²	D, see ¹⁸⁰ Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ¹⁸⁰ Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ¹⁸⁰ Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ¹⁸⁰ Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
		Y, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ¹⁸⁰ Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ¹⁸⁰ Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ¹⁸⁰ Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ¹⁸⁰ Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ¹⁸⁰ Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ¹⁸⁰ Os	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall (3E+3)	-	-	-	-	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ¹⁸⁰ Os	-	1E+3	6E-7	2E-9	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air μCi/ml	Water μCi/ml	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
76	Osmium-193	D, see ¹⁸⁰ Os	2E+3	5E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	2E-5	2E-4	
		W, see ¹⁸⁰ Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ¹⁸⁰ Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ¹⁸⁰ Os	4E+2	4E+1	2E-8	6E-11	-	-
		LLI wall (6E+2)	-	-	-	8E-6	8E-5	
		W, see ¹⁸⁰ Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ¹⁸⁰ Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182 ²	D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
		St wall (4E+4)	-	-	-	6E-4	6E-3	
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ¹⁸² Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ¹⁸² Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ¹⁸² Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ¹⁸² Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ¹⁸² Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ¹⁸² Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ¹⁸² Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ¹⁸² Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ¹⁸² Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ¹⁸² Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁸² Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ¹⁸² Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ¹⁸² Ir	5E+3	5E+3	2E-6	7E-9	-	-
		LLI wall (5E+3)	-	-	-	7E-5	7E-4	
		W, see ¹⁸² Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ¹⁸² Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m ²	D, see ¹⁸² Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ¹⁸² Ir	-	2E+5	9E-5	3E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	
		Y, see ¹⁸² Ir	-	2E+5	8E-5	3E-7	-	-
77	Iridium-190	D, see ¹⁸² Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see ¹⁸² Ir	-	1E+3	4E-7	1E-9	-	-
		Y, see ¹⁸² Ir	-	9E+2	4E-7	1E-9	-	-
77	Iridium-192m	D, see ¹⁸² Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see ¹⁸² Ir	-	2E+2	9E-8	3E-10	-	-
		Y, see ¹⁸² Ir	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see ¹⁸² Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see ¹⁸² Ir	-	4E+2	2E-7	6E-10	-	-
		Y, see ¹⁸² Ir	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see ¹⁸² Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see ¹⁸² Ir	-	2E+2	7E-8	2E-10	-	-
		Y, see ¹⁸² Ir	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see ¹⁸² Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ¹⁸² Ir	-	2E+3	9E-7	3E-9	-	-
		Y, see ¹⁸² Ir	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see ¹⁸² Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ¹⁸² Ir	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see ¹⁸² Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁸² Ir	-	5E+4	2E-5	7E-8	-	-
		Y, see ¹⁸² Ir	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
			LLI wall (3E+4)	-	-	-	4E-5	4E-4
78	Platinum-193	D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
			LLI wall (5E+4)	-	-	-	6E-4	6E-3
78	Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
78	Platinum-197m ²	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see ¹⁹³ Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ¹⁹³ Au	-	5E+3	2E-6	8E-9	-	-
		Y, see ¹⁹³ Au	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D, see ¹⁹³ Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ¹⁹³ Au	-	1E+3	6E-7	2E-9	-	-
		Y, see ¹⁹³ Au	-	4E+2	2E-7	6E-10	-	-
79	Gold-198m	D, see ¹⁹³ Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
		Y, see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D, see ¹⁹³ Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ¹⁹³ Au	-	2E+3	8E-7	3E-9	-	-
		Y, see ¹⁹³ Au	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D, see ¹⁹³ Au	3E+3	9E+3	4E-6	1E-8	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see ¹⁹³ Au	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁹³ Au	-	4E+3	2E-6	5E-9	-	-
79	Gold-200m	D, see ¹⁹³ Au	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ¹⁹³ Au	-	3E+3	1E-6	4E-9	-	-
		Y, see ¹⁹³ Au	-	2E+4	1E-6	3E-9	-	-
79	Gold-200 ²	D, see ¹⁹³ Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ¹⁹³ Au	-	8E+4	3E-5	1E-7	-	-
		Y, see ¹⁹³ Au	-	7E+4	3E-5	1E-7	-	-
79	Gold-201 ²	D, see ¹⁹³ Au	7E+4	2E+5	9E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ¹⁹³ Au	-	2E+5	1E-4	3E-7	-	-
		Y, see ¹⁹³ Au	-	2E+5	9E-5	3E-7	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
80	Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-193	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see ^{193m} Hg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{193m} Hg	-	4E+4	2E-5	6E-8	-	-
80	Mercury-194	Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
		D, see ^{193m} Hg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see ^{193m} Hg	-	1E+2	5E-8	2E-10	-	-
80	Mercury-195m	Vapor	-	4E+3	2E-6	6E-9	-	-
		Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see ^{193m} Hg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see ^{193m} Hg	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see ^{193m} Hg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{193m} Hg	-	3E+4	1E-5	5E-8	-	-
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see ^{193m} Hg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193m} Hg	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see ^{193m} Hg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{193m} Hg	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m ²	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		St wall (1E+5)	(1E+5)	-	-	-	1E-3	1E-2
		D, see ^{193m} Hg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
		W, see ^{193m} Hg	-	2E+5	7E-5	2E-7	-	-
80	Mercury-203	Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see ^{193m} Hg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		W, see ^{193m} Hg	-	1E+3	5E-7	2E-9	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	μCi/ml
81	Thallium-194m ²	D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
81	Thallium-194 ²	D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
81	Thallium-195 ²	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81	Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81	Thallium-198m ²	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E-1	2E-1	1E-10	-	-	-
			Bone surf (1E+0)	Bone surf (4E-1)	-	6E-13	1E-8	1E-7

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
82	Lead-211 ²	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E-3
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
		Bone surf (1E+2)	-	-	-	-	2E-6	2E-5
82	Lead-214 ²	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 ²	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 ²	D, see ²⁰⁰ Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 ²	D, see ²⁰⁰ Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see ²⁰⁰ Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see ²⁰⁰ Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see ²⁰⁰ Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see ²⁰⁰ Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see ²⁰⁰ Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ²⁰⁰ Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see ²⁰⁰ Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see ²⁰⁰ Bi	4E+1	5E+0	2E-9	-	-	-
		Kidneys (6E+1)	6E+1	Kidneys (6E+0)	-	9E-12	8E-7	8E-6
		W, see ²⁰⁰ Bi	-	7E-1	3E-10	9E-13	-	-
83	Bismuth-210	D, see ²⁰⁰ Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
		-	-	Kidneys (4E+2)	-	5E-10	-	-
		W, see ²⁰⁰ Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212 ²	D, see ²⁰⁰ Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see ²⁰⁰ Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213 ²	D, see ²⁰⁰ Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214 ²	D, see ²⁰⁰ Bi	2E+4	8E+2	3E-7	1E-9	-	-
		St wall (2E+4)	-	-	-	-	3E-4	3E-3

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
		W, see ²⁰⁰ Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203 ²	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205 ²	D, see ²⁰³ Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see ²⁰³ Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see ²⁰³ Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ²⁰³ Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see ²⁰³ Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see ²⁰³ Po	-	6E-1	3E-10	9E-13	-	-
85	Astatine-207 ²	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
				(or 12 working level months)		(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
				(or 4 working level months)		(or 0.33 working level)		
87	Francium-222 ²	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 ²	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
		Bone surf	(9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
		Bone surf	(2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
		Bone surf	(2E+1)	-	-	-	2E-7	2E-6

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml				
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 ²	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ²²⁴ Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
89	Actinium-226	D, see ²²⁴ Ac	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
		W, see ²²⁴ Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ²²⁴ Ac	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see ²²⁴ Ac	2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
		W, see ²²⁴ Ac	-	2E-3	7E-13	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
		Y, see ²²⁴ Ac	-	4E-3	2E-12	6E-15	-	-
89	Actinium-228	D, see ²²⁴ Ac	2E+3	9E+0	4E-9	-	3E-5	3E-4
			-	Bone surf (2E+1)	-	2E-11	-	-
		W, see ²²⁴ Ac	-	4E+1	2E-8	-	-	-
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ²²⁴ Ac	-	4E+1	2E-8	6E-11	-	-
90	Thorium-226 ²	W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall					

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
		Y, oxides and hydroxides	(5E+3)	-	-	-	7E-5	7E-4
90	Thorium-227	W, see ²²⁶ Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
		Y, see ²²⁶ Th	-	3E-1	1E-10	5E-13	-	-
90	Thorium-228	W, see ²²⁶ Th	6E+0	1E-2	4E-12	-	-	-
		Bone surf (1E+1)		Bone surf (2E-2)	-	3E-14	2E-7	2E-6
		Y, see ²²⁶ Th	-	2E-2	7E-12	2E-14	-	-
90	Thorium-229	W, see ²²⁶ Th	6E-1	9E-4	4E-13	-	-	-
		Bone surf (1E+0)		Bone surf (2E-3)	-	3E-15	2E-8	2E-7
		Y, see ²²⁶ Th	-	2E-3	1E-12	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
90	Thorium-230	W, see ²²⁶ Th	4E+0	6E-3	3E-12	-	-	-
		Bone surf (9E+0)		Bone surf (2E-2)	-	2E-14	1E-7	1E-6
		Y, see ²²⁶ Th	-	2E-2	6E-12	-	-	-
			-	Bone surf (2E-2)	-	3E-14	-	-
90	Thorium-231	W, see ²²⁶ Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see ²²⁶ Th	-	6E+3	3E-6	9E-9	-	-
90	Thorium-232	W, see ²²⁶ Th	7E-1	1E-3	5E-13	-	-	-
		Bone surf (2E+0)		Bone surf (3E-3)	-	4E-15	3E-8	3E-7
		Y, see ²²⁶ Th	-	3E-3	1E-12	-	-	-
			-	Bone surf (4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ²²⁶ Th	3E+2	2E+2	8E-8	3E-10	-	-
		LLI wall (4E+2)		-	-	-	5E-6	5E-5
		Y, see ²²⁶ Th	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227 ²	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ²²⁷ Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
		Bone surf (2E+1)		Bone surf (2E+1)	-	3E-11	-	-
		Y, see ²²⁷ Pa	-	1E+1	5E-9	2E-11	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			Oral Ingestion	Inhalation		Air $\mu\text{Ci/ml}$	Water $\mu\text{Ci/ml}$	
ALI μCi	ALI μCi	DAC $\mu\text{Ci/ml}$	Air $\mu\text{Ci/ml}$	Water $\mu\text{Ci/ml}$	$\mu\text{Ci/ml}$			
91	Protactinium-230	W, see ²²⁷ Pa	6E+2	5E+0	2E-9	7E-12	-	-
		Bone surf (9E+2)	-	-	-	1E-5	1E-4	
		Y, see ²²⁷ Pa	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see ²²⁷ Pa	2E-1	2E-3	6E-13	-	-	-
		Bone surf (5E-1)	-	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see ²²⁷ Pa	-	4E-3	2E-12	-	-	-
		Bone surf (6E-3)	-	-	8E-15	-	-	
91	Protactinium-232	W, see ²²⁷ Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
		Bone surf (6E+1)	-	-	8E-11	-	-	
		Y, see ²²⁷ Pa	-	6E+1	2E-8	-	-	-
		Bone surf (7E+1)	-	-	1E-10	-	-	
91	Protactinium-233	W, see ²²⁷ Pa	1E+3	7E+2	3E-7	1E-9	-	-
		LLI wall (2E+3)	-	-	-	2E-5	2E-4	
		Y, see ²²⁷ Pa	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see ²²⁷ Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ²²⁷ Pa	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF ₆ , UO ₂ F ₂ , UO ₂ (NO ₃) ₂	4E+0	4E-1	2E-10	-	-	-
		Bone surf (6E+0)	-	Bone surf (6E-1)	-	8E-13	8E-8	8E-7
		W, UO ₃ , UF ₄ , UCl ₄	-	4E-1	1E-10	5E-13	-	-
		Y, UO ₂ , U ₃ O ₈	-	3E-1	1E-10	4E-13	-	-
92	Uranium-231	D, see ²³⁰ U	5E+3	8E+3	3E-6	1E-8	-	-
		LLI wall (4E+3)	-	-	-	6E-5	6E-4	
		W, see ²³⁰ U	-	6E+3	2E-6	8E-9	-	-
		Y, see ²³⁰ U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ²³⁰ U	2E+0	2E-1	9E-11	-	-	-
		Bone surf (4E+0)	-	Bone surf (4E-1)	-	6E-13	6E-8	6E-7
		W, see ²³⁰ U	-	4E-1	2E-10	5E-13	-	-
		Y, see ²³⁰ U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	-	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 ³	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 ³	D, see ²³⁰ U	1E+1	1E+0	6E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see ²³⁰ U	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (2E+3)	-	-	-	3E-5	3E-4	
		W, see ²³⁰ U	-	2E+3	7E-7	2E-9	-	-
		Y, see ²³⁰ U	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238 ³	D, see ²³⁰ U	1E+1	1E+0	6E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239 ²	D, see ²³⁰ U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see ²³⁰ U	-	2E+5	7E-5	2E-7	-	-
		Y, see ²³⁰ U	-	2E+5	6E-5	2E-7	-	-
92	Uranium-240	D, see ²³⁰ U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ²³⁰ U	-	3E+3	1E-6	4E-9	-	-
		Y, see ²³⁰ U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural ³	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	9E-13	-	-
		Y, see ²³⁰ U	-	5E-2	2E-11	9E-14	-	-
93	Neptunium-232 ²	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
		Bone surf (5E+2)	-	-	-	6E-9	-	-

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
93	Neptunium-233 ²	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4 LLI wall (2E+4)	8E+2 Bone surf (1E+3)	3E-7 -	- 2E-9	- 3E-4	- 3E-3
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0 Bone surf (6E+0)	2E-2 Bone surf (5E-2)	9E-12 -	- 8E-14	- 9E-8	- 9E-7
93	Neptunium-236 (22.5 h)	W, all compounds	3E+3 Bone surf (4E+3)	3E+1 Bone surf (7E+1)	1E-8 -	- 1E-10	- 5E-5	- 5E-4
93	Neptunium-237	W, all compounds	5E-1 Bone surf (1E+0)	4E-3 Bone surf (1E-2)	2E-12 -	- 1E-14	- 2E-8	- 2E-7
93	Neptunium-238	W, all compounds	1E+3 -	6E+1 Bone surf (2E+2)	3E-8 -	- 2E-10	2E-5 -	2E-4 -
93	Neptunium-239	W, all compounds	2E+3 LLI wall (2E+3)	2E+3 -	9E-7 -	3E-9 -	- 2E-5	- 2E-4
93	Neptunium-240 ²	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO ₂ Y, PuO ₂	8E+3 -	2E+2 2E+2	9E-8 8E-8	3E-10 3E-10	1E-4 -	1E-3 -
94	Plutonium-235 ²	W, see ²³⁴ Pu Y, see ²³⁴ Pu	9E+5 -	3E+6 3E+6	1E-3 1E-3	4E-6 3E-6	1E-2 -	1E-1 -
94	Plutonium-236	W, see ²³⁴ Pu Y, see ²³⁴ Pu	2E+0 Bone surf (4E+0) -	2E-2 Bone surf (4E-2) 4E-2	8E-12 - 2E-11	- 5E-14 6E-14	- 6E-8 -	- 6E-7 -
94	Plutonium-237	W, see ²³⁴ Pu Y, see ²³⁴ Pu	1E+4 -	3E+3 3E+3	1E-6 1E-6	5E-9 4E-9	2E-4 -	2E-3 -
94	Plutonium-238	W, see ²³⁴ Pu Y, see ²³⁴ Pu	9E-1 Bone surf (2E+0) -	7E-3 Bone surf (1E-2) 2E-2	3E-12 - 8E-12	- 2E-14 2E-14	- 2E-8 -	- 2E-7 -

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
94	Plutonium-239	W, see ²³⁴ Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-240	W, see ²³⁴ Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-241	W, see ²³⁴ Pu	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see ²³⁴ Pu	-	8E-1	3E-10	-	-	-
			-	Bone surf (1E+0)	-	1E-12	-	-
94	Plutonium-242	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-243	W, see ²³⁴ Pu	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
		Y, see ²³⁴ Pu	-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-245	W, see ²³⁴ Pu	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		Y, see ²³⁴ Pu	-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see ²³⁴ Pu	4E+2	3E+2	1E-7	4E-10	-	-
			LLI wall (4E+2)	-	-	-	6E-6	6E-5
		Y, see ²³⁴ Pu	-	3E+2	1E-7	4E-10	-	-
95	Americium-237 ²	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
95	Americium-238 ²	W, all compounds	4E+4	3E+3 Bone surf (6E+3)	1E-6	- 9E-9	5E-4	5E-3 -
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12	- 2E-14	- 2E-8	- 2E-7
95	Americium-242m	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12	- 2E-14	- 2E-8	- 2E-7
95	Americium-242	W, all compounds	4E+3	8E+1 Bone surf (9E+1)	4E-8	- 1E-10	5E-5	5E-4 -
95	Americium-243	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12	- 2E-14	- 2E-8	- 2E-7
95	Americium-244m ²	W, all compounds	6E+4 St wall (8E+4)	4E+3 Bone surf (7E+3)	2E-6	- 1E-8	- 1E-3	- 1E-2
95	Americium-244	W, all compounds	3E+3	2E+2 Bone surf (3E+2)	8E-8	- 4E-10	4E-5	4E-4 -
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m ²	W, all compounds	5E+4 St wall (6E+4)	2E+5	8E-5	3E-7 -	- 8E-4	- 8E-3
95	Americium-246 ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1 Bone surf (8E+1)	6E-1 Bone surf (6E-1)	2E-10	- 9E-13	- 1E-6	- 1E-5
96	Curium-241	W, all compounds	1E+3	3E+1 Bone surf (4E+1)	1E-8	- 5E-11	2E-5	2E-4 -

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
96	Curium-242	W, all compounds	3E+1 Bone surf (5E+1)	3E-1 Bone surf (3E-1)	1E-10 -	- 4E-13	- 7E-7	- 7E-6
96	Curium-243	W, all compounds	1E+0 Bone surf (2E+0)	9E-3 Bone surf (2E-2)	4E-12 -	- 2E-14	- 3E-8	- 3E-7
96	Curium-244	W, all compounds	1E+0 Bone surf (3E+0)	1E-2 Bone surf (2E-2)	5E-12 -	- 3E-14	- 3E-8	- 3E-7
96	Curium-245	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
96	Curium-246	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
96	Curium-247	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
96	Curium-248	W, all compounds	2E-1 Bone surf (4E-1)	2E-3 Bone surf (3E-3)	7E-13 -	- 4E-15	- 5E-9	- 5E-8
96	Curium-249 ²	W, all compounds	5E+4 -	2E+4 Bone surf (3E+4)	7E-6 -	- 4E-8	7E-4 -	7E-3 -
96	Curium-250	W, all compounds	4E-2 Bone surf (6E-2)	3E-4 Bone surf (5E-4)	1E-13 -	- 8E-16	- 9E-10	- 9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1 Bone surf (1E+0)	4E-3 Bone surf (9E-3)	2E-12 -	- 1E-14	- 2E-8	- 2E-7
97	Berkelium-249	W, all compounds	2E+2 Bone surf (5E+2)	2E+0 Bone surf (4E+0)	7E-10 -	- 5E-12	- 6E-6	- 6E-5
97	Berkelium-250	W, all compounds	9E+3 -	3E+2 Bone surf (7E+2)	1E-7 -	- 1E-9	1E-4 -	1E-3 -

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			ALI μCi	Inhalation		Air μCi/ml	Water μCi/ml	
98	Californium-244 ²	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ²⁴⁴ Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ²⁴⁴ Cf	8E+0	6E-2	3E-11	-	-	-
		Bone surf (2E+1)	-	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
		Y, see ²⁴⁴ Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ²⁴⁴ Cf	5E-1	4E-3	2E-12	-	-	-
		Bone surf (1E+0)	-	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-250	W, see ²⁴⁴ Cf	1E+0	9E-3	4E-12	-	-	-
		Bone surf (2E+0)	-	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see ²⁴⁴ Cf	5E-1	4E-3	2E-12	-	-	-
		Bone surf (1E+0)	-	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-252	W, see ²⁴⁴ Cf	2E+0	2E-2	8E-12	-	-	-
		Bone surf (5E+0)	-	Bone surf (4E-2)	-	5E-14	7E-8	7E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	5E-14	-	-
98	Californium-253	W, see ²⁴⁴ Cf	2E+2	2E+0	8E-10	3E-12	-	-
		Bone surf (4E+2)	-	-	-	-	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ²⁴⁴ Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
			-	Bone surf (1E+3)	-	2E-9	-	-

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
			-	Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
			-	Bone surf (9E+1)	-	1E-10	-	-
101	Mendelevium-258	W, all compounds	3E+1	2E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion ¹	-	2E+2	1E-7	1E-9	-	-
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	...	-	2E-1	1E-10	1E-12	1E-8	1E-7

Atomic No.	Radionuclide	Class	Table 1 Occupational Values			Table II Effluent Concentration		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration μCi/ml
			Oral Ingestion	Inhalation		Air	Water	
ALI μCi	ALI μCi	DAC μCi/ml	Air μCi/ml	Water μCi/ml	μCi/ml			
-	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known	...	-	4E-4	2E-13	1E-15	2E-9	2E-8

FOOTNOTES:

¹"Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.

²These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E-7 μCi/ml for the listed DAC to account for the submersion dose prospectively, but should use individual monitoring devices or other radiation measuring instruments that measure external exposure to demonstrate compliance with the limits. (See WAC 246-221-015(5).)

³For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see WAC 246-221-010(5)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour workweek is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour workweek shall not exceed 8E-3 (SA) μCi-hr/ml, where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is 6.77E-7 curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$SA = 3.6E-7 \text{ curies/gram U, U-depleted}$$

$$SA = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] E-6, \text{ enrichment} \geq 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

NOTE:

1. If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
2. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this appendix for any radionuclide that is not known to be absent from the mixture; or

If it is known that Ac-227-D and Cm-250-W are not present	-	7E-4	3E-13	-	-	-
If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present	-	7E-3	3E-12	-	-	-
If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-W,Y, and Cf-254-W,Y are not present	-	7E-2	3E-11	-	-	-
If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present	-	7E-1	3E-10	-	-	-
If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present	-	7E+0	3E-9	-	-	-

If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present

- - - 1E-14 - -

If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present

- - - 1E-13 - -

If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present

- - - - 1E-12 -

If, in addition, it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present

- - - - 1E-6 1E-5

3. If a mixture of radionuclides consists of uranium and its daughters in ore dust (10 µm AMAD particle distribution assumed) prior to chemical separation of the uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 µCi of gross alpha activity from uranium-238, uranium-234, thorium-230, and radium-226 per milliliter of air; 3E-11 µCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.
4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: Determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in this section for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").
Example: If radionuclides "A," "B," and "C" are present in concentrations CA, CB, and CC, and if the applicable DACs are DAC_A, DAC_B, and DAC_C, respectively, then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

Reviser's note: The spelling errors in 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.

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 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-006 Exemption of certain source material. (1) A person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(2) A person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material, provided such person shall not refine or process such ore unless authorized to do so in a specific license.

(3) A person is exempt from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers:

- (a) Any quantities of thorium contained in:
 - (i) Incandescent gas mantles;
 - (ii) Vacuum tubes;
 - (iii) Welding rods;
 - (iv) Electric lamps for illuminating purposes if each lamp contains fifty milligrams or less of thorium;
 - (v) Germicidal lamps, sunlamps and lamps for outdoor or industrial lighting if each lamp contains two grams or less of thorium;
 - (vi) Rare earth metals and compounds, mixtures, and products containing 0.25 percent or less by weight thorium, uranium, or any combination of these; or
 - (vii) Personnel neutron dosimeters if each dosimeter contains 1.85 gigabecquerels (50 milligrams) or less of thorium;
- (b) Source material contained in the following products:
 - (i) Glazed ceramic tableware if the glaze contains twenty percent or less by weight source material; and
 - (ii) Piezoelectric ceramic containing two percent or less by weight source material;
- (c) Photographic film, negatives and prints containing uranium or thorium;
- (d) Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys if the thorium content of the alloy is four percent or less by weight. The exemption contained in this subparagraph shall not be

deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Thorium contained in finished optical lenses if each lens contains thirty percent or less by weight of thorium. The exemption contained in this subparagraph shall not be deemed to authorize either:

(i) The shaping, grinding or polishing of lens or manufacturing processes other than the assembly of such lens into optical systems and devices without alteration of the lens; or

(ii) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(f) Uranium contained in detector heads for use in fire detection units if each detector head contains 185 becquerels (0.005 microcuries) or less of uranium; or

(g) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy if:

(i) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(ii) The thorium content in the nickel-thoria alloy is four percent or less by weight.

(4) The exemptions in subsection (3) of this section do not authorize the manufacture of any of the products described.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-008 Exemption of certain timepieces, hands or dials. A person is exempt from these regulations to the extent the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, the following timepieces or hands or dials containing the following specified quantities of radioactive material and the following specified levels of radiation*:

*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or by-product material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(1)(a) 925 megabecquerels (25 millicuries) or less of tritium per timepiece;

(b) 185 megabecquerels (5 millicuries) or less of tritium per hand;

(c) 555 megabecquerels (15 millicuries) or less of tritium per dial (bezels when used shall be considered as part of the dial);

(d) 3.7 megabecquerels (100 microcuries) or less of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) or less of promethium-147 per any other timepiece;

(e) 740 kilobecquerels (20 microcuries) or less of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) or less of promethium-147 per other timepiece hand;

(f) 2.22 megabecquerels (60 microcuries) or less of promethium-147 per watch dial or 4.44 megabecquerels (120

microcuries) or less of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

(2) The levels of radiation from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(a) For wrist watches, 1 microgray (0.1 millirad) per hour at 10 centimeters from any surface;

(b) For pocket watches, 1 microgray (0.1 millirad) per hour at 1 centimeter from any surface;

(c) For any other timepiece, 2 micrograys (0.2 millirad) per hour at 10 centimeters from any surface.

(3) (~~One~~) 37 kilobecquerels (1 microcurie) of radium-226 per timepiece in timepieces manufactured prior to the effective date of these regulations.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-009 Exemption of certain items containing radioactive material. A person is exempt from these regulations to the extent the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, the following products*:

*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or by-product material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(1) Lock illuminators containing 555 megabecquerels (15 millicuries) or less of tritium or 74 megabecquerels (2 millicuries) or less of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 10 micrograys (1 millirad) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.

(2) Precision balances containing 37 megabecquerels (1 millicurie) or less of tritium per balance or 18.5 megabecquerels (0.5 millicurie) or less of tritium per balance part.

(3) Automobile shift quadrants containing 925 megabecquerels (25 millicuries) or less of tritium.

(4) Marine compasses containing 27.8 gigabecquerels (750 millicuries) or less of tritium gas and other marine navigational instruments containing 9.25 gigabecquerels (250 millicuries) or less of tritium gas.

(5) Thermostat dials and pointers containing 925 megabecquerels (25 millicuries) or less of tritium per thermostat.

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

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

- (b) 37 kilobecquerels (1 microcurie) or less of cobalt-60;
- (c) 185 kilobecquerels (5 microcuries) or less of nickel-63;
- (d) 1.11 megabecquerels (30 microcuries) or less of krypton-85;
- (e) 185 kilobecquerels (5 microcuries) or less of cesium-137;
- (f) 1.11 megabecquerels (30 microcuries) or less of promethium-147;
- (g) 37 kilobecquerels (1 microcurie) or less of radium-226;

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

(7) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more but not to exceed 10 exempt sources of radioactive material.

(a) Each individual source shall not exceed 1.85 kilobecquerels (0.05 microcuries) of americium-241 or the applicable exempt quantity set forth in WAC 246-232-120, Schedule B.

(b) An individual source may contain more than one radionuclide but the total quantity in the individual source shall not exceed unity based on the sum of the fractional parts of one or more of the exempt quantities set forth in WAC 246-232-120, Schedule B. For purposes of this subsection, 1.85 kilobecquerels (0.05 microcuries) of americium-241 is considered an exempt quantity.

(8) Spark gap irradiators containing 37 kilobecquerels (1 microcurie) or less of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons (11.4 liters) per hour.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-011 Exemption of certain self-luminous products containing radioactive material(s). (1) Tritium, krypton-85 or promethium-147. A person is exempt from these regulations to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not manufacture, process, produce, or initially transfer for sale or distribution, self-luminous products containing tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or initially transferred in accordance with a specific license issued by the United States Nuclear Regulatory Commission under Section 32.22 of 10 C.F.R. Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subsection does not apply to tritium, krypton-85 or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(2) Radium-226. A person is exempt from these regulations to the extent that the person receives, possesses, uses, transfers or owns articles containing less than 3.7 kilobec-

querels (0.1 microcurie) of radium-226 which were manufactured prior to October 1983.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-120 Schedule B, exempt quantities of radioactive materials. (See also WAC 246-232-010(2).)

Radioactive Material	Microcuries
Antimony-122 (Sb-122)	100
Antimony-124 (Sb-124)	10
Antimony-125 (Sb-125)	10
Arsenic-73 (As-73)	100
Arsenic-74 (As-74)	10
Arsenic-76 (As-76)	10
Arsenic-77 (As-77)	100
Barium-131 (Ba-131)	10
Barium-133 (Ba-133)	10
Barium-140 (Ba-140)	10
Bismuth-210 (Bi-210)	1
Bromine-82 (Br-82)	10
Cadmium-109 (Cd-109)	10
Cadmium-115m (Cd-115m)	10
Cadmium-115 (Cd-115)	100
Calcium-45 (Ca-45)	10
Calcium-47 (Ca-47)	10
Carbon-14 (C-14)	100
Cerium-141 (Ce-141)	100
Cerium-143 (Ce-143)	100
Cerium-144 (Ce-144)	1
Cesium-129 (Cs-129)	100
Cesium-131 (Cs-131)	1,000
Cesium-134m (Cs-134m)	100
Cesium-134 (Cs-134)	1
Cesium-135 (Cs-135)	10
Cesium-136 (Cs-136)	10
Cesium-137 (Cs-137)	10
Chlorine-36 (Cl-36)	10
Chlorine-38 (Cl-38)	10
Chromium-51 (Cr-51)	1,000
Cobalt-57 (Co-57)	100
Cobalt-58m (Co-58m)	10
Cobalt-58 (Co-58)	10
Cobalt-60 (Co-60)	1
Copper-64 (Cu-64)	100
Dysprosium-165 (Dy-165)	10
Dysprosium-166 (Dy-166)	100
Erbium-169 (Er-169)	100
Erbium-171 (Er-171)	100

Radioactive Material	Microcuries	Radioactive Material	Microcuries
Europium-152 (Eu-152) 9.2h	100	Neodymium-147 (Nd-147)	100
Europium-152 (Eu-152) 13 yr	1	Neodymium-149 (Nd-149)	100
Europium-154 (Eu-154)	1	Nickel-59 (Ni-59)	100
Europium-155 (Eu-155)	10	Nickel-63 (Ni-63)	10
Fluorine-18 (F-18)	1,000	Nickel-65 (Ni-65)	100
Gadolinium-153 (Gd-153)	10	Niobium-93m (Nb-93m)	10
Gadolinium-159 (Gd-159)	100	Niobium-95 (Nb-95)	10
Gallium-67 (Ga-67)	100	Niobium-97 (Nb-97)	10
Gallium-72 (Ga-72)	10	Osmium-185 (Os-185)	10
<u>Germanium-68 (Ge-68)</u>	<u>10</u>	Osmium-191m (Os-191m)	100
Germanium-71 (Ge-71)	100	Osmium-191 (Os-191)	100
<u>Gold-195 (Au-195)</u>	<u>10</u>	Osmium-193 (Os-193)	100
Gold-198 (Au-198)	100	Palladium-103 (Pd-103)	100
Gold-199 (Au-199)	100	Palladium-109 (Pd-109)	100
Hafnium-181 (Hf-181)	10	Phosphorus-32 (P-32)	10
Holmium-166 (Ho-166)	100	Platinum-191 (Pt-191)	100
Hydrogen-3 (H-3)	1,000	Platinum-193m (Pt-193m)	100
Indium-111 (In-111)	100	Platinum-193 (Pt-193)	100
Indium-113m (In-113m)	100	Platinum-197m (Pt-197m)	100
Indium-114m (In-114m)	10	Platinum-197 (Pt-197)	100
Indium-115m (In-115m)	100	Polonium-210 (Po-210)	0.1
Indium-115 (In-115)	10	Potassium-42 (K-42)	10
Iodine-123 (I-123)	100	Potassium-43 (K-43)	10
Iodine-125 (I-125)	1	Praseodymium-142 (Pr-142)	100
Iodine-126 (I-126)	1	Praseodymium-143 (Pr-143)	100
Iodine-129 (I-129)	0.1	Promethium-147 (Pm-147)	10
Iodine-131 (I-131)	1	Promethium-149 (Pm-149)	10
Iodine-132 (I-132)	10	Radium-226 (Ra-226)	0.1
Iodine-133 (I-133)	1	Rhenium-186 (Re-186)	100
Iodine-134 (I-134)	10	Rhenium-188 (Re-188)	100
Iodine-135 (I-135)	10	Rhodium-103m (Rh-103m)	100
Iridium-192 (Ir-192)	10	Rhodium-105 (Rh-105)	100
Iridium-194 (Ir-194)	100	Rubidium-81 (Rb-81)	10
Iron-52 (Fe-52)	10	Rubidium-86 (Rb-86)	10
Iron-55 (Fe-55)	100	Rubidium-87 (Rb-87)	10
Iron-59 (Fe-59)	10	Ruthenium-97 (Ru-97)	100
Krypton-85 (Kr-85)	100	Ruthenium-103 (Ru-103)	10
Krypton-87 (Kr-87)	10	Ruthenium-105 (Ru-105)	10
Lanthanum-140 (La-140)	10	Ruthenium-106 (Ru-106)	1
Lutetium-177 (Lu-177)	100	Samarium-151 (Sm-151)	10
Manganese-52 (Mn-52)	10	Samarium-153 (Sm-153)	100
Manganese-54 (Mn-54)	10	Scandium-46 (Sc-46)	10
Manganese-56 (Mn-56)	10	Scandium-47 (Sc-47)	100
Mercury-197m (Hg-197m)	100	Scandium-48 (Sc-48)	10
Mercury-197 (Hg-197)	100	Selenium-75 (Se-75)	10
Mercury-203 (Hg-203)	10	Silicon-31 (Si-31)	100
Molybdenum-99 (Mo-99)	100	Silver-105 (Ag-105)	10

Radioactive Material	Microcuries	Radioactive Material	Microcuries
Silver-110m (Ag-110m)	1	Zinc-65 (Zn-65)	10
Silver-111 (Ag-111)	100	Zinc-69m (Zn-69m)	100
Sodium-22 (Na-22)	10	Zinc-69 (Zn-69)	1,000
Sodium-24 (Na-24)	10	Zirconium-93 (Zr-93)	10
Strontium-85 (Sr-85)	10	Zirconium-95 (Zr-95)	10
Strontium-89 (Sr-89)	1	Zirconium-97 (Zr-97)	10
Strontium-90 (Sr-90)	0.1	Any radioactive material not listed above other than alpha emitting radioactive material	0.1
Strontium-91 (Sr-91)	10		
Strontium-92 (Sr-92)	10		
Sulphur-35 (S-35)	100		
Tantalum-182 (Ta-182)	10		
Technetium-96 (Tc-96)	10		
Technetium-97m (Tc-97m)	100		
Technetium-97 (Tc-97)	100		
Technetium-99m (Tc-99m)	100		
Technetium-99 (Tc-99)	10		
Tellurium-125m (Te-125m)	10		
Tellurium-127m (Te-127m)	10		
Tellurium-127 (Te-127)	100		
Tellurium-129m (Te-129m)	10		
Tellurium-129 (Te-129)	100		
Tellurium-131m (Te-131m)	10		
Tellurium-132 (Te-132)	10		
Terbium-160 (Tb-160)	10		
Thallium-200 (Tl-200)	100		
Thallium-201 (Tl-201)	100		
Thallium-202 (Tl-202)	100		
Thallium-204 (Tl-204)	10		
Thulium-170 (Tm-170)	10		
Thulium-171 (Tm-171)	10		
Tin-113 (Sn-113)	10		
Tin-125 (Sn-125)	10		
Tungsten-181 (W-181)	10		
Tungsten-185 (W-185)	10		
Tungsten-187 (W-187)	100		
Vanadium-48 (V-48)	10		
Xenon-131m (Xe-131m)	1,000		
Xenon-133 (Xe-133)	100		
Xenon-135 (Xe-135)	100		
Ytterbium-169 (Yb-169)	10		
Ytterbium-175 (Yb-175)	100		
Yttrium-87 (Y-87)	10		
<u>Yttrium-88 (Y-88)</u>	<u>10</u>		
Yttrium-90 (Y-90)	10		
Yttrium-91 (Y-91)	10		
Yttrium-92 (Y-92)	100		
Yttrium-93 (Y-93)	100		

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)**WAC 246-232-140 Schedule D.**

ACCEPTABLE SURFACE CONTAMINATION LEVELS

NUCLIDES A	AVERAGE B C F	MAXIMUM B D F	REMOVABLE B E F WIPE LIMITS
U-nat, U-235, U-238, and associated decay products	5,000 dpm ((α))/100 cm((2)) ²	15,000 dpm ((α))/100 cm((2)) ²	1,000 dpm α/100 cm((2)) ²
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129	100 dpm/100 cm((2)) ²	300 dpm/100 cm((2)) ²	20 dpm/100 cm((2)) ²
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/100 cm((2)) ²	3000 dpm/100 cm((2)) ²	200 dpm/100 cm((2)) ²
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except SR-90 and others noted above	5000 dpm ((βγ))/100 cm((2)) ²	15,000 dpm ((βγ))/100 cm((2)) ²	1000 dpm βγ/100 cm((2)) ²

- A Where surface contamination by both alpha- and beta-gamma-emitting nuclides exists, the limits established for alpha- and beta-gamma-emitting nuclides should apply independently.
- B As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.
- C Measurements of average contaminant should not be averaged over more than 1 square meter. For objects of less surface area, the average should be derived for each such object.
- D The maximum contamination level applies to an area of not more than 100 cm².
- E The amount of removable radioactive material per 100 cm² of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument of known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.
- F The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr at 1 cm and 1.0 mrad/hr at 1 cm, respectively, measured through not more than 7 milligrams per square centimeter of total absorber.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department provided such references are clear and specific.

(6) An application for a specific license to use radioactive materials in the form of a sealed source or in a device that contains the sealed source must:

(a) Identify the source or device by manufacturer and model number; or

(b) Be registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210; or

(c) For sources not registered with the U.S. NRC, provide sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use, relevant operational safety history, and the results of the most recent leak test.

(7) Applications and documents submitted to the department may be made available for public inspection except that the department may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-235-010 Filing application for specific licenses. (1) Applications for specific licenses shall be filed on department form RHF-1.

(2) The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-235-080 Special requirements for possession and use of medical calibration and reference sources. (1) Leak tests.

(a) Any licensee or registrant who possesses sealed sources as calibration or reference sources shall test for leakage each sealed source containing radioactive material, other than Hydrogen-3, with a half-life greater than thirty days in any form other than gas and/or contamination at least every six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to

the transfer, the sealed sources shall not be used until tested. However, leak tests are not required when: The source contains 3.7 megabecquerels (100 microcuries) or less of beta and/or gamma emitting material or 370 kilobecquerels (10 microcuries) or less of alpha emitting material or the sealed source is stored and is not being used: Provided, a physical inventory of the source and wipe surveys of the storage area or storage container are conducted as required by these rules or license condition.

(b) The leak test shall be capable of detecting the presence of 185 becquerels (0.005 microcurie (~~((185 becquerels))~~)) of radioactive material on the test sample. The test sample shall be taken from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which contamination might be expected to accumulate. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department.

(c) If the leak test reveals the presence of 185 becquerels (0.005 microcurie) or more of removable contamination, the licensee or registrant shall immediately withdraw the sealed source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. The licensee must file a report within five days of the test with the department describing the equipment involved, the test results, and the corrective action taken.

(2) Any licensee or registrant who possesses and uses calibration and reference sources shall:

(a) Follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form; and

(b) Conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include at a minimum the quantities and kinds of radioactive material, location of sources, name of person performing the inventory, and the date of the inventory.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-235-097 Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of WAC 246-233-040 will be approved if:

(1) The applicant satisfies the general requirements specified in WAC 246-235-020;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(b) Iodine-131 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(c) Carbon-14 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(d) Hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerels (50 microcuries) each;

(e) Iron-59 in units not exceeding 740 kilobecquerels (20 microcuries) each;

(f) Cobalt-57 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(g) Selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;

(h) Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1850 kilobecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and

(b) Displaying the radiation caution symbol described in WAC 246-221-120 (1)(a) and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for internal or external use in humans or animals."

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate informa-

tion as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in WAC 246-221-170 of these regulations.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-235-100 Manufacture, production, preparation, and/or (~~commercial~~) transfer of radiopharmaceuticals for medical use. (1) An application for a specific license to manufacture (~~and~~) produce, prepare, and/or transfer for (~~commercial~~) distribution radiopharmaceuticals containing radioactive material for use by persons licensed under chapter 246-240 WAC for medical use in humans will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020;

(b) The applicant submits evidence that:

(i) The applicant is registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer, preparer, propagator, compounder or processor; or

(ii) The applicant is licensed as a nuclear pharmacy by the state board of pharmacy;

(iii) The applicant is registered or licensed as a radiopharmaceutical production facility or nuclear pharmacy with the U.S. Nuclear Regulatory Commission or a state agency.

(c) The applicant submits information on the radionuclide, chemical and physical form, maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical, and shielding provided by the packaging of the radioactive material which is appropriate for safe handling and storage of radiopharmaceuticals by medical use licensees; and

(d) The applicant satisfies the labeling requirements specified by the state board of pharmacy in WAC 246-903-020 for both commercial and noncommercial distribution. For a drug manufacturer, the labels required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

(2) A medical facility or an educational institution, may produce positron emission tomography (PET) or other approved accelerator-produced radioactive drugs, for non-commercial transfer to licensees within their consortium, as defined in WAC 246-220-010 and 246-235-010, if they have a valid Washington radioactive materials license and are authorized for medical use under chapter 246-240 WAC or an equivalent agreement state or U.S. Nuclear Regulatory Commission license; and

(a) Request authorization to produce accelerator-produced radionuclides at a radionuclide production facility within their consortium to prepare approved radioactive drugs for use only by licensees within that consortium. The applicant must have a current state radioactive materials license or evidence of an existing license issued by U.S. Nuclear Regulatory Commission or another agreement state.

(b) The applicant must be qualified to produce radioactive drugs for medical use by meeting the criteria in subsections (1) and (3) of this section.

(c) Identification of individual(s) authorized to prepare radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in subsection (3) of this section.

(d) Labeling information identified in subsection (1)(d) of this section is applied to any radiopharmaceuticals or radioactive materials to be noncommercially transferred to members of its consortium.

(3) A nuclear pharmacy licensee:

(a) May prepare radiopharmaceuticals for medical use provided the radiopharmaceutical is prepared by or under the supervision of an authorized nuclear pharmacist.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(i) This individual qualifies as an authorized nuclear pharmacist as defined in WAC 246-240-010;

(ii) This individual meets the state board of pharmacy requirements in WAC 246-903-030, Nuclear pharmacists, and the requirements of WAC 246-240-081 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(iii) This individual is designated as an authorized nuclear pharmacist in accordance with (d) of this subsection.

(c) The actions authorized in (a) and (b) of this subsection are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist as an authorized nuclear pharmacist if:

(i) The individual (~~is~~) was identified as of December 2, 1994, as an "authorized user" on a nuclear pharmacy license issued by the department, the U.S. NRC, or an agreement state; or

(ii) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material, and the individual practiced at a pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at any other pharmacies as of December 1, 2008.

(e) Shall provide to the department a copy of each individual's letter of notification from the state board of pharmacy recognizing the individual as a nuclear pharmacist, within thirty days of the date the licensee allows the individual to work as an authorized nuclear pharmacist under (b), (c) or (d) of this subsection.

(3) A manufacturer or nuclear pharmacy licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceuticals. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceuticals, prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and

geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) A licensee preparing radiopharmaceuticals from generators; (e.g., molybdenum-99/technetium-99m or rubidium-82 from strontium-82/rubidium-82) shall test generator eluates for breakthrough or contamination of the parent isotope, in accordance with WAC 246-240-160. The licensee shall record the results of each test and retain each record for three years after the record is made.

(5) Nothing in this section relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radiopharmaceuticals.

NEW SECTION

WAC 246-235-103 Prototype tests for manufacture of calibration or reference sources containing americium-241 or radium-226. An applicant for a license under this chapter shall, for any type of source which is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, conduct prototype tests, in the order listed, on each of no less than five prototypes of the source, which contains more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, as follows:

(1) *Initial measurement.* The quantity of radioactive material deposited on the source shall be measured by direct counting of the source.

(2) *Dry wipe test.* The entire radioactive surface of the source shall be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(3) *Wet wipe test.* The entire radioactive surface of the source shall be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity remaining on the source following the wet wipe.

(4) *Water soak test.* The source shall be immersed in water at room temperature for a period of twenty-four consecutive hours. The source shall then be removed from the water. Removal of radioactive material from the source shall be determined by direct measurement of the radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained by evaporation of the water in which the source was immersed.

(5) *Dry wipe test.* On completion of the preceding test in this section, the dry wipe test described in subsection (2) of this section shall be repeated.

(6) *Observations.* Removal of more than 0.005 microcurie (185 becquerels) of radioactivity in any test prescribed by this section shall be cause for rejection of the source design. Results of prototype tests submitted to the department or the U.S. Nuclear Regulatory Commission shall be given in terms of radioactivity in microcuries (or becquerels) and percent of

removal from the total amount of radioactive material deposited on the source.

AMENDATORY SECTION (Amending WSR 01-02-067, filed 12/29/00, effective 1/29/01)

WAC 246-235-105 Manufacture, assembly or distribution of radioactive material exempt from regulation.

(1) *Licensing the introduction of radioactive material into products in exempt concentrations.* In addition to the requirements set forth in WAC 246-235-020, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under WAC 246-232-010(1) will be issued if:

(a) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(b) The applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in WAC 246-232-130, Schedule C, that reconstruction of the radioactive material in concentrations exceeding those in WAC 246-232-130, Schedule C, is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being.

(c) Each person licensed under subsection (1) of this section shall file an annual report with the department which shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product and material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to subsection (1) of this section during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty days thereafter.

(2) Licensing the distribution of certain radioactive material in exempt quantities.*

*Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or ((byproduct)) radioactive material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the department or the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) An application for a specific license to distribute naturally occurring and accelerator-produced radioactive material (NARM) to persons exempted from these regulations pursuant to WAC 246-232-010 (2)(b) will be approved if:

(i) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(ii) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) The applicant submits copies of prototype labels and brochures and the department approves such labels and brochures.

(b) The license issued under ~~((paragraph (2))~~(a) of this ~~((section))~~ subsection is subject to the following conditions:

(i) No more than ten exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(ii) Each exempt quantity shall be separately and individually packaged. No more than ten such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to WAC 246-232-010 (2)(b). The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.

(iii) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words "radioactive material."

(iv) In addition to the labeling information required by ~~((item (2))~~(b)(iii) of this ~~((section))~~ subsection, the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from licensing state requirements;

(B) Bear the words "Radioactive material—Not for human use—Introduction into foods, beverages, cosmetics, drugs, or medicinals, or into products manufactured for commercial distribution is prohibited—Exempt quantities should not be combined"; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(c) Each person licensed under ~~((paragraph (2))~~(a) of this ~~((section))~~ subsection shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under WAC 246-232-010 (2)(b) or the equivalent regulations of a licensing state, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the department. Each report shall cover the year ending

June 30, and shall be filed within thirty days thereafter. If no transfers of radioactive material have been made pursuant to subsection (2) of this section during the reporting period, the report shall so indicate.

(3) *Licensing the incorporation of naturally occurring and accelerator-produced radioactive material into gas and aerosol detectors.* An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under WAC 246-232-012 will be approved if the application satisfies requirements equivalent to those contained in Section 32.26 of 10 CFR Part 32.

*Note: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing source material or radioactive material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the department or the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

NEW SECTION

WAC 246-235-107 Serialization of nationally tracked sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

NEW SECTION

WAC 246-235-125 Special requirements to report transactions involving nationally tracked sources. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in subsections (1) through (5) of this section for each type of transaction.

(1) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information;

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source;

(d) The radioactive material in the source;

(e) The initial source strength in becquerels (curies) at the time of manufacture; and

(f) The manufacture date of the source.

(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name and license number of the recipient facility and the shipping address;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The shipping date;

(i) The estimated arrival date; and

(j) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name, address, and license number of the person that provided the source;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The date of receipt; and

(i) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the source;

(e) The initial or current source strength in becquerels (curies);

(f) The date for which the source strength is reported; and

(g) The disassemble date of the source.

(5) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The waste manifest number;

(d) The container identification with the nationally tracked source;

(e) The date of disposal; and

(f) The method of disposal.

(6) The reports discussed in subsections (1) through (5) of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(a) The on-line National Source Tracking System;

(b) Electronically using a computer-readable format;

(c) By facsimile;

(d) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or

(e) By telephone with follow-up by facsimile or mail.

(7) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subsections (1) through (5) of this section. By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 9, 2009. The information may be submitted by using any of the methods identified by subsection (7)(a) through (d) of this section. The initial inventory report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the sealed source;

(e) The initial or current source strength in becquerels (curies); and

(f) The date for which the source strength is reported.

Table 1 - Nationally Tracked Source Thresholds

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-238	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

AMENDATORY SECTION (Amending WSR 95-01-108, filed 12/21/94, effective 1/21/95)

WAC 246-235-150 Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release.

Radioactive material ¹	Release fraction	Possession limit (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252 ²	.001	9
Carbon-14 ³	.01	50,000
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000

Radioactive material ¹	Release fraction	Possession limit (curies)
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Iodine-125	.5	10
Iodine-131	.5	10
Indium-114m	.01	1,000

Radioactive material ¹	Release fraction	Possession limit (curies)
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
<u>Radium-226</u>	<u>0.001</u>	<u>100</u>
Ruthenium-106	.01	200
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Uranium Hexafluoride	.001	Note ⁴
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000

Radioactive material ¹	Release fraction	Possession limit (curies)
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment beta-gamma	.001	10,000
Irradiated material, any form other than solid non-combustible	.01	1,000
Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma ⁵	.001	10,000
Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha ⁵	.0001	20
Combinations of radioactive materials listed above ¹		

- ¹ For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Schedule C exceeds one.
- ² For Californium-252, the quantity may also be expressed as 20 milligrams.
- ³ Excludes Carbon-14 as carbon dioxide.
- ⁴ For uranium hexafluoride, the quantity is 50 kilograms in a single container or 1,000 kilograms total.
- ⁵ Waste packaged in Type B containers does not require an emergency plan.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-240-010 Definitions. Address of use means the building or buildings that are identified on the license and where radioactive material may be received, prepared, used, or stored.

Area of use means a portion of an address of use that has been set aside for the purpose of receiving, preparing, using, or storing radioactive material.

Authorized medical physicist means an individual who:

- (1) Meets the requirements in WAC 246-240-072 and 246-240-081; or
- (2) Is identified as an authorized medical physicist or teletherapy physicist on:
 - (a) A specific medical use license issued by the department, the U.S. Nuclear Regulatory Commission or an agreement state;
 - (b) A medical use permit issued by a U.S. NRC master material licensee;
 - (c) A permit issued by a U.S. NRC or agreement state broad scope medical use licensee; or

(d) A permit issued by a U.S. NRC master material license broad scope medical use permittee.

Authorized nuclear pharmacist means a pharmacist who:

(1) Meets the requirements in WAC 246-240-075 and 246-240-081; or

(2) Is identified as an authorized nuclear pharmacist on:

(a) A specific license issued by the department, the U.S. NRC or an agreement state, that authorizes medical use or the practice of nuclear pharmacy;

(b) A permit issued by a U.S. NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

(c) A permit issued by a U.S. NRC or agreement state broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

(d) A permit issued by a U.S. NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

(3) Is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

(4) Is designated as an authorized nuclear pharmacist in accordance with WAC 246-235-100(2).

Authorized user means a physician, dentist, or podiatrist who:

(1) Meets the requirements in WAC 246-240-081 and 246-240-154, 246-240-163, 246-240-210, 246-240-213, 246-240-216, 246-240-278, 246-240-301, or 246-240-399; or

(2) Is identified as an authorized user on:

(a) A department, U.S. NRC, or agreement state license that authorizes the medical use of radioactive material;

(b) A permit issued by a U.S. NRC master material licensee that is authorized to permit the medical use of radioactive material;

(c) A permit issued by a department, U.S. NRC, or agreement state specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

(d) A permit issued by a U.S. NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

Brachytherapy means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

Brachytherapy source means a radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

Client's address means the area of use or a temporary job site for the purpose of providing mobile medical service in accordance with WAC 246-240-125.

Cyclotron means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

Dedicated check source means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years.

Dentist means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

High dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.

Low dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.

Management means the chief executive officer or other individual having the authority to manage, direct, or administer the licensee's activities, or that person's delegate or delegates.

Manual brachytherapy, as used in this chapter, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

Medical event means an event that meets the criteria in WAC 246-240-651.

Medical institution means an organization in which more than one medical discipline is practiced.

Medical use means the intentional internal or external administration of radioactive material or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

Medium dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate of greater than 2 gray (200 rads), but less than or equal to 12 grays (1200 rads) per hour at the point or surface where the dose is prescribed.

Mobile medical service means the transportation of radioactive material to and its medical use at the client's address.

Output means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a brachytherapy source or a teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit for a specified set of exposure conditions.

Patient intervention means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

Podiatrist means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

Positron emission tomography (PET) radionuclide production facility means a facility operating an accelerator for the purpose of producing PET radionuclides.

Preceptor means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

Prescribed dosage means the specified activity or range of activity of unsealed radioactive material as documented:

(1) In a written directive; or

(2) In accordance with the directions of the authorized user for procedures performed under WAC 246-240-151 and 246-240-157.

Prescribed dose means:

(1) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(2) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(3) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(4) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

Pulsed dose-rate remote afterloader, as used in this chapter, means a special type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:

(1) Is approximately one-tenth of the activity of typical high dose-rate remote afterloader sources; and

(2) Is used to simulate the radiobiology of a low dose-rate treatment by inserting the source for a given fraction of each hour.

Radiation safety officer means an individual who:

(1) Meets the requirements in WAC 246-240-069 and 246-240-081; or

(2) Is identified as a radiation safety officer on a specific medical use license issued by the department prior to October 5, 2005, the U.S. NRC or an agreement state; or

(3) A medical use permit issued by a commission master material licensee.

Sealed source and device registry means the national registry that contains all the registration certificates, generated by both the U.S. NRC and the agreement states, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

Stereotactic radiosurgery means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume.

Structured educational program means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

Teletherapy, as used in this chapter, means a method of radiation therapy in which collimated gamma rays are delivered at a distance from the patient or human research subject.

Temporary job site means a location where mobile medical services are conducted other than those location(s) of use authorized on the license.

Therapeutic dosage means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

Therapeutic dose means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

Treatment site means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

Type of use means use of radioactive material under WAC 246-240-151, 246-240-157, 246-240-201, 246-240-251, 246-240-301, 246-240-351, or 246-240-501.

Unit dosage means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

Written directive means an authorized user's written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in WAC 246-240-060.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-060 Written directives. (1) A written directive must be dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 megabecquerels (~~((MBq))~~) (30 microcuries (~~((µCi))~~)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material.

If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive must be documented as soon as possible in writing in the patient's record. A written directive must be prepared within forty-eight hours of the oral directive.

(2) The written directive must contain the patient or human research subject's name and the following information:

(a) For any administration of quantities greater than 1.11 (~~((MBq))~~) megabecquerels (30 (~~((µCi))~~) microcuries) of sodium iodide I-131: The dosage;

(b) For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: The radioactive drug, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: The total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;

(d) For teletherapy: The total dose, dose per fraction, number of fractions, and treatment site;

(e) For high dose-rate remote afterloading brachytherapy: The radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:

(i) Before implantation: Treatment site, the radionuclide, and dose; and

(ii) After implantation but before completion of the procedure: The radionuclide, treatment site, number of sources, and total source strength and exposure time (or the total dose).

(3) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed radioactive material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within forty-eight hours of the oral revision.

(4) The licensee shall retain a copy of the written directive in accordance with WAC 246-240-557.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-107 Determination of dosages of unsealed radioactive material for medical use. (1) A licensee shall determine and record the activity of each dosage before medical use.

(2) For a unit dosage, this determination must be made by:

- (a) Direct measurement of radioactivity; or
- (b) A decay correction, based on the activity or activity concentration determined by:
 - (i) A manufacturer, producer, or preparer licensed under WAC 246-235-100 or equivalent U.S. NRC or agreement state requirements; or
 - (ii) An agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA.

(3) For other than unit dosages, this determination must be made by:

- (a) Direct measurement of radioactivity;
- (b) Combination of measurement of radioactivity and mathematical calculations; or
- (c) Combination of volumetric measurements and mathematical calculations, based on the measurement made by a manufacturer, producer, or preparer licensed under WAC 246-235-100 or equivalent agreement state requirements.

(4) Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than twenty percent.

(5) A licensee shall retain a record of the dosage determination required by this section in accordance with WAC 246-240-569.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-240-110 Authorization for calibration, transmission, and reference sources. Any person authorized by WAC 246-240-016 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use:

(1) Sealed sources, not exceeding 1.11 ((~~GBq~~) gigabecquerels) (30 ((~~mCi~~) millicuries) each, manufactured and distributed by a person licensed under WAC 246-235-102 or equivalent agreement state or U.S. NRC regulations.

(2) Sealed sources, not exceeding 1.11 ((~~GBq~~) gigabecquerels) (30 ((~~mCi~~) millicuries) each, redistributed by a licensee

authorized to redistribute the sealed sources manufactured and distributed by a person licensed under WAC 246-235-102, or equivalent agreement state or U.S. NRC regulations if the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.

(3) Any radioactive material with a half-life not longer than one hundred twenty days in individual amounts not to exceed 0.56 ((~~GBq~~) gigabecquerels) (15 ((~~mCi~~) millicuries).

(4) Any radioactive material with a half-life longer than one hundred twenty days in individual amounts not to exceed the smaller of 7.4 ((~~MBq~~) megabecquerels) (200 ((~~µCi~~) microcuries) or 1000 times the quantities in Schedule B of WAC 246-232-120.

(5) Technetium-99m in amounts as needed.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-113 Requirements for possession of sealed sources and brachytherapy sources. (1) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.

(2) A licensee in possession of a sealed source shall:

(a) Test the source for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) Test the source for leakage at intervals not to exceed six months or at other intervals approved by the department, the U.S. NRC, or an agreement state in the sealed source and device registry.

(3) To satisfy the leak test requirements of this section, the licensee shall ensure the sample is analyzed by such method that the leak test can detect the presence of 185 ((~~Bq~~) becquerels) (0.005 ((~~µCi~~) microcuries) of radioactive material in the sample.

(4) A licensee shall retain leak test records in accordance with WAC 246-240-572(1).

(5) If the leak test reveals the presence of 185 ((~~Bq~~) becquerels) (0.005 ((~~µCi~~) microcuries) or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store, dispose, or cause it to be repaired in accordance with the requirements in chapters 246-221 and 246-232 WAC; and

(b) File a report within five days of the leak test in accordance with WAC 246-240-657.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than thirty days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 ((~~MBq~~) megabecquerels) (100 ((~~µCi~~) microcuries) or less of beta-or gamma-emitting material or 0.37 ((~~MBq~~) megabecquerels) (10 ((~~µCi~~) microcuries) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. However, the licensee shall test each source for leakage before any use or transfer unless it has been leak tested within six months before the date of use or transfer.

(7) A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory of all the sources in its possession at intervals not to exceed six months. The licensee shall retain each inventory record in accordance with WAC 246-240-572.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-240-151 Use of unsealed radioactive material for uptake, dilution, and excretion studies for which a written directive is not required. Except for quantities that require a written directive under WAC 246-240-060(2), a licensee may use any unsealed radioactive material prepared for medical use for uptake, dilution, or excretion studies that is:

(1) Obtained from a manufacturer, producer, or preparer licensed under WAC 246-235-100(1) or equivalent U.S. NRC or agreement state requirements; or

(2) Prepared by an authorized nuclear pharmacist, or a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163, or 246-240-210 and 246-240-163 (3)(a)(ii)(G), or an individual under the supervision of either as specified in WAC 246-240-057; or

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with a radioactive drug research committee-approved application or an investigational new drug (IND) protocol accepted by FDA.

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-240-157 Use of unsealed radioactive material for imaging and localization studies for which a written directive is not required. Except for quantities that require a written directive under WAC 246-240-060(2), a licensee may use any unsealed radioactive material prepared for medical use for imaging and localization studies that is:

(1) Obtained from a manufacturer, producer, or preparer licensed under WAC 246-235-100(1) or equivalent agreement state or U.S. NRC requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163, or 246-240-210 and 246-240-163 (3)(a)(ii)(G), or an individual under the supervision of either as specified in WAC 246-240-057;

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with a radioactive drug research committee-approved application or an investigational new drug (IND) protocol accepted by FDA.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-160 Permissible molybdenum-99 concentration. (1) A licensee may not administer to humans a radiopharmaceutical that contains more than:

(a) 5.55 kilobecquerel of molybdenum-99 per 37 megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m); or

(b) 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection, (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or

(c) 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).

(2) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (1) of this section.

(3) A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of strontium-82 and strontium-85 to demonstrate compliance with subsection (1)(a) of this section.

(4) If a licensee is required to measure the molybdenum-99 concentration, or strontium-82 and strontium-85 concentrations the licensee shall retain a record of each measurement in accordance with WAC 246-240-587.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-201 Use of unsealed radioactive material for which a written directive is required. A licensee may use any unsealed radioactive material prepared for medical use and for which a written directive is required that is:

(1) Obtained from a manufacturer, producer, or preparer licensed under WAC 246-235-100(1) or equivalent agreement state or U.S. NRC requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163 or 246-240-210, or an individual under the supervision of either as specified in WAC 246-240-057; or

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with an investigational new drug (IND) protocol accepted by FDA.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-569 Records of dosages of unsealed radioactive material for medical use. (1) A licensee shall maintain a record of dosage determinations required by WAC 246-240-107 for three years.

(2) The record must contain:

- (a) The radiopharmaceutical;
- (b) The patient's or human research subject's name, or identification number if one has been assigned;
- (c) The prescribed dosage, the determined dosage, or a notation that the total activity is less than 1.1 (~~(MBq)~~ megabecquerels (30 (~~(μ Ci)~~) microcuries);
- (d) The date and time of the dosage determination; and
- (e) The name of the individual who determined the dosage.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-587 Records of molybdenum-99, strontium-82, and strontium-85 concentrations. A licensee shall maintain a record of the molybdenum-99, strontium-82, and/or strontium-85 concentration tests required by WAC 246-240-160(2) for three years.

(1) The record must include, for each measured elution of technetium-99m, the ratio of the measures expressed as kilobecquerels of molybdenum-99 per megabecquerel of technetium-99m (or microcuries of molybdenum per millicurie of technetium), the time and date of the measurement, and the name of the individual who made the measurement.

(2) For each measured elution of rubidium-82, the ratio of the measures expressed as kilobecquerels of strontium-82 per megabecquerel of rubidium-82 (or microcuries of strontium-82 per millicurie of rubidium), and/or kilobecquerels of strontium-85 per megabecquerel of rubidium-82 (or microcuries of strontium-85 per millicurie of rubidium), the time and date of the measurement, and the name of the individual who made the measurement.

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-657 Report of a leaking source. A licensee shall file a report within five days if a leak test required by WAC 246-240-113 reveals the presence of 185 (~~(Bq)~~ becquerels (0.005 (~~(μ Ci)~~) microcuries) or more of removable contamination. The report must be filed with the department, and sent to the department at P.O. Box 47827, Olympia WA 98504-7827, (phone 360-236-3300). The written report must include the model number and serial number if assigned, of the leaking source; the radionuclide and its estimated activity; the results of the test; the date of the test; and the action taken.

NEW SECTION

WAC 246-233-012 General license for certain items and self-luminous products containing radium-226. (1) A general license shall be issued to any person to acquire,

receive, possess, use, or transfer, in accordance with the provisions of subsections (2), (3), and (4) of this section, radium-226 contained in:

(a) Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.

(b) Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.

(c) Luminous items installed in air, marine, or land vehicles.

(d) All other luminous products, provided that no more than one hundred items are used or stored at the same location at any one time.

(e) Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinhartoscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the department of health.

(2) Persons who acquire, receive, possess, use, or transfer radioactive materials under the general license issued in subsection (1) of this section are exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, or transfer is within the terms of such general license. This exemption shall not apply to any person who is also in possession of radioactive materials under a specific license issued under chapter 246-235 WAC.

(3) Any person who acquires, receives, possesses, uses, or transfers by-product material in accordance with the general license in subsection (1) of this section:

(a) Shall notify the department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the department within thirty days.

(b) Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be transferred or disposed of in accordance with chapter 246-232 WAC, or as otherwise approved by the department.

(c) Shall not export products containing radium-226 except in accordance with chapter 246-231 WAC.

(d) Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under chapter 246-235 WAC, or equivalent regulations of an agreement state, or as otherwise approved by the NRC.

(e) Shall respond to written requests from the department to provide information relating to the general license within thirty calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing a written justification for the request.

(4) The general license in subsection (1) of this section does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-015 Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the United States Nuclear Regulatory Commission for use pursuant to Section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221** and 246-222 WAC.

(1) *Static elimination device.* Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device.

(2) *Ion generating tube.* Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device or a total of not more than 18.5 megabecquerels (50 millicuries) of Hydrogen-3 (tritium) per device.

** Attention is directed particularly to the provisions of chapter 246-221 WAC which relate to the labeling of containers.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-020 General license—Certain measuring, gauging or controlling devices. (1) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of subsections (2), (3), and (4) of this section, radioactive material excluding special nuclear material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in subsection (1) of this section applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a

specific license issued by the department pursuant to WAC 246-235-093 or in accordance with the Nuclear Regulatory Commission, an agreement state or a licensing state, which authorizes distribution or transfer of devices to persons generally licensed by the United States Nuclear Regulatory Commission, an agreement state or licensing state**. The devices shall have been received from one of the specific licensees described in this subsection or through a transfer made under subsection (3)(h) of this section.

*Note: Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 CFR Part 179.

(3) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in subsection (1) of this section:

(a) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(b) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, however:

(i) Devices containing only krypton need not be tested for leakage of radioactive material; and

(ii) Devices containing only tritium or not more than 3.7 megabecquerels (100 microcuries) of other beta and/or gamma emitting material or 370 kilobecquerels (10 microcuries) of alpha emitting material need not be tested for any purpose. Devices held in storage in the original shipping container prior to initial installation need not be tested until immediately prior to use;

(c) Shall assure that the tests required by (b) of this subsection and other testing, installing, servicing, and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(i) In accordance with the instructions provided by the labels; or

(ii) By a person holding a specific license from the department or from the United States Nuclear Regulatory Commission or from any agreement state or from a licensing state to perform such activities;

(d) Shall maintain records showing compliance with the requirements of (b) and (c) of this subsection. The records shall show the results of tests. The records also shall show the dates of performance and the names of persons performing, testing, installing, servicing, and removing from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by (b) of this subsection shall be maintained for three years after the next required leak test is performed or the sealed source is transferred or disposed. Records of tests of the on/off mechanism and indicator required by (b) of this subsection shall be maintained for three years after the next required test of the on/off mechanism and indicator is performed or the sealed source is transferred or disposed. Records of other testing, installation, servicing, and removal from installation required by (c) of this subsection shall be

maintained for a period of three years from the date of the recorded event or until the device is transferred or disposed;

(e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on/off mechanism or indicator, or upon the detection of 185 becquerels (0.005 microcuries) or more removable radioactive material, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the department, the United States Nuclear Regulatory Commission, or from an agreement state or a licensing state to repair such devices, or disposed by transfer to a person authorized by a specific license to receive the radioactive material contained in the device and, within thirty days, furnish to the department a written report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerels (0.005 microcuries) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use (see WAC 246-246-020);

(f) Shall not abandon the device containing radioactive material;

(g) Except as provided in (h) of this subsection, shall transfer or dispose the device containing radioactive material only by transfer to a person holding a specific license of the department, the United States Nuclear Regulatory Commission, or an agreement state, or a licensing state whose specific license authorizes the person to receive the device and within thirty days after transfer of a device to a specific licensee shall furnish to the department a report containing identification of the device by manufacturer's (or initial transferor's) name, model number, and serial number; the name, address, and license number of the person receiving the device, and the date of transfer. Prior written approval from the department is required before transferring the device to any other specific licensee not specifically identified in this subsection;

(h) Shall transfer the device to another general licensee only:

(i) Where the device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this section, a copy of WAC 246-221-240, 246-221-250, 246-232-050, and 246-232-060, and any safety documents identified in the label of the device and within thirty days of the transfer, report to the department the manufacturer's (or transferor's) name, model number, and serial number of device transferred, the transferee's name and mailing address for the location of use, and the name, title, and phone number of the responsible individual identified by the transferee in accordance with (j) of this subsection to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(ii) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee;

(i) Shall comply with the provisions of WAC 246-221-240 and 246-221-250 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of chapters 246-221 and 246-222 WAC;

(j) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(k)(i) Shall register, in accordance with (k)(i) and (iii) of this subsection, devices containing at least 370 (~~(MBq)~~) megabecquerels (10 (~~(mCi)~~) millicuries) of Cesium-137, 3.7 (~~(MBq)~~) megabecquerels (0.1 (~~(mCi)~~) millicuries) of Strontium-90, 37 (~~(MBq)~~) megabecquerels (1 (~~(mCi)~~) millicurie) of Cobalt-60, or 37 (~~(MBq)~~) megabecquerels (1 (~~(mCi)~~) millicurie) of Americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under (k)(iii)(D) of this subsection, represents a separate general licensee and requires a separate registration and fee;

(ii) If in possession of a device meeting the criteria of (k)(i) of this subsection, shall register these devices annually with the department and shall pay the fee required by WAC 246-254-090. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within thirty days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of (k)(i) of this subsection is subject to the bankruptcy notification requirement in WAC 246-232-050;

(iii) In registering devices, the general licensee shall furnish the following information and any other information specifically requested by the department:

(A) Name and mailing address of the general licensee;

(B) Information about each device: The manufacturer (or initial transferor), model number, serial number, the radionuclide and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under (j) of this subsection;

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage;

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information;

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general licensee;

(iv) Persons generally licensed by the U.S. Nuclear Regulatory Commission, or an agreement state with respect to devices meeting the criteria in (k)(i) of this subsection are not subject to registration requirements if the devices are used in areas subject to Washington state jurisdiction for a period less than one hundred eighty days in any calendar year. The department will not request registration information from such licensees;

(l) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the department within thirty days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

(m) Shall not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by (b) of this subsection need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(4) The general license in subsection (1) of this section does not authorize the manufacture, import or export of devices containing radioactive material.

(5) The general license provided in this subsection is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-221-240, 246-221-250, 246-232-050, 246-232-060, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-025 General license—Luminous safety devices for aircraft. (1) A general license is hereby issued to own, receive, acquire, possess and use tritium or Promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of Promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in this subsection are exempt from the requirements of chapters 246-221 and 246-222 WAC except that they shall comply with the provisions of WAC 246-221-240 and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or Promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of Promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-030 General license—Ice detection devices. (1) A general license is hereby issued to own, receive, acquire, possess, use and transfer Strontium-90 contained in ice detection devices, provided each device contains not more than 185 megabecquerels (50 microcuries) of Strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(2) Persons who own, receive, acquire, possess, use or transfer Strontium-90 contained in ice detection devices pursuant to the general license in (a) of this subsection:

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the United States Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of chapters 246-221 and 246-222 WAC except that such persons shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of Strontium-90 sources in ice detection devices.

(4) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-035 General license—Calibration and reference sources. (1) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subsections (4) and (5) of this section, Americium-241 in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material; or

(b) Any person who holds a specific license issued by the United States Nuclear Regulatory Commission which authorizes that person to receive, possess, use and transfer special nuclear material.

(2) A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(3) A general license is hereby issued to own, receive, possess, use and transfer Radium-226 in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(4) The general licenses in subsections (1), (2) and (3) of this section apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the United States Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the department or any agreement state or licensing state pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 of the regulations of the United States Nuclear Regulatory Commission.

(5) The general licenses provided in subsections (1), (2) and (3) of this section are subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, 246-232-090, chapters 246-221 and 246-222 WAC.

In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Shall not possess at any one time, at any one location of storage or use, more than 185 kilobecquerels (5 microcuries) of Americium-241 and 185 kilobecquerels (5 microcuries) of plutonium and 185 kilobecquerels (5 microcuries) of Radium-226 in such sources;

(b) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

(i) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241). (PLUTONIUM)*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

*Note: Showing only the name of the appropriate material.

(ii) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of any licensing state. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

(c) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the department, the United States Nuclear Regulatory Commission, or an agreement state or licensing state to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain Americium-241, plutonium, or Radium-226/Radon-222 which might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing Americium-241, plutonium, or Radium-226.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-233-040 General license for use of radioactive material for certain *in vitro* clinical or laboratory testing.*

(1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of subsections (2), (3), (4), (5), and (6) of this section the following radioactive materials in prepackaged units:

(a) Iodine-125, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(b) Iodine-131, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(c) Carbon-14, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(d) Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerels (50 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external

administration of radioactive material, or the radiation therefrom, to human beings or animals.

(e) Iron-59, in units not exceeding 740 kilobecquerels (20 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(f) Cobalt-57, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(g) Selenium-75, in units not to exceed 370 kilobecquerels (10 microcuries) each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(h) Mock Iodine-125 reference or calibration sources, in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of Iodine-129 and 185 becquerels (0.005 microcurie) of Americium-241 each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

*Note: The new drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(2) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by subsection (1) of this section until that person has received a validated copy of department Form RHF-15 "Certificate - *in vitro* testing with radioactive material under general license." Annual validation requires resubmittal of revised department Form RHF-15 and submittal of the annual fee to the department. The physician, veterinarian, clinical laboratory or hospital shall furnish on department Form RHF-15 the following information and such other information as may be required by that form:

(a) Name and address of the physician, veterinarian, clinical laboratory or hospital;

(b) The location of use; and

(c) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out *in vitro* clinical or laboratory tests with radioactive material as authorized under the general license in subsection (1) of this section and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by subsection (1) of this section shall comply with the following:

(a) The general licensee shall not possess at any one time, pursuant to the general license in subsection (1) of this section at any one location of storage or use, a total amount of Iodine-125, Iodine-131, Selenium-75, Iron-59, and/or Cobalt-57 in excess of 7.4 megabecquerels (200 microcuries).

(b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(c) The general licensee shall use the radioactive material only for the uses authorized by subsection (1) of this section.

(d) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the department, the United States Nuclear Regulatory Commission, any agreement state or licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(e) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in subsection (1)(h) of this section as required by WAC 246-221-170.

(4) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to subsection (1) of this section:

(a) Except as prepackaged units which are labeled in accordance with the provision of an applicable specific license issued pursuant to WAC 246-235-097 or in accordance with the provisions of a specific license issued by the United States Nuclear Regulatory Commission, or any agreement state or licensing state which authorizes the manufacture and distribution of Iodine-125, Iodine-131, Carbon-14, Hydrogen-3 (tritium), Iron-59, Selenium-75, Cobalt-57, or Mock Iodine-125 to persons generally licensed under this subsection or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....
Name of manufacturer

(5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of subsection (1) of this section shall report in writing to the department, any changes in the information previously furnished in the "Certificate - *in vitro* testing with radioactive material under general license," department Form RHF-15. The report shall be furnished within thirty days after the effective date of such change.

(6) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-090 and 246-220-100. In addition, any person using radioactive material pursuant to the general license of subsection (1) of this section is exempt from the requirements of chapters 246-221 and 246-222 WAC with respect to radioactive material covered by that general license, except that such persons using the Mock Iodine-125 described in subsection (1)(h) of this section shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250 and of these regulations.

WSR 08-21-104
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 16, 2008, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-17-107.

Title of Rule and Other Identifying Information: The department is amending WAC 388-489-0025 Can my transitional food assistance benefits end before the end of my five-month transition period?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on November 25, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by November 18, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-489-0025 to correct a typographical error in the current rule. The amended rule will reflect that the department will terminate transitional food assistance (TFA) benefits early if **all** members of the TFA

assistance unit are ineligible for Basic Food for the reasons currently specified in the rule.

Reasons Supporting Proposal: The changes to the rule will reflect current policy on when households are ineligible for TFA and be consistent with program requirements under 7 C.F.R. 273.12 and the Food and Nutrition Act of 2008.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.12.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients by setting eligibility requirements for the TFA program within the Washington Basic Food program or Basic Food.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 14, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-19-060, filed 9/16/05, effective 11/1/05)

WAC 388-489-0025 Can my transitional food assistance benefits end before the end of my five-month transition period? Your transitional food assistance benefits will end early if:

(1) Someone who gets transitional food assistance with you applies and is approved for temporary assistance for needy families while still living in your home. You may reapply to have your eligibility for Basic Food determined;

(2) We learn that you and your family are no longer residing in the state of Washington; or

(3) **All members** of your household are ineligible to get Basic Food for any of the following reasons:

(a) Refusal to cooperate with quality assurance (WAC 388-464-0001);

(b) Transfer of property to qualify for Basic Food assistance (WAC 388-488-0010);

(c) Intentional program violation (WAC 388-466-0015 and 388-446-0020);

(d) Fleeing felon or violating a condition of probation or parole (WAC 388-442-0010);

(e) Alien status (WAC 388-424-0020 and 388-424-0025);

(f) Employment and training requirements (WAC 388-444-0055 and 388-444-0075);

- (g) Work requirements for able-bodied adults without dependents (WAC 388-444-0030);
- (h) Student status (WAC 388-482-0005);
- (i) Living in an institution where residents are not eligible for Basic Food (WAC 388-408-0040); or
- (j) Deceased.

WSR 08-21-105
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)

[Filed October 16, 2008, 1:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-006.

Title of Rule and Other Identifying Information: The department is amending WAC 388-416-0015 Certification periods for categorically needy (CN) scope of care medical assistance programs, 388-418-0025 Effect of changes on medical program eligibility, 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL), 388-505-0210 Children's medical programs, 388-505-0211 Premium requirements for the premium-based, 388-542-0010 Purpose and scope of premium-based apple health for kids, 388-542-0020 Other rules that apply to the premium-based apple health for kids program, 388-542-0050 Definitions for the premium-based apple health for kids program, and 388-542-0300 Waiting period for the premium-based apple health for kids program.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on November 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 25, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by November 18, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Legislation passed approving expansion of the premium-based children's healthcare for children in households with incomes up to and including 300% of FPL. The program name is changed from "Children's Healthcare for Children" to "Apple Health for Kids." This rule will increase the number of children who qualify for medical coverage.

WAC 388-416-0015, 388-418-0025, 388-542-0020, and 388-542-0050 were not cited on the preproposal statement of

inquiry filed as WSR 08-15-006. The department is including these sections in this proposal to update the program name to "Apple Health for Kids."

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.09.402 and 74.09.470.

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

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

Name of Agency Personnel Responsible for Drafting: Jonell Blatt, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1571; **Implementation and Enforcement:** Kevin Cornell, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1423.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small profit and nonprofit business organizations.

A cost-benefit analysis is not required under RCW 34.05.328. According to RCW 34.05.038 [34.05.328](5) a cost-benefit analysis is exempt according to the following citations: RCW 34.05.038 (5)(iv) [34.05.328 (5)(iv)] Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and RCW 34.05.038 (5)(vii) [34.05.328 (5)(vii)] Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

October 13, 2008
 Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-416-0015 Certification periods for categorically needy (CN) scope of care medical assistance programs. (1) A certification period is the period of time a person is determined eligible for a categorically needy (CN) scope of care medical program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues to the last day of the last month of the certification period.

(2) For a child eligible for the newborn medical program, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) For a woman eligible for a medical program based on pregnancy, the certification period ends the last day of the month that includes the sixtieth day from the day the pregnancy ends.

(4) For families the certification period is twelve months with a six-month report required as a condition of eligibility as described in WAC 388-418-0011.

(5) For children, the certification period is twelve months. Eligibility is continuous without regard to changes in circumstances other than aging out of the program, moving out-of-state, failing to pay a required premium(s), incarceration or death.

(6) When the child turns nineteen the certification period ends even if the twelve-month period is not over. The certification period may be extended past the end of the month the child turns nineteen when:

(a) The child is receiving inpatient services (see WAC 388-505-0230) on the last day of the month the child turns nineteen;

(b) The inpatient stay continues into the following month or months; and

(c) The child remains eligible except for exceeding age nineteen.

(7) For an SSI-related person the certification period is twelve months.

(8) When the medical assistance unit is also receiving benefits under a cash or food assistance program, the medical certification period is updated to begin anew at each:

(a) Approved application for cash or food assistance; or

(b) Completed eligibility review.

(9) A retroactive certification period can begin up to three months immediately before the month of application when:

(a) The client would have been eligible for medical assistance if the client had applied; and

(b) The client received covered medical services as described in WAC 388-501-0060 and 388-501-0065.

(10) If the client is eligible only during the three-month retroactive period, that period is the only period of certification.

(11) Any months of a retroactive certification period are added to the designated certification periods described in this section.

(12) There is no retroactive eligibility for premium-based (~~children's healthcare~~) apple health for kids coverage as described in WAC 388-505-0210 and chapter 388-542 WAC. If creditable coverage exists at the time of application, the certification period begins no sooner than the month after creditable coverage ends.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-418-0025 Effect of changes on medical program eligibility. (1) You continue to be eligible for medical assistance until the department determines your ineligibility or eligibility for another medical program. This applies to you if, during a certification period, you become ineligible for, or are terminated from, or request termination from:

(a) A CN Medicaid program;

(b) A (~~children's healthcare~~) apple health for kids program; or

(c) Any of the following cash grants:

(i) TANF;

(ii) SSI; or

(iii) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) If you become ineligible for refugee cash assistance, refugee medical assistance can be continued through the eight-month limit, as described in WAC 388-400-0035(4).

(3) If you receive a TANF cash grant or family medical, you are eligible for a medical extension, as described under

WAC 388-523-0100, when your cash grant or family medical program is terminated as a result of:

(a) Earned income; or

(b) Collection of child or spousal support.

(4) A change in income during a certification period does affect eligibility for all medical programs except:

(a) Pregnant women's medical programs;

(b) (~~Children's healthcare~~) Apple health for kids program(s), except as specified in subsection (5); or

(c) The first six months of the medical extension benefits.

(5) For a child receiving benefits under the premium-based (~~children's healthcare~~) apple health for kids program(s) as described in WAC 388-505-0210 and chapter 388-542 WAC, the department must redetermine eligibility for a nonpremium-based medical program when the family reports:

(a) Family income has decreased to less than two hundred percent federal poverty level (FPL);

(b) The child becomes pregnant;

(c) A change in family size; or

(d) The child receives SSI.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <http://aspe.hhs.gov/poverty/index.shtml>. The income standards for the following medical programs change on the first day of April every year based on the new FPL:

(a) Pregnant women's program up to one hundred eighty-five percent of FPL;

(b) (~~Children's healthcare~~) Apple health for kids program(s) up to two hundred percent of FPL;

(c) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and

(d) Premium-based (~~coverage under the children's healthcare programs~~) apple health for kids over two hundred percent of FPL, but not over (~~two hundred fifty~~) three hundred percent of FPL.

(2) The department uses the FPL income standards to determine:

(a) The mandatory or optional Medicaid status of an individual; and

(b) Premium amount, if any, for a child.

(3) There are no resource limits for the programs under this section.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-505-0210 Children's (~~healthcare~~) medical programs. Funding for (~~children's healthcare~~) apple health for kids coverage may come through Title XIX (Medicaid) (~~(or)~~) Title XXI (~~for the Social Security Act~~) (~~(or)~~) SCHIP(~~(s)~~), or through state-funded programs. There are no resource limits for (~~children's medical~~) apple health for

~~kids programs((, but)).~~ Children must meet the eligibility criteria below to qualify for these programs.

(1) Newborns are eligible for federally matched categorically needy (CN) coverage through their first birthday when:

(a) The child's mother was eligible for and receiving medical assistance at the time of the child's birth; and

(b) The child remains with the mother and resides in the state.

(2) Children under the age of nineteen who are U.S. citizens, U.S. nationals, or qualified aliens as described in WAC 388-424-0001 and 388-424-0006 (1) and (4) are eligible for federally matched CN coverage under ~~((children's health-care))~~ apple health for kids program(s) when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC;

(b) A Social Security number or application as described in chapter 388-476 WAC;

(c) Proof of citizenship or immigrant status and identity as required by WAC 388-490-0005(11);

(d) Family income is at or below two hundred percent federal poverty level (FPL), as described in WAC 388-478-0075 at each application or review; or

(e) They received supplemental security income (SSI) cash payments in August 1996 and would continue to be eligible for those payments except for the August 1996 passage of amendments to federal disability definitions; or

(f) They are eligible for SSI-related CN or MN coverage.

(3) Noncitizen children under the age of nineteen, who do not meet qualified alien status as described in WAC 388-424-0006 (1) or (4), or are ineligible due to the five-year ban as described in WAC 388-424-0006(3), are eligible for state-funded CN coverage under ~~((children's health-care))~~ the apple health for kids program(s) when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC; and

(b) Family income is at or below two hundred percent FPL at each application or review.

(4) Children under the age of nineteen are eligible for premium-based CN coverage under ~~((children's health-care))~~ apple health for kids program(s) as described in chapter 388-542 WAC when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC;

(b) Family income is over two hundred percent FPL, as described in WAC 388-478-0075, but not over ~~((two hundred fifty))~~ three hundred percent FPL at each application or review;

(c) They do not have other creditable health insurance as described in WAC 388-542-0050; and

(d) They pay the required monthly premiums as described in WAC 388-505-0211

(5) Children under age nineteen are eligible for the medically needy (MN) Medicaid program when they ~~((meet))~~:

(a) Meet citizenship or immigrant status, state residence, and Social Security number requirements as described in subsection (2)(a), (b), and (c); ~~((and))~~

(b) ~~((They))~~ Are ineligible for other federal Medicaid programs; and

(c) Meet their spenddown obligation as described in WAC 388-519-0100 and 388-519-0110.

(6) Children under the age of twenty-one who reside or expect to reside in a medical institution, intermediate care facility for the mentally retarded (ICF/MR), hospice care center, nursing home, or psychiatric facility may be eligible for medical coverage. See WAC 388-505-0230 "Family related institutional medical" and WAC 388-513-1320 "Determining institutional status for long-term care."

(7) Children who are in foster care under the legal responsibility of the state, or a federally recognized tribe located within the state, are eligible for federally matched CN Medicaid coverage through the month of their:

(a) Eighteenth birthday;

(b) Twenty-first birthday if children's administration determines they remain eligible for continued foster care services; or

(c) Twenty-first birthday if they were in foster care on their eighteenth birthday and that birthday was on or after July 22, 2007.

(8) Children who receive subsidized adoption services are eligible for federally matched CN Medicaid coverage.

(9) Children under age of nineteen may also be eligible for:

(a) Family medical as described in WAC 388-505-0220;

(b) Medical extensions as described in WAC 388-523-0100; or

(c) SSI-related MN if they:

(i) Meet the blind and/or disability criteria of the federal SSI program, or the condition of subsection (2)(e); and

(ii) Have countable income above the level described in WAC 388-478-0070(1).

(10) Children who are ineligible for other ~~((children's health-care))~~ apple health for kids programs ~~((due to citizenship or immigrant status requirements))~~ may be eligible for the alien emergency medical program (AEM) if they meet the following criteria:

(a) They have a documented emergent medical condition as defined in WAC 388-500-0005;

(b) They meet the other AEM program requirements as described in WAC 388-438-0110; and

(c) They have income that exceeds ~~((children's health-care))~~ apple health for kids program standards; or

(d) They are disqualified from receiving premium-based ~~((children's health-care))~~ apple health for kids coverage as described in subsection (4) of this section because of creditable coverage or nonpayment of premiums.

(11) Except for a client described in subsection (6), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for ~~((children's health-care))~~ the apple health for kids program(s).

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-505-0211 Premium requirements for the premium-based ((children's health-care)) apple health for kids program(s). (1) For the purposes of this ~~((chapter))~~ section, "**premium**" means an amount paid for medical coverage.

(2) Payment of a premium is required as a condition of eligibility for premium-based ~~((children's healthcare))~~ apple health for kids coverage, as described in WAC 388-505-0210(4), unless the child is:

- (a) Pregnant; or
- (b) An American Indian or Alaska native.

(3) The premium requirement begins the first of the month following the determination of eligibility. There is no premium requirement for medical coverage received in a month or months before the determination of eligibility.

(4) The premium amount for the assistance unit is based on the net ~~((available))~~ countable income as described in WAC ~~((388-450-0005))~~ 388-450-0210 and the number of children in the assistance unit. If the household includes more than one assistance unit, the premium amount billed for the assistance units may be different amounts.

(5) The premium amount for ~~((each eligible child is fifteen dollars per month per child, up to a maximum of forty-five dollars per month, per household))~~ children shall be:

(a) Twenty dollars per month per child for households with income above two hundred percent of the FPL, but not above two hundred and fifty percent FPL;

(b) Thirty dollars per month per child for households with income above two hundred and fifty percent FPL, but not above three hundred percent FPL; and

(c) Limited to a monthly maximum of two premiums for households with two or more children.

(6) All children in an assistance unit are ineligible for medical coverage when the head of household fails to pay required premium payments for three consecutive months.

(7) When the department terminates the medical coverage of a child due to nonpayment of premiums, the child has a three-month period of ineligibility beginning the first of the following month. The three-month period of ineligibility is rescinded only when the:

(a) Past due premiums are paid in full prior to the begin date of the period of ineligibility; or

(b) The child becomes eligible for a nonpremium-based medical program. The department will not rescind the three-month period of ineligibility for reasons other than the criteria described in this subsection.

(8) The department writes off past-due premiums after twelve months.

(9) When the designated three-month period of ineligibility is over, all past due premiums that are an obligation of the head of household must be paid or written off before a child can become eligible for the premium-based ~~((children's healthcare))~~ apple health for kids program.

(10) A family cannot designate partial payment of the billed premium amount as payment for a specific child in the assistance unit. The full premium amount is the obligation of the head of household of the assistance unit. A family can decide to request medical coverage only for certain children in the assistance unit, if they want to reduce premium obligation.

(11) A change that affects the premium amount is effective the month after the change is reported and processed.

(12) A sponsor or other third party may pay the premium on behalf of the child or children in the assistance unit. The premium payment requirement remains the obligation of

head of household of the assistance unit. The failure of a sponsor or other third party to pay the premium does not eliminate the:

(a) Establishment of the period of ineligibility described in subsection (7) of this section; or

(b) Obligation of the head of household to pay past-due premiums.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0010 Purpose and scope of premium-based ~~((children's healthcare))~~ apple health for kids program(s). The department administers premium-based ~~((children's healthcare))~~ apple health for kids through a combination of state and federal funding sources as described below:

(1) Federally matched healthcare coverage as authorized by Title XXI of the Social Security Act (SCHIP) and RCW 74.09.450 for citizen and federally qualified immigrant children whose family income is above two hundred percent of the federal poverty level (FPL) but is not above ~~((two hundred fifty))~~ three hundred percent of the FPL.

(2) State funded healthcare coverage for noncitizen children with family income above two hundred percent FPL, but not above ~~((two hundred fifty))~~ three hundred percent FPL, who are ineligible for Title XXI federally matched children's healthcare coverage due to immigration issues.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0020 Other rules that apply to the premium-based ~~((children's healthcare))~~ apple health for kids programs. In addition to the rules of this chapter, premium-based ~~((children's healthcare))~~ apple health for kids clients are subject to the following rules:

(1) Chapter 388-538 WAC, Managed care (except WAC 388-538-061, 388-538-063, and 388-538-065) if the child is covered under federally matched CN coverage;

(2) WAC 388-505-0210(4), ~~((Children's healthcare))~~ apple health for kids program eligibility;

(3) WAC 388-505-0211, Premium requirements for the premium-based ~~((children's healthcare))~~ apple health for kids program(s);

(4) WAC 388-416-0015(12), Certification periods for categorically needy (CN) scope of care medical assistance programs; and

(5) WAC 388-418-0025, Effect of changes on medical program eligibility.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0050 Definitions for the premium-based ~~((children's healthcare))~~ apple health for kids program(s). The following definitions, as well as those found in WAC 388-538-050 and in 388-500-0005 Medical definitions, apply to premium-based ~~((children's healthcare))~~ apple health for kids program(s).

"**Creditable coverage**" means most types of public and private health coverage, except Indian health services, that provides access to physicians, hospitals, laboratory services, and radiology services. This term applies to the coverage whether or not the coverage is equivalent to that offered under premium-based children's healthcare programs. "Creditable coverage" is described in 42 U.S.C. Sec. 1397jj.

"**Employer-sponsored dependent coverage**" means creditable health coverage for dependents offered by a family member's employer or union, for which the employer or union may contribute in whole or part towards the premium. Extensions of such coverage (e.g., COBRA extensions) also qualify as employer-sponsored dependent coverage as long as there remains a contribution toward the premiums by the employer or union.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0300 **Waiting period for the premium-based ((healthcare)) apple health for kids program((s)) ((coverage)) following employer coverage.** (1) The department requires applicants to serve a waiting period of four full consecutive months before receiving premium-based ((children's healthcare programs)) apple health for kids coverage if the client or family:

(a) Chooses to end employer sponsored dependent coverage. The waiting period begins the day after the employment-based coverage ends; or

(b) Fails to exercise an optional coverage extension (e.g., COBRA) that meets the following conditions. The waiting period begins on the day there is a documented refusal of the coverage extension when the extended coverage is:

(i) Subsidized in part or in whole by the employer or union;

(ii) Available and accessible to the applicant or family; and

(iii) At a monthly cost to the family meeting the limitation of subsection (2)(b)(iv).

(2) The department does not require a waiting period prior to coverage under the premium-based ((children's healthcare)) apple health for kids program((s)) when:

(a) The client or family member has a medical condition that, without treatment, would be life-threatening or cause serious disability or loss of function; or

(b) The loss of employer-sponsored dependent coverage is due to any of the following:

(i) Loss of employment with no post-employment subsidized coverage as described in subsection (1)(b);

(ii) Death of the employee;

(iii) The employer discontinues employer-sponsored dependent coverage;

(iv) The family's total out-of-pocket maximum cost for employer-sponsored dependent coverage is ((fifty dollars per month or more)) two and one-half percent or more of the family's monthly income;

(v) The plan terminates employer-sponsored dependent coverage for the client because the client reached the maximum lifetime coverage amount;

(vi) Coverage under a COBRA extension period expired;

(vii) Employer-sponsored dependent coverage is not reasonably available (e.g., client would have to travel to another city or state to access care); or

(viii) Domestic violence caused the loss of coverage for the victim.

WSR 08-21-116

PROPOSED RULES

SECRETARY OF STATE

[Filed October 17, 2008, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-03-113.

Title of Rule and Other Identifying Information: Charitable solicitation organizations and charitable trusts, chapter 434-120 WAC.

Hearing Location(s): 801 Capitol Way South, Olympia, WA 98504-40234 [98504-0234], on November 25, 2008, at 1:00 p.m.

Date of Intended Adoption: November 25, 2008.

Submit Written Comments to: Rebecca Sherrell, P.O. Box 40234, Olympia, WA 98504-0234, e-mail rsherrell@secstate.wa.gov, fax (360) 664-4250, by November 25, 2008.

Assistance for Persons with Disabilities: Contact Rebecca Sherrell by November 24, 2008, TTY (800) 422-8683 or (360) 725-0380.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement chapter 19.09 RCW changes made in the 2007 legislative session. These rules will implement the creation of the charitable advisory council, amend the filing requirements of charitable solicitation organizations to reflect changes in the RCWs, and administer the charitable organization education program.

Reasons Supporting Proposal: Clarify and define procedures for charitable solicitation organizations to file documents required by chapter 19.09 RCW.

Statutory Authority for Adoption: RCW 19.09.097, 19.09.315, 19.09.540, 43.07.125.

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

Name of Proponent: Charitable advisory council, governmental.

Name of Agency Personnel Responsible for Drafting: Pamela Floyd, Division of Corporations and Charities, 801 Capitol Way South, Olympia, WA 98504-40234 [98504-0234], (360) 725-0310; Implementation: Rebecca Sherrell, Division of Corporations and Charities, 801 Capitol Way South, Olympia, WA 98504-40234 [98504-0234], (360) 725-0380; and Enforcement: Jeff Even, Office of Attorney General, 1125 Washington Street S.E., Olympia, WA 98504-40100 [98504-0100], (360) 586-0728.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No additional costs are imposed on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are adopting by reference without material change, Washington state statutes and are not

required to do a cost-benefit analysis per RCW 34.05.328 (5)[(b)](iii).

October 17, 2008

Steve Excel

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-025 Definitions. (1) A "bona fide officer or employee" of a charitable organization is one:

(a) Whose conduct is subject to direct control by such organization;

(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and

(c) Whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable ~~((activity))~~ purpose, but does not include any commercial fund-raiser ~~((or))~~, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. ~~((("Charitable":~~

~~((a) Is not limited to its common law meaning unless the context clearly requires a narrower meaning;~~

~~((b) Does not include religious or political activities; and~~

~~((c) Includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, and health causes.~~

~~((2)) Churches and their integrated auxiliaries are not charitable organizations, but are subject to RCW 19.09.100 (12), (15), and (18).~~

(3) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including but not limited to recreational, environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, fire fighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

(4) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

~~((3))~~ (5) "Commercial coventurer" means a corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, individual, or other entity that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public; and

(b) Is not otherwise regularly or primarily engaged in making charitable solicitations in this state or otherwise raising funds in this state for one or more charitable organizations; and

(c) Represents to prospective purchasers that if they purchase a good or service from the commercial coventurer, a specified portion of the sales price or a certain sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

~~((4))~~ (6) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits or receives contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant, as defined by this section, is not a commercial fund-raiser or commercial fund-raising entity.

(7) "Compensation," means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

~~((5))~~ "Solicitation," means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization; or

(d) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(6) "Solicitation," as defined in RCW 19.09.020(16), for the purposes of these regulations, shall not include any of the following:

(a) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(b) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable

organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(e) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(7) "Commercial fund raiser" or "commercial fund raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits, receives or raises contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, the following shall not be deemed a "commercial fund-raiser" or "commercial fund-raising entity":

(a) Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives or raises any contribution for or on behalf of any such charitable organization; or

(b) A bona fide officer or other employee of a charitable organization.

(8) "Renewal date" means the fifteenth day of the fifth month after the close of the organization's fiscal or accounting year.

(9) "Secretary" means the secretary of state or the secretary's designee, or authorized representative.) (8) "Contribution" means the payment, donation, promise, or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights.

(9) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.

(10) "Entity" means an organization, individual or institution with its own existence for legal and/or federal tax purposes. It has the capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions. Entity may include, but is not limited to, an individual, organization, corporation, association, limited liability company, trust, group, partnership, proprietorship, company, estate, agency or unit of state government, person as defined in RCW 1.16.080, or any combination thereof.

For purposes of complying with registration requirements under Washington's Charitable Solicitations Act, "entity" does not include a branch, chapter, unit, affiliate or similar subordinate of another entity if said subordinate:

(a) Is under the direct supervision and control of the related entity;

(b) Does not have its own separate existence from the related entity for legal and/or federal tax purposes; and

(c) The related entity maintains registration under chapter 19.09 RCW.

Regardless of whether or not a subordinate is required to register under the act, it shall comply with the conditions set forth under RCW 19.09.100.

Interpretive note: Notwithstanding other facts that may be indicative of a separate existence for legal and federal tax purposes, a branch, chapter, unit, affiliate or similar subordinate: (i) has its own existence for legal purposes if said subordinate has an organizational structure separate from a related entity; and (ii) has its own existence for federal tax purposes if it has been issued a federal employer identification number separate from a related entity, falls under a central organization's IRS group exemption, is required to file a separate federal informational return, or is included in a central organization's group return.

(11) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage in any compensated person to solicit contributions, and who does not at any time, have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.

(12) "General public" or "public" means any individual located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(13) "Income-producing assets" means assets that are purchased with the prospect that the assets will generate income or appreciate in the future. In finance, an investment is a monetary asset purchased with the idea that the asset will provide income in the future or appreciate and be sold at a higher price; these investments would include, but are not limited to stocks, bonds or real property.

(14) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(15) "Other employee" of a charitable organization means any person:

(a) Whose conduct is subject to direct control by such organization;

(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and

(c) Who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.

(16) "Political organization" means those organizations whose activities are subject to chapter 42.17 RCW or the Federal Election Campaign Act of 1971, as amended.

(17) "Religious organizations" means those entities that are not churches or integrated auxiliaries as defined and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

(18) "Renewal date" means the fifteenth day of the fifth month after the close of the organization's fiscal or accounting year.

(19) "Secretary" means the secretary of state or the secretary's designee, or authorized representative.

(20) "Signed" means hand-written, or, if the secretary adopts rules facilitating electronic filing that pertain to this chapter, in the manner prescribed by those rules.

(21)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(i) Any appeal is made for any charitable purpose; or

(ii) The name of any charitable organization is used as an inducement for consummating the sale; or

(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

(b) The solicitation shall be deemed complete when made, whether or not the person making it receives any contribution or makes any sale.

(c) A commercial fund-raiser is considered to solicit or receive contributions from the public directly if contributions are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members.

(d) Contributions are considered to be solicited or received indirectly if they are solicited or received by:

(i) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or

(ii) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser as a contractual relationship governing the solicitation or receipt of contributions.

(e) "Solicitation" as defined in RCW 19.09.020(21), for the purposes of these regulations, does not include any of the following:

(i) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(ii) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a

theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(iii) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

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.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-030 Public records. Except as provided by RCW 42.17.310, all public records of the corporations division, which includes ~~((the))~~ charitable organization, ~~commercial fund-raiser and charitable trust~~ registrations ~~((and charitable trust section))~~, are available for public inspection and copying pursuant to rules of procedures in chapter 434-120 WAC ~~((and WAC 434-110-075))~~. Registrations of trusts with several or mixed purposes shall not be made public under RCW 11.110.040 and 11.110.075.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-040 Public information derived from registration. (1) Registration forms, and attachments, filed by charitable organizations and commercial fund-raisers pursuant to WAC 434-120-105 and 434-120-215, are available for public inspection or copying. For purposes of public reports derived from that registration information, the secretary shall calculate, and make available to the public, the following information:

(2) For charitable organizations, the percentage of total expenditures in a reporting year allocated to charitable program services. This shall be calculated by dividing the amount reported as expended for charitable purposes by the amount reported as total expenses, and multiplying by 100.

(3) For commercial fund-raisers the percentage of the proceeds of charitable solicitations which are paid to or retained by charitable organizations. This shall be calculated by dividing the amount reported pursuant to WAC 434-120-215 (2)(1)(iii)(B) by the amount reported pursuant to WAC 434-120-215 (2)(1)(iii)(A), and multiplying by 100.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-045 Change in status, notification. An entity required to register under ~~((this))~~ chapter 19.09 RCW shall notify the charities program in writing of ~~((a))~~ any changes ~~((in:))~~

~~(1) Principal officer, owner, or Washington representative within thirty days after the change.~~

~~(2) Business structure within thirty days, register the restructured or newly named entity as a new commercial fund-raiser and include evidence of separate bonding.~~

~~(3) Business name within thirty days, register the new name, and include evidence of bonding in the new name. If~~

~~the fund-raiser will use both the existing name and the new name, include evidence of separate bonding for each name and include a fee of ten dollars)) to its registration pursuant to WAC 434-120-105 and 434-120-215, or any other changes within thirty days after the change.~~

The organization shall submit changes using the form available from the charities program. The fee for information changes is ten dollars per submittal of change.

NEW SECTION

WAC 434-120-046 Record retention. Charitable organizations and commercial fund-raisers shall keep, for a three-year period, the annual solicitation reports and the supporting documents including books, ledgers, prepared statements, compilations, reviews, or audit reports, or any other records on which they were based. Charitable trusts shall keep, for a three-year period, their annual financial information, and the supporting documents including books, ledgers, prepared statements, compilations, reviews, or audit reports, or any other records on which they were based. Solicitation reports, financial statements, and any other records, shall be available to the attorney general or county prosecutor on request.

AMENDATORY SECTION (Amending WSR 96-10-021, filed 4/24/96, effective 5/25/96)

WAC 434-120-100 Who shall register. (1) Any entity that will conduct a charitable solicitation or solicit funds from the general public for charitable purposes shall register with the ~~((corporations division))~~ charities program under the solicitations act.

(2) Entities exempt from registration are the following:

(a) ~~((Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives any contribution for or on behalf of any such charitable organization;))~~ Fund-raising counsel as defined in WAC 434-120-025(11);

(b) Any ~~((entity whose sole purpose is religious or))~~ political organization as defined in WAC 434-120-025(16);

(c) Any entity ~~((who))~~ which raises less than twenty-five thousand dollars in revenue in any accounting year, all of whose activities including fund-raising are conducted by volunteers, and whose officers or members do not receive assets of or benefits from the organization;

(d) A bona fide officer or other employee of the charitable organization for which the funds are solicited; and

(e) ~~((Charitable organizations located outside of the state of Washington that meet the statutory requirements under RCW 19.09.076(2).))~~ Any appeal for funds on behalf of a specific individual named in the solicitation, but only if all of the proceeds of the solicitation are given to or expended for the direct benefit of that individual. This does not include organizations that conduct solicitations for one or more individuals on a repeated or ongoing basis.

(3) Any entity exempt from registration by these regulations soliciting or conducting a solicitation shall comply with the conditions for solicitations as described in RCW 19.09-100.

(4) Interpretive note: The secretary of state does not interpret RCW 19.09.065 as requiring a registration by an

employee of an educational institution who, as part of his or her employment with the institution, solicits contributions on behalf of a nonprofit charitable foundation affiliated with that institution, if the foundation is registered and the educational institution is either:

(a) A public school, college, or university operated by the state of Washington, one of its school districts, or a comparable public institution of another state or nation; or

(b) A private entity that is nonprofit and charitable, having a program of primary, secondary, or collegiate instruction comparable in scope to that of any public school or college operated by the state of Washington or any of its school districts.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-103 Required forms and filings. (1) A charitable organization complies with the filing and registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules either the:

(a) State registration form described in WAC 434-120-105. This form is available through the charities program; or

(b) Unified Registration Statement developed by the National Association of State Charity Officials (NASCO), if accompanied by the components identified for filing in Washington in the unified registration statement ~~((appendix))~~ addendum.

(2) These forms are used for original registration form, as well as for ~~((periodic))~~ annual renewal. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.075.

(3) The state registration form or the unified registration statement must be filed together with:

(a) Solicitation report. This financial report is filed by all charitable organizations, except those exempted by these rules. The purpose of this report is to provide information regarding solicitations conducted during the reporting period. Solicitation reports are filed as part of an annual renewal; and

(b) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240.

(4) The unified registration statement and the ~~((appendix))~~ addendum are available for download at: ~~((http://www.nonprofits.org/library/gov))~~ http://www.multistatefiling.org.

(5) The financial statement required by WAC 434-120-130 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

(6) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-105 Charitable organization registration—Form and requirements. (1) Charitable organizations registering under this act shall submit the registration

form described in WAC 434-120-103. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW shall not excuse the failure to comply.

(2) A registration is not complete, and will not be accepted for filing, unless it includes:

(a) The name of the organization, and every address (including both physical address and any mailing address if different), telephone number(s), fax number(s), ~~((and taxpayer identification number, including those of all offices, chapters, branches, and affiliates used in charitable solicitations reflected in the registration))~~ including any electronic mail or internet addresses used by the organization. Private mail boxes must be identified through use of the designation "PMB" followed by the box number;

(b) All of the names under which the organization will solicit contributions, including, but not limited to, ~~((the names of all offices, chapters, branches, and affiliates))~~ acronyms, abbreviations, DBAs and program names used in charitable solicitations reflected in the registration;

(c) The type of organization and taxpayer identification number, the unified business identifier, if the organization is registered in Washington and date established, and if the organization is incorporated, the state and date of incorporation;

(d) The ~~((end))~~ beginning and ending dates of its current fiscal or accounting year;

(e) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(f) A list of all states where the organization is registered for charitable solicitations;

(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization, including the:

(i) Members of the board of directors or any committee or group serving the function of a board of directors, regardless of the name of the committee or group; and

(ii) Officers of the charitable organization, or the persons serving the function of officers, regardless of the title of the position;

(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(i) The purpose of the charitable organization, including, if applicable, the names and addresses of any specific beneficiaries which the charitable organization supports and to whom assets would be distributed to in the event of dissolution. When filing a renewal or an updated registration, the organization is not required to submit a list of beneficiaries if there have been no changes to that list;

(j) A statement indicating whether the organization is exempt from federal income tax, and copy of the letter by

which the Internal Revenue Service granted the organization tax exempt status if the Internal Revenue Service has granted the organization such status. The organization shall indicate the section of the Internal Revenue Code under which they are exempt from the federal income tax;

(k) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;

(l) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any commercial fund-raiser ~~((and any commercial coventurer))~~ who ~~((have))~~ has the authority to expend funds or incur obligations on behalf of the organization;

(m) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305;

(n) A solicitation report of the charitable organization for the preceding fiscal or accounting year including, but not limited to:

(i) The types of solicitations conducted;

(ii) The name, physical address, and telephone number of any commercial fund-raiser ~~((including any commercial coventurer))~~ conducting solicitations on behalf of the organization in Washington during the period covered by this report; and

(iii) The total dollar value of ~~((all support))~~ contributions received from solicitations, which includes but is not limited to, special events, sale of inventory, and amounts collected on behalf of the charitable organization by a commercial fund-raiser ~~((or commercial coventurer))~~;

(iv) The total dollar value of revenue from all other sources;

(v) Gross receipts, including amounts collected on behalf of the charitable organization by a commercial fund-raiser or commercial coventurer regardless of custody of funds. "Gross receipts" include, but are not limited to, contributions, gross revenue from special events, sales of inventory, goods or services (including tickets to events), and all other revenue from solicitations;

(vi) The amount of total expenditures used directly for charitable program services, including payments to affiliates if costs involved are not connected with the administrative or fund-raising functions of the reporting organization;

(vii) The amount of total expenditures used for administrative and fund-raising costs, including amounts paid to or retained by a commercial fund-raiser or ~~((commercial coventurer))~~ fund-raising counsel. "Administrative and fund-raising costs" include, but are not limited to, the following expenses if not directly related to program services; salaries, wages, compensation, legal, accounting, occupancy, equipment costs, printing and publications, telephone, postage, supplies, travel, meetings, fees for services (including fund-raising consultation), and cost of goods or inventory sold that are not directly related to program services.

(viii) Total expenditures, including, but not limited to, amounts paid to or retained by a commercial fund-raiser, or ~~((commercial coventurer))~~ fund-raising counsel, amounts expended for charitable program services, administrative

expenses, fees for services, and fund-raising costs incurred by the charitable organization.

- (ix) Beginning assets; and
- (x) Ending assets.

(o) A copy of the charitable organization's federal informational ~~((tax))~~ return (Form 990, ~~((Form))~~ 990PF, ~~((or Form))~~ 990EZ, or 990T) reflecting the fiscal or accounting year covered by this report; if the federal informational return does not contain the total amount of money applied to charitable purposes, fund-raising costs and other expenses as required pursuant to RCW 19.09.075 (7)(c), a supplemental report may be required by the secretary. The supplemental report shall be in the form prescribed by the secretary.

(p) The charitable organization may provide additional information which the organization believes would be of assistance in understanding other reported information, or to provide context for reported information.

(3) The organization shall report actual figures, and shall not use estimates, when completing a solicitation report or a supplemental solicitation report.

~~(4) ((A parent organization may file a consolidated registration form when registering, including the solicitation information required for each of its related foundations, supporting organizations, chapters, branches, or affiliates that solicit in the state of Washington, which are supervised or controlled by the parent organization. Registration and subsequent financial reporting requirements may be satisfied either separately or in consolidated form for all subsidiary organizations. A filing by the parent organization relieves each subsidiary organization identified in that filing of any duty to file independently.~~

~~(5))~~ All charitable ~~((solicitation))~~ organization registrations shall be signed and dated by the president, treasurer, or comparable officer of the organization or, in the absence of officers, person responsible for the organization.

NEW SECTION

WAC 434-120-107 Audited financial report—Tiered reporting requirements (effective January 1, 2010). (1) Charitable organizations submitting an initial registration, shall meet the financial reporting requirements, specified in RCW 19.09.075 or WAC 434-120-105. If an organization does not file a federal form (990, 990PF, 990EZ, 990T), the organization must complete the solicitation report contained in the form prescribed by the secretary.

(2) Charitable organizations that have more than one million dollars in annual gross revenue averaged over the last three fiscal years, shall have the federal financial reporting form (990, 990EZ, 990PF or 990T) reviewed by an independent third-party who normally prepares or reviews the federal returns in the ordinary course of their business. The independent review must be submitted to the secretary.

(3) Charitable organizations that have more than three million dollars in annual gross revenue averaged over the last three fiscal years, shall submit an audited financial statement prepared by an independent certified public accountant for the year immediately following the year in which the organization achieved a three year average of more than three million dollars.

(4) The secretary may waive the requirement to file audited financial statements prepared by an independent certified public accountant when the organization can demonstrate that they have reached a three year average of more than three million dollars in gross revenue through unusual or nonrecurring revenue received in a single year without which they would have not met the three year annual gross average threshold.

(5) This rule becomes effective January 1, 2010.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-110 Organizations exempt from filing requirements—Optional filing. (1) Charitable organizations exempt from the filing requirements of this chapter under RCW 19.09.076(1) and WAC 434-120-100 (2)~~(a)~~, (b) ~~((or))~~, (c), or (e) may register with the charities program.

(2) Charitable organizations choosing to register under this section shall register by:

(a) Completing the registration form specified by the secretary; and

(b) Paying the registration fee of twenty dollars.

(3) Charitable organizations registered under this section may change or update their registration by:

(a) Filing the update with the charities program; and

(b) Paying the ten-dollar update fee.

(4) Expedited processing under WAC 434-112-080 is available for registrations and updates under this section.

(5) The secretary offers this optional registration because some grant making entities and programs require registration with the charities program.

AMENDATORY SECTION (Amending WSR 97-16-035, filed 7/30/97, effective 8/30/97)

WAC 434-120-130 Financial standards. Upon the request of the attorney general, secretary or the county prosecutor, a charitable organization shall submit a financial statement containing, but not limited to, the following information within thirty days from date of request.

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to commercial fund-raisers or charitable organizations.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period~~((to its parent organization, subsidiaries, or affiliates, if any)).~~

AMENDATORY SECTION (Amending WSR 96-10-021, filed 4/24/96, effective 5/25/96)

WAC 434-120-140 How and when. (1) Original registration: An entity required to register as a charitable organization shall complete the form described in WAC 434-120-105 and submit it with the fee in WAC 434-120-145 prior to conducting any solicitation.

(2) Annual renewal:

(a) An entity shall renew its charitable registration by no later than the fifteenth day of the fifth month after the end of its fiscal year.

(b) The renewal shall include the same information required for registration as described in WAC 434-120-105 and RCW 19.09.075, except that a determination letter from the Internal Revenue Service need not be attached if it was previously filed. The solicitation report will be based on the most recent filing with the Internal Revenue Service or if the organization does not file with the Internal Revenue Service, the solicitation report will be based on the most recently completed fiscal year. No organization may submit the same fiscal information for two consecutive years.

(c) No change in an entity's fiscal year shall cause the due date of a renewal to be more than one year after the previous registration or renewal. For purposes of renewals that include financial information for a partial year, due to a change of fiscal year, threshold levels for registration and financial statement requirements shall be determined on a prorated basis.

(3) ~~((Change in status, notification:))~~ An organization shall notify the ~~((corporations division))~~ charities program of a change in organization name, mailing address, organization structure, principal officer, ((owner,)) Washington representative, tax status, fiscal year, or any other information filed under RCW 19.09.075 or WAC 434-120-105 ~~((, within thirty days after the change)).~~

(4) The organization shall submit changes using the form available from the charities program within thirty days after the change and include the ten dollar fee.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-145 Fees. (1) Original registration: Entities registering as charitable organizations shall pay a fee of twenty dollars for the first year of registration.

(2) Annual renewal: Organizations ~~((re-registering))~~ shall pay a renewal fee of ten dollars.

(3) Information changes: Organizations filing changes of information described in WAC 434-120-105, shall pay a fee of ten dollars for each submittal of change(s).

(4) Photocopy fees: For copy of a charitable organization registration form or letter, including the finance and solicitation reports, the fee is five dollars.

(5) Expedited service fees: For in-person service at the counter, or on-line filings, the fee is twenty dollars for one or more transactions in each charitable organization file requested.

(6) For service of process on a registered charity, ~~((commercial coventures,))~~ commercial fund-raiser, or charitable trust, the fee is fifty dollars.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-175 Voluntary verification information. Each organization registering under the act may submit additional information, not required by law, for its file if the information is intended to inform the public about its programs and activities and to verify its existence. The ~~((corporations division))~~ charities program may place such information in the organization's file for a specified period of time. Persons coming into the office may read such information; however, no voluntary verification information shall be mailed out.

NEW SECTION

WAC 434-120-180 Education program. The secretary may develop and operate an education program for charitable organizations, their board members, and the general public. The secretary shall consult with the nonprofit and charitable sector and the charitable advisory council created in RCW 19.09.550 to develop curricula and other materials intended to educate charitable organizations, their board members, and the general public.

NEW SECTION

WAC 434-120-185 Charitable advisory council. The purpose of the charitable advisory council is to advise the secretary in the following areas:

(1) Training and education needs of charitable organizations within the state;

(2) Model policies related to governance and administration of charitable organizations in accordance with fiduciary principles;

(3) Emerging issues and trends affecting charitable organizations; and

(4) Other related issues at the request of the secretary.

The council will consist of thirteen members chosen by the secretary to represent a broad range of charities by size, purpose, geographic regions of the state, and general expertise in management and leadership of charitable organizations. An ex officio member will be appointed by the attorney general per RCW 19.09.510.

Members serve at the pleasure of the secretary. Terms are staggered, with the original board drawing lots for two- and three-year terms. All following terms are three years but all terms expire no later than when the appointing secretary leaves office. Vacancies may be filled by the secretary upon notice of a vacancy from the member.

The council will elect a chairperson from its members annually. The frequency of meetings will be at least twice a year, but additional meetings may be called by the secretary or the council. Council members are not compensated for their service, but may be reimbursed for expenses incurred in the conduct of their official duties. Reimbursement is at current state rates for travel and all reimbursement requests must be received within thirty days of incurring the expense.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-200 Required filings. (1) A commercial fund-raiser complies with the filing and registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules:

(a) Commercial fund-raiser registration form. This form is used as an original registration form, as well as an annual renewal form. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.079;

(b) Solicitation report. These reports are filed (~~periodically~~) annually by all commercial fund-raisers, except those exempted by these rules. The purpose of these reports (~~are~~) is to provide information regarding solicitations conducted during the reporting period, of an informational nature to the public. These reports must be filed in the time and manner specified in WAC 434-120-215;

(c) All surety bonds required by WAC 434-120-260; and

(d) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240.

(2) The financial statement required by WAC 434-120-255 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

(3) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 97-16-036, filed 7/30/97, effective 8/30/97)

WAC 434-120-210 Who shall register. (1) Every commercial fund-raiser, as described in RCW 19.09.020(~~(8)~~) (5), shall register each year, pursuant to WAC 434-120-215(~~;~~) (; ~~except that commercial coventurers may instead register pursuant to WAC 434-120-212~~)).

(2) Suppliers of goods and services to charitable organizations for fund-raising purposes are exempt from registration, if they are not otherwise engaged in the business of charitable fund-raising.

(3) If a commercial fund-raiser does business under more than one name, each name used by that entity must be registered and bonded separately.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-215 Commercial fund-raiser registration—Form and requirements. (1) Commercial fund-raisers registering under this act shall use the commercial fund-raiser registration form available in the office of the charities program. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW, shall not excuse the failure to comply. The secretary's acceptance

of a registration or other filing which violates these rules or chapter 19.09 RCW shall not excuse the violation.

(2) A registration is not complete, and will not be accepted for filing, unless it includes:

(a) The name of the organization, and every address (including both physical address and any mailing address if different), telephone number(s), fax number(s), of the commercial fund-raising entity under which contributions are being solicited or received, including any electronic mail or Internet addresses used by the organization. Private mail boxes must be identified through use of the designation "PMB" followed by the box number;

(b) The name(s); address(es); and telephone number(s) of the individual(s) responsible for fund-raising activities of the entity in Washington state;

(c) The type of organization, taxpayer identification number, the unified business identifier if the organization is registered in Washington and date established, and if the organization is incorporated, the state and date of incorporation;

(d) The end date of its current fiscal or accounting year;

(e) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(f) A list of all states where the organization is registered for fund-raising, including any other names under which the organization is currently registered or has been registered in the past three years;

(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization;

(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(i) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;

(j) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any charitable organizations who have given the commercial fund-raiser authority to expend funds or incur obligations on behalf of the organization;

(k) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305;

(l) A solicitation report of the fund-raising activities of the entity for the preceding fiscal or accounting year including, but not limited to:

(i) The types of fund-raising services conducted;

(ii) The name of each charitable organization to whom this entity has provided fund-raising services;

(iii) The total dollar value of the following:

(A) Contributions received, either by the commercial fund-raiser or the charities with which the commercial fund-raiser contracts, as a result of services provided by the commercial fund-raiser during the year shown above. (This is the total amount of money raised, regardless of who has possession of funds.)

(B) Funds either retained by, or paid to, the charities with whom the commercial fund-raiser contracts, after fees and any expenses have been subtracted. (This is the portion of money raised that the charities receive or keep after all fund-raising expenses have been deducted.)

(iv) The name, address, and telephone number of any other commercial fund-raiser retained in the conduct of providing fund-raising services;

(3) The commercial fund-raiser may provide additional information which the commercial fund-raiser believes would be of assistance in understanding other reported information, or to provide context for reported information.

(4) The commercial fund-raiser shall report actual figures and shall not use estimates when completing a solicitation report or a supplemental solicitation report.

(5) All commercial fund-raiser registrations shall be signed by an officer or owner of the commercial fund-raiser.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-220 Change in status, notification. A commercial fund-raiser shall ~~((do the following))~~:

(1) Notify the ~~((corporations division))~~ charities program of a change in organization name, mailing address, principal officer, owner, ~~((or))~~ business structure, Washington representative ~~((within thirty days after the change))~~, fiscal year or any other information filed under RCW 19.09.079 or WAC 434-120-215.

~~((2) ((Notify the corporations division of a change in business structure within thirty days, register the restructured or newly named entity as a new commercial fund-raiser and include evidence of separate bonding.~~

~~((3) Notify the corporations division of a change in business name within thirty days, register the new name, and include evidence of bonding in the new name. If the fund-raiser will use both the existing name and the new name, include evidence of separate bonding for each name and include a fee of ten dollars.))~~ The commercial fund-raiser shall submit changes using the form available from the charities program within thirty days after the change and include the ten dollar fee.

AMENDATORY SECTION (Amending WSR 96-10-021, filed 4/24/96, effective 5/25/96)

WAC 434-120-225 Annual ~~((re)registration)~~ renewal. (1) Each commercial fund-raiser shall ~~((re)register)~~ renew annually by no later than the fifteenth day of the fifth month after the end of its fiscal year.

~~((2) ((A fund-raiser that changes its fiscal year shall notify the secretary of state of the change, in writing, within thirty days of making the change.))~~ No change in a fund-raiser's fiscal year shall cause the due date of a renewal to be

more than one year after the previous registration or renewal. For purposes of renewals that include financial information for a partial year, due to a change of fiscal year, threshold levels for financial statement requirements shall be determined on a prorated basis.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-250 Fees. All commercial fund-raisers shall pay an original registration fee at the time of filing and ~~((a yearly registration))~~ an annual renewal fee.

(1) The fee for original registration in this state is two hundred fifty dollars.

(2) The annual ~~((registration))~~ renewal fee is one hundred seventy-five dollars.

(3) The fee for filing changes in any information previously filed under RCW 19.09.079, and WAC 434-120-215 or for filing a contract is ten dollars.

(4) The late fee is fifty dollars for failing to renew registration by the due date. The commercial fund-raiser shall pay an additional late fee of one hundred dollars for each year that it was required to register under this act and failed to do so, including the current year. If the registration has lapsed for more than two years, the entity shall provide solicitation information for the previous two years and shall register as a new commercial fund-raiser under RCW 19.09.079, in addition to paying any late fees due under this section.

Any commercial fund-raiser failing to renew registration and conducting business may be subject to other penalties and remedies that may be imposed by law, including penalties for soliciting without being registered. These penalties are cumulative.

(5) The fee for expedited in-person service, and on-line filings, is twenty dollars for any and all transactions within one commercial fund-raiser file, in addition to regular fee for the transaction.

(6) The photocopy fee is ten dollars for copies of the annual registration form or letter.

~~((7) A commercial coventurer shall pay a registration fee of twenty dollars when it registers with the secretary or renews its registration.))~~

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-260 Surety bonds. ~~((+))~~ In compliance with RCW 19.09.190 a registering commercial fund-raiser, as principal, shall submit proof of execution of a surety bond with one or more sureties whose liability in the aggregate will equal at least fifteen thousand dollars. Except as provided in WAC 434-120-265, commercial fund-raisers must provide proof of bonding if the commercial fund-raiser engages, or plans to engage, in one or more of the following practices:

~~((a))~~ (1) The fund-raiser directly or indirectly receives contributions from the public on behalf of any charitable organization; or

~~((b))~~ (2) The fund-raiser is compensated based upon funds raised or to be raised, number of solicitations made or

to be made, or any similar method, even if the fund-raiser does not directly or indirectly receive the contributions; or

~~((e))~~ (3) The fund-raiser incurs or is authorized to incur expenses on behalf of the charitable organization; or

~~((d))~~ (4) Has not been registered with the secretary as a commercial fund-raiser for the preceding fiscal or accounting year shall execute a surety bond as principal with one or more sureties whose liability in the aggregate as such sureties will equal at least fifteen thousand dollars.

~~((2) A commercial fund-raiser is considered to solicit or receive contributions from the public directly if they are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members. Contributions are solicited or received indirectly if they are solicited or received by:~~

~~(a) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or~~

~~(b) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser has a contractual relationship governing the solicitation or receipt of contributions. Solicitations shall be deemed received by the fund-raiser if they are deposited into bank accounts wholly or partially owned or controlled by the commercial fund-raiser or other entity with which the commercial fund-raiser maintains a contractual relationship.~~

~~(3) If a commercial fund-raiser does business under more than one name, each name used by that entity must be registered and bonded separately.)~~

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-270 Impairment of surety bond. In the event that a final ~~((judgement))~~ judgment shall impair the liability of a surety bond and the full amount required is not in effect, the secretary shall suspend the registration of such commercial fund-raiser. The commercial fund-raiser may request reinstatement when it has restored the full amount of the required bond liability and satisfied all ~~((judgement))~~ judgment claims.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-310 Charitable trust registration—Form and requirements. (1) Trustees registering under chapter 11.110 RCW shall use the registration form available in the office of the secretary of state. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 11.110 RCW shall not excuse the failure to comply.

(2) An initial registration form is not complete, and will not be accepted for filing, unless it includes:

(a) The trustee's name;

(b) The trustee's mailing address, and physical address if different;

(c) The name of the trust, its Federal Employer Identification Number, if any, or other identifying information sufficient to distinguish the trust from other registered trusts;

(d) A brief description of the charitable purposes of the trust, which may, at the trustee's option, include the names and addresses of any charitable organizations benefited by the trust;

(e) The market value of all trust assets invested for income-producing purposes as of the date on which the trustee received possession or control of the trust corpus;

(f) A copy of the governing instrument creating the trust;

(g) A statement indicating whether the trust is exempt from federal income tax, and, if exempt, the section of the Internal Revenue Code under which the trust is exempt from federal income tax;

(h) A copy of the letter by which the Internal Revenue Service granted the trust tax exempt status if the Internal Revenue Service has granted the trust such status;

(i) The end date of its current fiscal or accounting year;

(j) A financial report of the trust for the preceding fiscal or accounting year, including, but not limited to:

(i) Beginning assets;

(ii) Total revenue;

(iii) Grants, contributions, and the amount of expenditures used directly for program services;

(iv) Compensation of officers, directors, trustees, etc.;

(v) Total expenses; and

(vi) Ending assets.

(k) A copy of the trust's federal informational tax return (Form 990, ~~((Form))~~ 990PF, 990T, or ~~((Form))~~ 990EZ) reflecting the fiscal or accounting year contained in this report;

(l) The name and telephone number of the preparer of the trust registration, if different from trustee.

(3) The renewal registration form required by this rule shall be the same as the form described in WAC 434-120-310 except that the information required by WAC 434-120-310 (2)(d), (e), (f), (g) and (h) is not required.

(4) The trust shall report actual figures, and shall not use estimates, when completing a financial report.

(5) All charitable trust registrations shall be signed by the trustee, or, if the trustee is a corporation, of the corporate officer or employee responsible for the trust.

(6) A copy of the governing instrument creating the trust shall not be deemed sufficient to meet the requirements of this section.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-355 Change in status, notification. A charitable trust shall notify the charities program in writing of a change in trust instrument, trustee, principal officer, tax status, fiscal year, or any other information filed under RCW 11.110.060 or WAC 434-120-310 within four months after the change. Organizations filing changes of information described in RCW 11.110.060 or WAC 434-120-310 shall pay a fee of ten dollars for each submittal of change.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-120-125	Record retention.
WAC 434-120-212	Registration by commercial coventurers.
WAC 434-120-265	Exemption from surety bond.

WSR 08-21-118**PROPOSED RULES****LIQUOR CONTROL BOARD**

[Filed October 17, 2008, 12:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-068.

Title of Rule and Other Identifying Information: New WAC 314-20-017 Brewery and microbrewery retail liquor licenses—Selling kegs and containers, 314-20-055 Microbrewery warehouse license, and 314-20-095 What are the requirements for contract production between microbreweries?

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 3, 2008, at 10:00 a.m.

Date of Intended Adoption: December 17, 2008.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 10, 2008.

Assistance for Persons with Disabilities: Contact Karen McCall by December 10, 2008, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement legislation that passed in the 2008 legislative session (SSB 6572 and SSB 6770) to RCW 66.24.240 and 66.24.244. The legislation allows breweries and microbreweries to hold up to two separately licensed restaurant or tavern locations, allowing a microbrewery to hold an off-site warehouse location, and allowing a microbrewery to contract produce beer for another microbrewery.

Reasons Supporting Proposal: The rules are amended to reflect statute changes during the legislative session.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.240, 66.24.244.

Statute Being Implemented: RCW 66.24.240, 66.24-244.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Rogers, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1622; Implementation: Alan Rathbun, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328.

October 15, 2008

Lorraine Lee

Chairman

NEW SECTION

WAC 314-20-017 Brewery and microbrewery retail liquor licenses—Selling kegs and containers. A brewery or microbrewery licensed under RCW 66.24.240 or 66.24.244 may hold up to two retail liquor licenses to operate a spirits, beer, and wine restaurant, a tavern, a beer and/or wine restaurant, or any combination thereof.

(1) Definitions.

(a) For the purposes of this section, a "container" is a sealable receptacle, such as a carton, jug, growler or keg, and has no minimum holding requirement. A "keg" is a container holding four gallons or more.

(b) "Malt liquor" is a specific type of "beer" (as explained in RCW 66.04.010).

(c) "Beer" includes malt liquor and flavored malt beverages (as explained in RCW 66.04.010).

(2) Applicable to retail licenses for spirits, beer, and wine restaurants, beer and/or wine restaurants, and taverns.

(a) A retail license is separate from a brewery or microbrewery license.

(b) All containers of beer must be sold from the retail premises.

(c) A retail location may be located on or off the brewery or microbrewery premises.

(3) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell containers of beer of its own production without a kegs-to-go endorsement provided that it sells this beer for off-premises consumption only. A brewery or microbrewery may supply the container or use a container brought to the premises by a customer.

(4) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell kegs of malt liquor of another brewery's or microbrewery's production provided that it:

(a) Sells this malt liquor for off-premises consumption only;

(b) Has a kegs-to-go endorsement; and

(c) Supplies the kegs.

(5) A tavern or beer and/or wine restaurant that is operated by a brewery or microbrewery and has an off-premises beer and wine retailer's privilege may:

(a) Sell kegs of malt liquor for either on-premises or off-premises consumption. The malt liquor may be of the licensee's own production or the production of another brewery or microbrewery; and

(b) Sell containers of beer for either on-premises or off-premises consumption provided that the customer supplies the container. The beer may be of the licensee's own production or the production of another brewery or microbrewery.

NEW SECTION**WAC 314-20-055 Microbrewery warehouse license.**

(1) A licensee holding a microbrewery license under RCW 66.24.244 and acting as a distributor of its own products may apply for a microbrewery warehouse license. There is no fee for this license.

(2) A microbrewery warehouse is a premises located off the microbrewery premises that is used for the storage and distribution of the microbrewery's own products.

(3) There may be no retail sales from the microbrewery warehouse.

NEW SECTION

WAC 314-20-095 What are the requirements for contract production between microbreweries? This section clarifies the language for contract production found in RCW 66.24.244. For the purposes of this section, contract production is when one microbrewer, referred to as the "contractor," produces and packages beer for another microbrewer, referred to as the "contractee." This beer is referred to as the "product."

(1) The contractee is the product owner. As such, the contractee may distribute and retail the product.

(2) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(3) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(4) The contractor is required to obtain federal label approval, and the contractee is required to obtain state label approval.

(5) State taxes listed under RCW 66.24.290.

(a) The contractor is not responsible for the taxes.

(b) The contractee is responsible for the taxes when the contractee is acting as its own distributor or retailer for the product.

(c) When the contractee uses a distributor to distribute the product, then the distributor is responsible for the taxes.

(6) Maintaining qualification as a microbrewery. Each microbrewery, whether in the capacity of a contractor or contractee, is allowed to produce under sixty thousand barrels of total product per year. Total product, in this instance, includes product (a) owned and produced by the microbrewery; (b) owned by the microbrewery but produced by another microbrewery; and (c) produced by the microbrewery on behalf of another microbrewery.

(7) Reporting and recordkeeping.

(a) The contractor must include the product produced when it reports its monthly production to the board.

(b) The contractee must include the sale of the product when it submits its monthly sales report to the board. The board may also require the contractee to include the product when the contractee reports its monthly production to the board.

(c) The contractor's and the contractee's recordkeeping documents must include the product information for each

contract. The information must show the quantities produced.

WSR 08-21-119**PROPOSED RULES****LIQUOR CONTROL BOARD**

[Filed October 17, 2008, 1:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-069.

Title of Rule and Other Identifying Information: Chapter 314-28 WAC, Distillers. Amending the title of chapter 314-28 from "fruit distillers" to "distillers" and WAC 314-28-010; and creating six new sections in the chapter.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 3, 2008, at 10:00 a.m.

Date of Intended Adoption: December 17, 2008.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 10, 2008.

Assistance for Persons with Disabilities: Contact Karen McCall by December 10, 2008, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement legislation passed in the 2008 legislative session (SHB 2959), creating a craft distillery liquor license.

Reasons Supporting Proposal: The rules are amended to reflect statute changes during the legislative sessions.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.145.

Statute Being Implemented: RCW 66.24.140, 66.24.-145.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Rogers, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1622; Implementation: Alan Rathbun, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328.

October 15, 2008

Lorraine Lee
Chairman

Chapter 314-28 WAC

~~((FRUIT))~~ DISTILLERS

AMENDATORY SECTION (Amending Order 172, Resolution No. 181, filed 3/13/86)

WAC 314-28-010 Records. ~~((All fruit distillers, whether operating under the general distiller's license or under the two hundred dollar license, provided in section 23-D of the Washington State Liquor Act (RCW 66.24.140), and who manufacture brandy or wine spirits intended for use by domestic wineries for brandy or wine spirits addition in the manufacture of wine, must keep separate records concerning such brandy or wine spirits on forms approved by the board, and such records must be kept separate and apart from any other records kept or required to be kept and maintained.)) (1) All distilleries licensed under RCW 66.24.140 and 66.24.-145, including craft, fruit, and laboratory distillers:~~

~~(a) Must keep records concerning any spirits, whether produced or purchased, for two years after each sale. These records must be kept separate from any other records. A distiller may be required to report on forms approved by the board;~~

~~(b) Must, in case of spirits exported or sold, preserve all bills of lading and other evidence of shipment; and~~

~~(c) Must submit duplicate copies of transcripts, notices, or other data that are required by the federal government to the board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request.~~

~~(2) A craft distiller must:~~

~~(a) Preserve all sales records, in the case of retail sales to consumers, in addition to the records listed in subsection (1)(b) of this section; and~~

~~(b) Submit duplicate copies of its monthly returns to the board upon request, in addition to the duplicate copies listed in subsection (1)(c) of this section. The same conditions apply as in subsection (1)(c) of this section.~~

NEW SECTION

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce twenty thousand proof gallons or less of its own spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present on the licensed premises. A licensee may sell no more than two liters per customer per day. A craft distiller may not sell liquor products of someone else's production;

(c) Sell spirits of its own production to the board provided that the product is "listed" by the board, or is special-ordered by an individual Washington state liquor store;

(d) Sell to out-of-state entities;

(e) Provide, free of charge, samples of spirits of its own production to persons on the distillery premises. Each sam-

ple must be one-half ounce or less, with no more than two ounces of samples provided per person per day. Samples must be unaltered, and anyone involved in the serving of such samples must have a valid Class 12 alcohol server permit. Samples must be in compliance with RCW 66.28.040 and all applicable WACs, and are subject to taxes under WAC 314-28-070; and

(f) Provide, free of charge, samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040 and all applicable WACs, including WAC 314-44-005 and 314-64-08001. Samples are considered sales and are subject to taxes under WAC 314-28-070.

(2) A craft distillery licensee may not sell directly to in-state retailers or in-state distributors, but only to on-premises customers, to the board, and to out-of-state entities, as stipulated in subsections (1)(b), (c) and (d) of this section.

NEW SECTION

WAC 314-28-060 What are the general requirements for a craft distillery license? Per RCW 66.24.140 and 66.24.145, a craft distillery licensee is required to:

(1) Submit copies of all permits required by the federal government;

(2) Submit other licensing documents as determined by the board. Other documents may include, but are not limited to, a personal criminal history statement, a financial statement, the right to the real property, and the tied house statement;

(3) Ensure a minimum of fifty percent of all raw materials (including any neutral grain spirits and the raw materials that go into making mash, wort or wash) used in the monthly production of the spirits product are grown in the state of Washington. Water is not considered a raw material grown in the state of Washington;

(4) Purchase any spirits sold at the distillery premises for off-premises consumption from the board, at the price set by the board;

(5) Purchase any spirits used for sampling at the distillery premises from the board;

(6) Purchase any spirits used for samples provided to retailers from the board; and

(7) Meet any other applicable requirements stated in RCW and WAC.

NEW SECTION

WAC 314-28-070 What are the monthly reporting and payment requirements for a craft distillery license? A craft distiller must submit monthly reports and payments to the board.

(1) Monthly reports. The required monthly reports must be:

(a) On a form furnished by the board or in a format approved by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the

month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. postal service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) For reporting purposes, production is the distillation of spirits from mash, wort, wash or any other distilling material. After the production process is completed, a production gauge shall be made to establish the quantity and proof of the spirits produced. The designation as to the kind of spirits shall also be made at the time of the production gauge. A record of the production gauge shall be maintained by the distiller. The completion of the production process is when the product is packaged for distribution. Production quantities are reportable within thirty days of the completion of the production process.

(3) Payments to the board. A distillery must pay the difference between the cost of the alcohol purchased by the board and the sale of alcohol at the established retail price, less the established commission rate during the preceding calendar month, including samples at no charge (see WAC 314-64-08001 for more information).

(a) Any on-premises sale or sample provided to a consumer is considered a sale reportable to the board.

(b) Samples provided to retailers are considered sales reportable to the board.

(c) Payments must be submitted, with monthly reports, to the board on or before the twentieth day of each month, for the previous month. (For example, payment for a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, payment must be postmarked by the U.S. postal service no later than the next postal business day.

NEW SECTION

WAC 314-28-080 What if a craft distillery licensee fails to report or pay, or reports or pays late? If a craft distiller fails to submit its monthly reports or payment to the board, or submits late, then the licensee is subject to penalties and surety bonds.

(1) Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. postal service no later than the next postal business day.

(2) Surety bonds. A "surety bond" is a type of insurance policy that guarantees payment to the state, and is executed by a surety company authorized to do business in the state of Washington. Surety bond requirements are as follows:

(a) Must be on a surety bond form and in an amount acceptable to the board;

(b) Payable to the "Washington state liquor control board"; and

(c) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.28.040 and by all applicable WACs.

(3) The board may require a craft distillery to obtain a surety bond or assignment of savings account, within twenty-one days after a notification by mail, if any of the following occur:

(a) A report or payment is missing more than thirty days past the required filing date, for two or more consecutive months;

(b) A report or payment is missing more than thirty days past the required filing date, for two or more times within a two-year period; or

(c) Return of payment for nonsufficient funds.

(4) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.

(5) The amount of a surety bond or savings account required by this chapter must be either three thousand dollars, or the total of the highest four months' worth of liability for the previous twelve month period, whichever is greater. The licensee must maintain the bond for at least two years.

(6) Surety bond and savings account amounts may be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee will be required to increase the bond amount or amount on deposit within twenty-one days.

(7) If a licensee holds a surety bond or savings account, the board will immediately start the process to collect overdue payments from the surety company or assigned account. If the exact amount of payment due is not known because of missing reports, the board will estimate the payment due based on previous production, receipts, and/or sales.

NEW SECTION

WAC 314-28-090 Craft distilleries—Retail pricing—Selling to customers and to the board. (1) Retail pricing. A craft distillery licensee must submit a pricing quote to the board forty-five days prior to the first day of the effective pricing month. The board will then set the retail price. Pricing cannot be changed within a calendar month. Spirits sold out-of-state are not subject to retail pricing by the board.

(2) Selling to customers. The craft distillery licensee is required to sell to its customers at the same retail price as set by the board. In the case that a temporary price reduction is being offered on a listed item by the board in a given month, the licensee may sell its products to its customers at the reduced price for that time period only.

(3) Product listing. A craft distillery licensee may send its listing request to the board's purchasing division. The purchasing division will follow the standard listing process, and give the same consideration and apply the same criteria to all requests.

NEW SECTION

WAC 314-28-200 Adoption of federal laws. All laws, rules and regulations of the federal government, or any subsequent modification thereof, applicable to the rectification of distilled spirits, wines, cordials, liquors, etc., are by refer-

ence hereby adopted and promulgated as the rules and regulations of this board.

WSR 08-21-120
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed October 17, 2008, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-072.

Title of Rule and Other Identifying Information: New section WAC 314-24-161 Additional locations for retail sales only and amending WAC 314-24-220 Licensing and operation of bonded wine warehouses.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 3, 2008, at 10:00 a.m.

Date of Intended Adoption: December 17, 2008.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 10, 2008.

Assistance for Persons with Disabilities: Contact Karen McCall by December 10, 2008, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement legislation that passed in the 2008 legislative session (SSB 6770) to RCW 66.24.185 which allow bonded wine warehouses to provide fulfillment service to wineries, and RCW 66.24.170 to change current rules or adopt new rules to clarify and provide further guidance to licensees who want to participate in the new activities allowed for wineries.

Reasons Supporting Proposal: The rules are amended to reflect the statute changes during the legislative sessions.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.185, 66.24.170.

Statute Being Implemented: RCW 66.24.185, 66.24-170.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Rogers, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1622; Implementation: Alan Rathbun, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1615; and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328.

October 15, 2008
Lorraine Lee
Chairman

NEW SECTION

WAC 314-24-161 Domestic winery—Additional locations for retail sales only. A licensee holding a domestic winery license under RCW 66.24.170 may apply for two additional location licenses.

(1) Wine-related retail activities allowed at an additional location include:

(a) Serving of samples provided with or without charge to customers (must be wine of the winery's own production). Samples are subject to taxes under WAC 314-19-015 (4)(b);

(b) Selling wine of the winery's own production for either on-premises or off-premises consumption; and

(c) Renting space for public and private events, such as catered events (subject to all of the provisions of this section, to Title 66 RCW covering the "tied house" restrictions, and to RCW 66.24.320 and 66.24.420).

(2) A licensee may request approval for an outside designated area. For the purpose of this section, an "outside designated area" means a specific area located on an outside track of land that is set aside for alcohol consumption.

(a) An outside designated area must have prior written approval from the board's licensing division.

(b) The outside designated area shall be marked as such, and shall be enclosed in accordance with WAC 314-02-130(1).

(c) The outside designated area shall be on the licensed premises.

(3) Anyone involved in the selling or serving of wine, including the pouring of samples, at an additional location for on-premises consumption must obtain a Class 12 or Class 13 alcohol server permit.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-24-220 Licensing and operation of bonded wine warehouses. (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a bonded wine warehouse licensee. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use. (~~Wine not under federal excise tax bond shall be identified as federally tax paid and physically separated on the premises to the extent required under the licensee holder's federal basic permit.~~)

(3) A bonded wine warehouse may provide storage for a domestic winery, for another bonded wine warehouse, and for a certificate of approval holder. The (~~wine may or may not be under federal bond, and the~~) Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington

wine distributor or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) Removals of wine from a bonded wine warehouse may be made only for shipment (a) to a licensed independent Washington wine distributor; (b) to another licensed bonded wine warehouse; (c) to the liquor control board; (d) out of state; (e) for return to the producing winery; ~~((f))~~ (f) to a producing domestic winery licensee; or (g) directly to a consumer. For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents. For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to chapter 314-44 WAC, of only one producing domestic winery at the time of removal by such agent. A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate, during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor control board annually reports of the quantity of wine removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine distributors, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage and handling of bottled wine ~~((only))~~" as used in RCW 66.24.185(1) shall mean the storage and handling of wine packaged for sale at retail (i.e., other than in bulk form).

~~(8) ((As a condition precedent to license issuance, a bonded wine warehouse licensee shall guarantee payment to the state of any and all taxes under RCW 66.24.210 in the event the winery or other entity storing wine in the bonded wine warehouse fails to immediately pay such tax when due. Such guarantee shall be in the form of the bond referred to in subsection (9) of this section.~~

~~(9) As required by RCW 66.24.185(5) every holder of a bonded wine warehouse license must, at all times when said license is in force, have in effect and on file with the board a bond executed by a surety authorized to do business in the state of Washington, in a form approved by the board and in the amount of five thousand dollars.)~~ Any winery contract-

ing with a bonded wine warehouse for direct shipments to consumers must accept and process the orders and payments from the winery premises. This includes, but is not limited to, in-person, mail, telephone, and internet orders and payments.

(9) A bonded wine warehouse may not accept orders and payments from consumers for direct shipments.

WSR 08-21-121
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed October 17, 2008, 1:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-070.

Title of Rule and Other Identifying Information: WAC 314-05-020 What is a special occasion license? and 314-05-030 Guidelines for special occasion license events.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 3, 2008, at 10:00 a.m.

Date of Intended Adoption: December 17, 2008.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 10, 2008.

Assistance for Persons with Disabilities: Contact Karen McCall by December 10, 2008, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement legislation that passed in the 2006, 2007, and 2008 legislative sessions (SHB 3128, E2SSB 5859, and SSB 6770) to RCW 66.28.010, 66.28.040, and 66.24.375. The legislation allows a local wine industry 501 (c)(6) nonprofit, to hold a special occasion license, even if its board members are also members of a licensed domestic winery or a wine certificate of approval holder, and also allows a domestic winery, domestic brewery, or an out-of-state certificate of approval holder to furnish wine and beer without charge to a 501 (c)(6) nonprofit.

Reasons Supporting Proposal: The rules are amended to reflect statute changes during the legislative sessions.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.28.010, 66.28-040, 66.24.375.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Rogers, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1622; Implementation: Alan Rathbun, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1615; and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328.

October 15, 2008
Lorraine Lee
Chairman

AMENDATORY SECTION (Amending WSR 04-22-078, filed 11/2/04, effective 12/3/04)

WAC 314-05-020 What is a special occasion license?

(1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving for on-premises consumption; and

(b) Beer and wine in original, unopened containers for off-premises consumption.

(2) Special occasion licensees are limited to twelve days per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for this license is \$60 per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

~~((4) ((Guidelines for nonprofit organizations-~~

~~((a)) Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.~~

~~((b) Per RCW 66.28.010, officers, directors, and/or stockholders of the organization may not have an interest in a manufacturer, importer, or distributor of alcohol.)) (5) A charitable nonprofit organization or a local winery industry association may qualify for a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.~~

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-05-030 Guidelines for special occasion license events. (1) The special occasion license must be posted at the event.

(2) Special occasion licensees may get alcohol for the event only from the following sources:

(a) Spirits must be purchased from a Washington state-run or contract liquor store;

(b) Beer and wine must be purchased at retail from a licensed retailer, from a beer or wine distributor, from a domestic brewery, microbrewery, or winery, acting as a distributor of its own product, or from a certificate of approval holder with a direct shipping to Washington retailer endorsement; and

(c) Per RCW 66.28.040, in state breweries and wineries and out-of-state breweries and wineries holding a certificate

of approval license may donate beer and wine to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.010, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(5) Per RCW ~~((66.28.380))~~ 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated location(s).

(6) If a special occasion license function is held at an establishment that has a liquor license:

(a) The special occasion function must be held in an area of the premises separate from areas open to the general public during the time the special occasion function is occurring, and the licensed premises' liquor cannot be sold or served in the same area(s) as the special occasion license function.

(b) The liquor licensee cannot charge for the liquor purchased by the special occasion licensee for service at the special occasion event, but can charge for room usage, services, etc. The liquor licensee must sign the special occasion application giving permission for the special occasion licensee to bring their alcohol onto the liquor licensed premises.

(c) The special occasion ((licensees)) license will not be issued for use at premises whose liquor license will be suspended on the date(s) of the scheduled event.

WSR 08-21-123
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed October 17, 2008, 1:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-071.

Title of Rule and Other Identifying Information: Amend WAC 314-02-015 What is a spirits, beer, and wine restaurant license? and 314-02-120 How do licensees get keg registration forms?, and create a new section WAC 314-02-061 What is required for off-site storage of liquor under a caterer's endorsement?

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on December 3, 2008, at 10:00 a.m.

Date of Intended Adoption: December 17, 2008.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by December 10, 2008.

Assistance for Persons with Disabilities: Contact Karen McCall by December 10, 2008, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement legislation that passed in the 2007 and 2008 legislative sessions (HB 1349, E2SSB 5859,

and SSB 6770) to RCW 66.24.400, 66.24.420, 66.28.200, and 66.28.220. The legislation allows a spirits, beer, and wine restaurant to sell for off-premises consumption, malt liquor in kegs or other containers holding four or more gallons of liquid. The legislation also allows a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. The legislation also allows a spirits, beer, and wine restaurant with a caterer's endorsement, or a beer and/or wine restaurant with a caterer's endorsement to store alcohol at a premise off the licensed location.

Reasons Supporting Proposal: The rules are amended to reflect statute changes during the legislative sessions.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.400, 66.24.420, 66.28.200, 66.28.220.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen Rogers, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1622; Implementation: Alan Rathbun, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1615; and Enforcement: Pat Parmer, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328.

October 15, 2008

Lorraine Lee

Chairman

AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05, effective 11/24/05)

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual ~~((serving))~~ glass for on-premises consumption;

(b) Serve beer by the bottle or can or by tap for on-premises consumption; ~~((and))~~

(c) Serve wine for on-premises consumption ~~((see RCW 66.24.400 regarding patrons removing recorked wine from the premises))~~;

~~(2) Per RCW 66.24.400, this license prohibits licensees from selling alcohol for off-premises consumption except for a licensee having an endorsement that allows the licensee to sell, for off-premises consumption, wine vinted and bottled in the state of Washington that has a label exclusive to the licensee's restaurant.~~

~~((3))~~;

(d) Allow patrons to remove recorked wine from the licensed premises in accordance with RCW 66.24.400;

(e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 11:00 a.m. and 11:00 p.m., five days a week. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, and may grant an exception under such terms and conditions as the board determines are in the best interests of the public.

~~((4))~~ (3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

NEW SECTION

WAC 314-02-061 What is required for off-site storage of liquor under a caterer's endorsement? A spirits, beer, and wine restaurant licensee with a caterer's endorsement, or a beer and/or wine restaurant licensee with a caterer's endorsement, may store its alcohol at locations described in RCW 66.24.320 and 66.24.420 that are not on the licensed premises if the following conditions are met:

(1) The licensee must display the approval letter for storing liquor at each location;

(2) Liquor storage must be within the event location where catering services for events are provided;

(3) If the location is one for which the licensee has an ongoing contract or agreement to provide liquor service at a catered event, the contract or agreement must include the following:

(a) Names of the parties;

(b) Location and address where on-going liquor catering services are provided;

(c) A sketch and description of the facility that includes where the liquor will be stored, how the liquor will be secured to ensure public safety, and the provisions that restrict access to the liquor storage area to the licensee and the licensee's employees; and

(d) Signatures of the parties.

(4) For locations owned or leased by the licensee and for which the licensee provides liquor service at a catered event, the licensee must submit copies of documents that evidence the ownership or leasehold interest.

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-120 How do licensees get keg registration forms? (1) The board will provide keg registration forms ~~((free of charge))~~ free of charge to licensees who hold (a) a beer and/or wine restaurant ((or)) license in combination with an off-premises beer and/or wine endorsement; (b) a tavern license in combination with an off-premises beer and/or wine endorsement; or (c) a beer and/or wine specialty shop license with a keg endorsement.

(2) Licensees who hold ~~((only an off-premises beer and/or wine license))~~ a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration forms from their local board enforcement office for four dollars per book of twenty-five forms.

WSR 08-21-132
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 08-16—Filed October 20, 2008, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-064.

Title of Rule and Other Identifying Information: This proposal will update chapter 173-423 WAC, Low emission vehicles, to incorporate by reference recent changes to California clean car regulations as required by RCW 70.120A.010. The update includes California's environmental performance (EP) label requirement, which fulfills the requirements of RCW 70.120A.050.

Hearing Location(s): Ecology Headquarters Building, Auditorium, 300 Desmond Drive S.E., Lacey, WA 98503, on December 9, 2008, at 7:00 p.m.

Date of Intended Adoption: January 14, 2009.

Submit Written Comments to: Neil Caudill, P.O. Box 47600, Olympia, WA 98504-7600, e-mail ncau461@ecy.wa.gov, fax (360) 407-7534, by 5:00 p.m., December 16, 2008.

Assistance for Persons with Disabilities: Contact Tami Dahlgren at (360) 407-6830, by December 1, 2008. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update chapter 173-423 WAC, Low emission vehicles, to accomplish two things:

- (1) Incorporate by reference (IBR) recent changes to California clean car regulations to maintain consistency with the California motor vehicle emission standards, and
- (2) IBR California's EP label requirement which provides global warming (greenhouse gases) and smog emissions scores for new automobiles.

Reasons Supporting Proposal: The Washington legislature requires automotive emissions standards to be consistent with California low emission vehicles standards in Title 13 of the California Code of Regulations. The federal Clean Air Act allows states to opt into the California clean car program and requires that states who opt in maintain consistency with the California vehicle emission standards. RCW 70.120A.010 directs ecology to "amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards." This rule making will IBR the latest version of Title 13 of the California Code of Regulations into chapter 173-423 WAC. The update includes California's EP label program, which also fulfills the requirements of RCW 70.120A.050.

Statutory Authority for Adoption: RCW 70.120A.010 and 70.120A.050.

Statute Being Implemented: RCW 70.120A.010 and 70.120A.050.

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

Name of Proponent: Department of ecology, air quality program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Neil Caudill, Lacey, Washington, (360) 407-6811.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These amendments meet the criteria of the exemption from analysis under RCW 19.85.025 which refers to RCW 34.05.310 (4)(e) which exempts language that is dictated by statute. The reason for this is that RCW 70.120A.010 requires ecology to "amend the rules [adopting California clean car standards] from time to time to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. 7507." Ecology is following this requirement.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments meet the criteria of the exemption from analysis under RCW 34.05.328 (5)(b)(v) which exempts language that is dictated by statute. The reason for this is that RCW 70.120A.010 requires ecology to "amend the rules [adopting California clean car standards] from time to time to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. 7507." Ecology is following this requirement.

October 15, 2008

Polly Zehm

Deputy Director

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, ((2006)) 2009

<u>Title 13 CCR</u> <u>Division 3</u> <u>Air Resources</u> <u>Board</u>	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	1/01/06
(Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles))		

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	((1/31/05)) <u>10/11/07</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	3/26/04
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	((1/01/06)) <u>6/16/08</u>
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	1/01/06
Section 1965	Emission Control ((and)) , Smog Index, <u>and Environmental Performance Labels</u> - 1979 and Subsequent Model-Year <u>Motor Vehicles</u>	((12/04/03)) <u>6/16/08</u>
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles <u>and Engines</u>	((4/21/03)) <u>11/09/07</u>

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	((4/21/03)) <u>11/09/07</u>
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	((11/27/99)) <u>1/04/08</u>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	((12/04/03)) <u>1/04/08</u>
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	((12/26/90)) <u>11/09/07</u>
Section 2036	<u>Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles</u>	<u>5/15/99</u>
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	((11/27/99)) <u>11/09/07</u>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	((11/27/99)) <u>11/09/07</u>

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	((4/16/79)) <u>2/15/79</u>
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	((11/30/83)) <u>12/30/83</u>
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	((8/21/02)) <u>1/04/08</u>
Section 2112	Definitions	((11/15/03)) <u>8/15/07</u>
	Appendix A to Article 2.1	((11/15/03)) <u>8/15/07</u>
Section 2113	Initiation and Approval of Voluntary and Influenced <u>Emission-Related</u> Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
Section 2120	Other Requirements Not Waived	1/26/95
Article 2.2 Procedures for In-Use Vehicle Ordered Recalls		
Section 2122	General Provisions	((1/26/95)) <u>1/04/08</u>
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls	1/26/95
Section 2124	Availability of Public Hearing	1/26/95
Section 2125	Ordered Recall Plan	1/26/95

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 2126	Approval and Implementation of Recall Plan	1/26/95
Section 2127	Notification of Owners	1/26/95
Section 2128	Repair Label	1/26/95
Section 2129	Proof of Correction Certificate	1/26/95
Section 2130	Capture Rates and Alternative Measures	11/27/99
Section 2131	Preliminary Tests	1/26/95
Section 2132	Communication with Repair Personnel	1/26/95
Section 2133	Recordkeeping and Reporting Requirements	1/26/95
Section 2135	Extension of Time	1/26/95
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	((12/28/00)) <u>1/04/08</u>
Section 2142	Alternative Procedures	2/23/90
Section 2143	Failure Levels Triggering Recall	11/27/99
Section 2144	Emission Warranty Information Report	11/27/99
Section 2145	Field Information Report	11/27/99
Section 2146	Emissions Information Report	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards	8/21/02
Section 2148	Evaluation of Need for Recall	11/27/99
Section 2149	Notification ((of)) and Subsequent Action	2/23/90
Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action		
Section 2166	General Provisions	1/04/08
Section 2166.1	Definitions	1/04/08
Section 2167	Emission Warranty Information Report	1/04/08
Section 2168	Supplemental Emissions Warranty Information Report	1/04/08

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
<u>Section 2169</u>	<u>Recall and Corrective Action for Failures of Exhaust After-Treatment Devices</u>	<u>1/04/08</u>
<u>Section 2170</u>	<u>Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines)</u>	<u>1/04/08</u>
<u>Section 2171</u>	<u>Recall and Corrective Action for Vehicles Without On-Board Diagnostic Systems, Vehicles with Non-compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction</u>	<u>1/04/08</u>
<u>Section 2172</u>	<u>Notification of Required Recall or Corrective Action by the Executive Officer</u>	<u>1/04/08</u>
<u>Section 2172.1</u>	<u>Ordered or Voluntary Corrective Action Plan</u>	<u>1/04/08</u>
<u>Section 2172.2</u>	<u>Approval and Implementation of Corrective Action Plan</u>	<u>1/04/08</u>
<u>Section 2172.3</u>	<u>Notification of Owners</u>	<u>1/04/08</u>
<u>Section 2172.4</u>	<u>Repair Label</u>	<u>1/04/08</u>
<u>Section 2172.5</u>	<u>Proof of Correction Certificate</u>	<u>1/04/08</u>
<u>Section 2172.6</u>	<u>Preliminary Tests</u>	<u>1/04/08</u>
<u>Section 2172.7</u>	<u>Communication with Repair Personnel</u>	<u>1/04/08</u>
<u>Section 2172.8</u>	<u>Recordkeeping and Reporting Requirements</u>	<u>1/04/08</u>
<u>Section 2172.9</u>	<u>Extension of Time</u>	<u>1/04/08</u>
<u>Section 2173</u>	<u>Penalties</u>	<u>1/04/08</u>
<u>Section 2174</u>	<u>Availability of Public Hearing</u>	<u>1/04/08</u>
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
<u>Section 2235</u>	<u>Requirements</u>	<u>9/17/91</u>

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-110 Warranty requirements. (1) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements set forth in the California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall include the emission control system warranty statement that complies with the requirements in the California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer shall provide a telephone number appropriate for Washington residents.

(3) All manufacturers shall submit to the department of ecology Failure of Emission-Related Components reports as defined in the California Code of Regulations, Title 13, section 2144 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

(4) Upon request, all manufacturers shall submit to the department of ecology Emission Warranty Information Reports (EWIRs) and Supplemental Emission Warranty Information Reports (SEWIRs) as defined in the California Code of Regulations, Title 13, sections 2167 and 2168 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the EWIRs and SEWIRs that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-120 Recalls. (1) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any section of Title 13, which results in the recall and/or corrective action of any vehicle pursuant to the California Code of Regulations, Title 13, sections 2109 through 2135 or sections 2166 through 2172.9, shall be applicable to vehicles registered in the state of Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that the action is not applicable to vehicles registered in Washington, the action shall not apply in Washington.

(2) Any voluntary or influenced emission-related recall campaign or corrective action initiated by any manufacturer pursuant to the California Code of Regulations, Title 13, sections 2113 through 2121 or sections 2166 through 2172.9, shall extend to all applicable vehicles registered in Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that said campaign is not applicable to

vehicles registered in Washington, the campaign shall not apply in Washington.

(3) For vehicles subject to an action pursuant to subsection (1) or (2) of this section, each manufacturer shall send to owners of vehicles registered in the state of Washington a notice that complies with the requirements in the California Code of Regulations, Title 13, sections 2118 ~~((\oplus))~~, 2127, or 2172.3. Such notice shall contain a telephone number appropriate for Washington residents.

WSR 08-21-141

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed October 21, 2008, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-057.

Title of Rule and Other Identifying Information: New chapter 172-132 WAC, Course materials.

Hearing Location(s): Eastern Washington University, Main Campus, Tawanka Commons, Room 215, Cheney, WA 99004, on December 2, 2008, at 3:00 p.m.

Date of Intended Adoption: December 23, 2008.

Submit Written Comments to: University Policy Administrator, 214 Showalter Hall, Cheney, WA 99004, e-mail tlutey@ewu.edu, fax (509) 359-7036, by December 1, 2008.

Assistance for Persons with Disabilities: Contact Trent Lutey by December 1, 2008, (509) 359-6322.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As required by RCW 28B.10.590, Eastern Washington University proposes these new rules to give students more choices for purchasing educational materials and to encourage faculty and staff to work closely with bookstores and publishers to implement the least costly option without sacrificing educational content and to provide maximum cost savings to students.

Statutory Authority for Adoption: RCW 28B.10.590 and 28B.35.120(12).

Statute Being Implemented: RCW 28B.10.590.

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

Name of Proponent: Eastern Washington University, governmental.

Name of Agency Personnel Responsible for Drafting: Laurie Connelly, 214 Showalter, Cheney, WA 99004, (509) 359-2371; Implementation: Bob Anderson, EWU Bookstore, PUB, Cheney, WA 99004, (509) 359-2826; and Enforcement: LeeAnn Case, 211 Tawanka Hall, Cheney, WA 99004, (509) 359-6618.

No small business economic impact statement has been prepared under chapter 19.85 RCW. New chapter 516-40 WAC does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 172-132 WAC is not considered a significant legislative rule by Eastern Washington University.

October 20, 2008

Trent S. Lutey

University Policy Administrator

Chapter 172-132 WAC COURSE MATERIALS

NEW SECTION

WAC 172-132-010 Purpose. The purpose of this chapter is to reduce overall costs of course materials for students by implementing measures designed to encourage use of less costly materials without sacrificing educational content.

NEW SECTION

WAC 172-132-020 Definitions. Throughout this chapter, the following definitions apply.

(1) "Materials" means any supplies or texts required or recommended by faculty or staff for a given course.

(2) "Bundled" means a group of objects joined together by packaging or required to be purchased as an indivisible unit.

NEW SECTION

WAC 172-132-030 Cost savings for course materials. The Eastern Washington University Bookstore will:

(1) provide students the option of purchasing materials that are unbundled whenever possible;

(2) disclose to faculty and staff the costs to students of purchasing materials and disclose retail costs for course materials on a per course basis to faculty and staff and make this information publicly available;

(3) disclose publicly how new editions vary from previous editions by providing the contact information for the publisher;

(a) When a new edition of a textbook is ordered by faculty, the bookstore will notify them of the retail cost change to the students if this information is available. The bookstore will also inquire if students may use the old edition if it is available.

(b) The bookstore will provide notice that this is a new edition, and whether or not the student may use the old edition.

(4) promote and publicize book buy-back programs;

(5) encourage faculty and staff to consider the least costly practices in assigning course materials, such as adopting the least expensive edition available when educational content is comparable as determined by the faculty and working closely with publishers and local bookstores to create bundles and packages if they deliver cost savings to students.

WSR 08-21-143
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed October 21, 2008, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-067.

Title of Rule and Other Identifying Information: Ignition interlock driver's license—Pertaining to ignition interlock driver licensing and the ignition interlock device compliance pilot program.

Hearing Location(s): Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA (check in at counter on first floor), on November 25, 2008, at 3:00 p.m.

Date of Intended Adoption: November 26, 2008.

Submit Written Comments to: Clark Holloway, P.O. Box 9030, Olympia, WA 98507-9030, e-mail cholloway@dol.wa.gov, fax (360) 586-8351, by November 24, 2008.

Assistance for Persons with Disabilities: Contact Clark Holloway by November 24, 2008, TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creates a new chapter in Title 308 WAC establishing application and eligibility requirements for ignition interlock driver licensing, maintenance of the ignition interlock device revolving account, providing a mechanism for assistance for the indigent, providing for hearings, and implementing the ignition interlock device compliance pilot program. Makes conforming amendments to WAC 308-104-100, regarding eligibility for occupational/temporary restricted driver's licenses, and WAC 308-104-105, regarding occupational/temporary restricted license denial hearings.

Reasons Supporting Proposal: The department is directed by RCW 46.20.385 to adopt rules to implement ignition interlock licensing, to provide for ignition interlock driver license denial hearings, and to provide monetary assistance for indigent persons required to apply for an ignition interlock license according to greatest need and when funds are available in the ignition interlock device revolving account. RCW 46.20.745 requires the department to work with the Washington state patrol and the Washington traffic safety commission to establish an ignition interlock device compliance pilot program.

Statutory Authority for Adoption: RCW 46.01.110, 46.20.385, 46.20.391, and 46.20.745.

Statute Being Implemented: RCW 46.20.385, 46.20-391, and 46.20.745.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Clark J. Holloway, Highways-Licenses Building, Olympia, Washington, (360) 902-3846; Implementation and Enforcement: Becky Loomis, Highways-Licenses Building, Olympia, Washington, (360) 902-3850.

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

nomical impact statement is not required pursuant to RCW 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

October 21, 2008

Becky Loomis
Assistant Director

Ignition Interlock Driver's License
Chapter 308-107 WAC

Draft 2.0

NEW SECTION

WAC 308-107-010 Definitions. As used in this chapter, unless the context requires otherwise, the term:

(1) "Authorized service provider" or "ignition interlock vendor" means a person or company meeting all qualifications set out in chapter 204-50 WAC and approved and trained by a manufacturer to service, install, monitor, calibrate, and provide information on manufacturer's devices currently certified for use in Washington state.

(2) "Breath or blood alcohol concentration (BAC)" means the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) One hundred milliliters of blood; or
- (b) Two hundred ten liters of breath.

(3) "Commission" means the Washington traffic safety commission.

(4) "Device" means an ignition interlock device as defined under RCW 46.04.215 and WAC 204-50-030.

(5) "Department" means the department of licensing.

(6) "Event log report" means a compilation of the data downloaded from a device under the provisions of WAC 204-50-080.

(7) "Functioning device" means a device that is properly installed, maintained, and meets the requirements specified in chapter 204-50 WAC.

(8) "Manufacturer" or "ignition interlock company" means the person, company, or corporation who produces an ignition interlock device, and certifies to the Washington state patrol that an authorized service provider is qualified to service, install, monitor, calibrate, and provide information on devices.

NEW SECTION

WAC 308-107-020 Ignition interlock driver's license—Application. A person applying for an ignition interlock driver's license must meet the requirements of RCW 46.20.385, submit a nonrefundable fee as required by RCW 46.20.380, and submit an application on a form provided by the department.

NEW SECTION

WAC 308-107-030 Functioning device—Satisfactory proof of installation. For purposes of RCW 46.20.385, satis-

factory proof of installation of a functioning device must include:

(1) An ignition interlock status verification form submitted by a manufacturer who has entered into an agreement with the department under WAC 308-107-050(2), or by an authorized service provider associated with such manufacturer, indicating that a device has been installed on a vehicle owned or operated by the driver; and

(2) An event log report periodically submitted by the manufacturer to the commission, as provided by WAC 308-107-080, indicating that the device is being maintained under WAC 204-50-080.

NEW SECTION

WAC 308-107-040 Functioning device—Evidence that device is no longer installed or functioning. (1) For purposes of RCW 46.20.311, 46.20.385, and 46.20.740, the department may determine that a device is no longer installed or functioning in the vehicle(s) driven by a person based on:

(a) An ignition interlock status verification form submitted by a manufacturer, or by an authorized service provider associated with such manufacturer, indicating that a device is no longer installed or functioning;

(b) Notice from the commission that a report received under WAC 308-107-080 indicates that a device is no longer installed or functioning or that the driver has failed to appear for scheduled maintenance;

(c) The termination or expiration without renewal of an agreement entered into between the department and the manufacturer of the device(s) installed in the vehicle(s) driven by the person;

(d) A statement from a law enforcement officer made under RCW 9A.72.085 indicating that a device has been disabled or removed from a motor vehicle operated by the person; or

(e) A conviction under RCW 46.20.740(2) for operating a motor vehicle that is not equipped with a functioning device.

(2) Before making a determination under this section, the department may consider evidence from the person indicating that:

(a) The person is no longer operating the vehicle in which a device is no longer installed or functioning and that another vehicle driven by the person is so equipped; or

(b) The device has been replaced with a functioning device installed by another manufacturer or authorized service provider.

(3) Once the department has determined under this section that a device is no longer installed or functioning, the person must re-establish that a functioning device has been installed before a license may be reinstated or reissued during the remainder of an applicable period of restriction.

NEW SECTION

WAC 308-107-050 Ignition interlock device revolving account. (1) As required under RCW 46.20.385 (6)(a), unless determined by the department to be indigent under WAC 308-107-060, a person who is applying for or has been issued an ignition interlock driver's license must pay an addi-

tional fee of twenty dollars per month or partial month for which the ignition interlock driver's license is valid to the manufacturer of the device(s) installed in the motor vehicle(s) driven by the person. Payment may be made directly to the manufacturer, or through the authorized service provider, depending upon the manufacturer's business practices.

(2) A manufacturer providing devices to persons who are applying for or have been issued an ignition interlock driver's license, either directly or through an authorized service provider, must enter into an agreement with the department for the collection and transmittal of the twenty dollar monthly fee required under RCW 46.20.385 (6)(a). Any agreement made under this section must include appropriate reporting requirements and accounting practices to permit the department to audit the handling of the fees that must be remitted to the department. The department may terminate an agreement with a manufacturer upon a showing of good cause. Good cause shall include, but not be limited to, violation of the agreement, violation of the laws and rules governing the installation of devices, and violation of this chapter. An agreement between the department and a manufacturer will be valid for no more than two years, provided that the department may extend an agreement for up to an additional two years at its discretion.

(3) As provided by RCW 46.20.385 (6)(b), the department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account.

NEW SECTION

WAC 308-107-060 Indigence—Monetary assistance—Determination of need. (1) An applicant for, or holder of, an ignition interlock driver's license may apply to the department for a determination that he or she is indigent for purposes of RCW 46.20.385 and 46.20.745. The department will determine that a person is indigent if the person is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

In making a determination of indigence under this subsection, the department may request that the applicant provide records or other evidence of public assistance, income, payment of taxes, or other relevant issues.

A person who has been determined to be indigent under this subsection is exempt from paying the additional fee of twenty dollars required under RCW 46.20.385 (6)(a), and may apply for monetary assistance under subsection (2) of this section.

(2) Subject to appropriation by the legislature of funds from the ignition interlock device revolving account and the availability of funds in the ignition interlock device revolving account, a person who has been determined to be indigent under this section may apply to the department for monetary assistance in covering the costs of installing, removing, and

leasing an ignition interlock device, and any applicable licensing fees.

(3) Subject to funds appropriated, the department may base the amount of monetary assistance provided to an applicant under subsection (2) of this section on a determination of need. Where possible, a determination of need may be based on such factors as:

- (a) Total number of persons in household, including the number of dependants;
 - (b) The age of the applicant and whether the applicant is a dependant of another person;
 - (c) Monthly expenses; and
 - (d) Liquid assets.
- (4) A person who has been determined to be indigent under this section must re-apply for a determination of indigence on an annual basis.

NEW SECTION

WAC 308-107-070 Ignition interlock driver's license—Hearing. (1) Upon notification by the department that an ignition interlock driver's license has been denied or cancelled under RCW 46.20.385 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an ignition interlock driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Upon notification by the department that a determination has been made under WAC 308-107-060 that a person is not indigent, the person may request a formal hearing to contest the department's determination.

(3) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(4) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(5) For a hearing requested under subsection (1) of this section, the scope of the hearing shall be limited to the following issues:

- (a) Whether the person had previously been issued a valid license;
- (b) Whether the suspension or revocation giving rise to the application for an ignition interlock driver's license is one for which an ignition interlock driver's license may be issued under RCW 46.20.385;
- (c) Whether the person has committed an offense of vehicular assault or vehicular homicide within the seven years immediately preceding the conviction or incident for which the ignition interlock driver's license is requested or, if there are multiple suspensions or revocations in effect, within the seven years immediately preceding the latest conviction or incident for which the ignition interlock driver's license is requested;
- (d) Whether a device was installed and functioning; and

(e) Whether the person is currently suspended or revoked for any reason for which an ignition interlock driver's license is not available.

(6) The person's official driving record provided to the hearing officer by the department shall be prima facie evidence of the issues contained in subsection (5) of this section unless the person presents clear and convincing evidence to the contrary.

(7) For a hearing requested under subsection (2) of this section, the person shall have the burden of proving by a preponderance of the evidence that the department's determination is in error.

(8) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying or cancelling the ignition interlock driver's license, or decision determining that the person is not indigent, shall be affirmed.

NEW SECTION

WAC 308-107-080 Ignition interlock device compliance—Pilot program. (1) As a part of the pilot program established under RCW 46.20.745, an authorized service provider must forward the event log reports for any device maintained under WAC 204-50-080, or a report that the driver failed to appear for the scheduled maintenance, to the manufacturer of the device. The manufacturer of the device must compile the reports received from their authorized service providers in a form specified by the commission and forward the compilation to the commission on a schedule established by the commission.

(2) For the duration of the pilot program, the event log report must include:

- (a) The date, time, BAC of the driver, and success or failure of each attempt to start the vehicle;
- (b) The date, time, BAC of the driver, and success or failure of each random retest;
- (c) All attempts to tamper with the ignition interlock device;
- (d) All attempts to avoid taking a random retest;
- (e) All attempts to circumvent the device;
- (f) If no attempts to tamper or circumvent are detected, a statement that the device has been recalibrated and no violations were found;
- (g) The total number of events recorded by the data recorder since the last service visit;
- (h) The number of vehicle starts; and
- (i) The number of failures to start the vehicle.

AMENDATORY SECTION (Amending WSR 04-18-059, filed 8/27/04, effective 9/27/04)

WAC 308-104-100 Occupational/temporary restricted driver's license—Person eligible. (1) Upon proper application, the department shall issue an occupational/temporary restricted driver's license to any person who has had his or her driver's license suspended or revoked who meets the requirements of RCW 46.20.380 and 46.20.391, provided that ~~((on the date of conviction for the offense on which the suspension or revocation is based or, if the suspen-~~

sion or revocation is based on an administrative action, on the date the suspension or revocation became effective, or, if there are multiple suspensions or revocations in effect, on the date of conviction for the offense on which the first suspension or revocation is based or on the date the first suspension or revocation based on an administrative action became effective):

(a) The person had ~~((an unexpired))~~ previously been issued a valid driver's license; and

(b) ~~((The person did not have his or her resident driver's license or nonresident driving privilege suspended or revoked for any reason; and~~

~~(e))~~ The person had not been required to surrender his or her Washington driver's license to the department for failure to maintain proof of financial responsibility for the future.

(2) ~~((No person may petition for, and the department shall not issue, an occupational/temporary restricted driver's license that is effective during:~~

~~(a) The first thirty days of any suspension or denial imposed under RCW 46.20.3101 (2)(a) or (3)(a);~~

~~(b) The first ninety days of any revocation or denial imposed under RCW 46.20.3101 (1)(a); or~~

~~(c) The first year of any revocation or denial imposed under RCW 46.20.3101 (1)(b), (2)(b), or (3)(b).~~

(3)) Notwithstanding the provisions of this section, an occupational/temporary restricted driver's license shall not be issued for the operation of a commercial motor vehicle when the commercial driver has had his or her license suspended, revoked, or denied, or has been disqualified from operating a commercial motor vehicle.

AMENDATORY SECTION (Amending WSR 04-18-059, filed 8/27/04, effective 9/27/04)

WAC 308-104-105 Occupational/temporary restricted license denial hearings. (1) Upon notification by the department that an occupational/temporary restricted driver's license has been denied under RCW 46.20.391 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an occupational/temporary restricted driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(3) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(4) The scope of the hearing shall be limited to the following issues:

(a) Whether the person had previously been issued a valid license ~~((on date of conviction or, if the suspension or revocation is based on an administrative action, on the date the suspension or revocation became effective, or, if there are multiple suspensions or revocations in effect, on the date of~~

~~conviction for the offense on which the first suspension or revocation is based or on the date the first suspension or revocation based on an administrative action became effective.))~~

(b) Whether the suspension or revocation giving rise to the application for an occupational/temporary restricted driver's license is one for which an occupational/temporary restricted driver's license may be issued under RCW 46.20.-391.

(c) Whether the person has committed an offense of vehicular assault or vehicular homicide within the seven years immediately preceding the conviction or incident for which the occupational/temporary restricted driver's license is requested or, if there are multiple suspensions or revocations in effect, within the seven years immediately preceding the latest conviction or incident for which the occupational/temporary restricted driver's license is requested.

(d) Whether the person is currently suspended or revoked for any reason for which an occupational/temporary restricted driver's license is not available.

(e) Whether it is necessary that the person operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that the person operate a motor vehicle. For purposes of this section, occupation or trade means being self-employed, or in the employ of another, for monetary compensation;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the person;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings in a twelve-step group such as Alcoholics Anonymous that requires the person to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program.

(5) The person's official driving record provided to the hearing officer by the department shall be prima facie evidence of the issues contained in subsection (4)(a) through (d) of this section unless the person presents clear and convincing evidence to the contrary.

(6) The person shall have the burden of proving that he or she meets one or more of the qualifying circumstances described in subsection (4)(e) of this section that makes it essential to operate a motor vehicle.

(7) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying the occupational/temporary restricted driver's license shall be affirmed.

WSR 08-21-145
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed October 21, 2008, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-077.

Title of Rule and Other Identifying Information: The department is amending WAC 388-515-1512 What are the financial requirements if I am eligible for medicaid under the noninstitutional categorically needy program (CN-P) and 388-515-1514 How does the department determine how much of my income I must pay towards the cost of my care if I am not eligible for medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512(1)?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on November 25, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 26, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 25, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by November 18, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS is amending WAC 388-515-1512 and 388-515-1514 to incorporate the \$20 disregard and increase the personal needs allowance (PNA) from \$41.44 to \$62.79 to match home and community services categorically needy (CN) waiver programs.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.575, 74.09.500, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.575, 74.09.500, and 74.09.530.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lori Rolley, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2271.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), relating only to client medical or financial eligibility.

October 17, 2008
Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-11-083, filed 5/20/08, effective 6/20/08)

WAC 388-515-1512 What are the financial requirements if I am eligible for medicaid under the noninstitutional categorically needy program (CN-P). (1) You automatically meet income and resource eligibility for DDD waiver services if you are eligible for Medicaid under a categorically needy program (CN-P) under one of the following programs:

(a) Supplemental Security Income (SSI) eligibility described in WAC 388-474-0001. This includes SSI clients under 1619B status. These clients have Medicaid eligibility determined and maintained by the Social Security Administration;

(b) Healthcare for workers with disabilities (HWD) described in WAC 388-475-1000 through 388-475-1250;

(c) SSI-related CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) or meets the requirements in WAC 388-475-0880 and is CN-P eligible after the income disregards have been applied;

(d) CN-P Medicaid for a child as described in WAC 388-505-0210 (1), (2), (7) or (8); or

(e) General assistance expedited Medicaid disability (GA-X) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6).

(2) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not have to pay (participate) toward the cost of your personal care and/or habilitation services.

(3) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not need to meet the initial eligibility income test of gross income at or below the special income level (SIL), which is three hundred percent of the federal benefit rate (FBR).

(4) If you are eligible for a CN-P Medicaid program listed in subsection (1), you pay up to the ADSA room and board standard described in WAC 388-515-1505. Room and board and long-term care standards are located at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(a) If you live in an ARC, AFH or DDD group home, you keep a personal needs allowance (PNA) and use your income to pay up to the ADSA room and board standard. ~~((The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.))~~ Effective ~~((July))~~ January 1, ((2008)) 2009 the PNA ~~((increases to forty one dollars and forty four))~~ is sixty-two dollars and seventy-nine cents.

~~((b) If you receive non-SSI income, you may keep up to an additional twenty dollars.))~~

(5) If you are eligible for a premium based Medicaid program such as healthcare for workers with disabilities (HWD),

you must continue to pay the Medicaid premium to remain eligible for that CN-P program.

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

AMENDATORY SECTION (Amending WSR 08-11-083, filed 5/20/08, effective 6/20/08)

WAC 388-515-1514 How does the department determine how much of my income I must pay towards the cost of my care if I am not eligible for medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512(1)? If you are not eligible for Medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512 (1), the department determines how much you must pay based upon the following:

(1) If you are an SSI-related client living at home as defined in WAC 388-106-0010, you keep all your income up to the SIL (three hundred percent of the FBR) for your personal needs allowance (PNA).

(2) If you are an SSI-related client and you live in an ARC, AFH or DDD group home, you:

(a) Keep a personal needs allowance (PNA) from your gross nonexcluded income. ~~((The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.))~~ Effective ~~((July))~~ January 1, ~~((2008))~~ 2009 the PNA ~~((increases to forty one dollars and forty four cents.~~

~~((b) May keep up to an additional twenty dollars from your non-SSI income))~~ is sixty-two dollars and seventy-nine cents; and

~~((c))~~ (b) Pay for your room and board up to the ADSA room and board rate described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(3) Income that remains after the allocation described in (2) above, is reduced by allowable deductions in the following order:

(a) If you are working, we allow an earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(c) Current or back child support garnished from your income or withheld according to a child support order in the month of the garnishment if it is for the current month. If we allow this as deduction from your income, we will not count it as your child's income when determining the family allocation amount;

(d) A monthly maintenance needs allowance for your community spouse not to exceed that in WAC 388-513-1380 (5)(b) unless a greater amount is allocated as described in subsection (e) of this section. This amount:

(i) Is allowed only to the extent that your income is made available to your community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for your community spouse's principal residence. These expenses are determined in the following manner:

(I) Rent, including space rent for mobile homes, plus;

(II) Mortgage, plus;

(III) Taxes and insurance, plus;

(IV) Any required payments for maintenance care for a condominium or cooperative minus;

(V) The food assistance standard utility allowance (for long term care services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative, minus;

(VI) The standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(VII) Is reduced by your community spouse's gross countable income.

(ii) May be greater than the amount in subsection (d)(ii) only when:

(A) There is a court order approving a higher amount for the support of your community spouse; or

(B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(e) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of your community or institutionalized spouse. The amount we allow is based on the living arrangement of the dependent. If the dependent:

(i) Resides with your community spouse, the amount is equal to one-third of the community spouse allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income (child support received from a noncustodial parent is considered the child's income);

(ii) Does not reside with the community spouse, the amount is equal to the MNIL based on the number of dependent family members in the home less their separate income (child support received from a noncustodial parent is considered the child's income).

(f) Your unpaid medical expenses which have not been used to reduce excess resources. Allowable medical expenses are described in WAC 388-513-1350.

(g) The total of the following deductions cannot exceed the SIL (three hundred percent of the FBR):

(i) Personal needs allowances in subsection (1) for in home or subsection (2)(a) in a residential setting; and

(ii) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (3)(a); and

(iii) Guardianship fees and administrative costs in subsection (3)(b).

(4) If you are eligible for general assistance expedited Medicaid disability (GA-X) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-

0110(6), you do not participate in the cost of personal care and you may keep the following:

(a) When you live at home, you keep the cash grant amount authorized under the general assistance program;

(b) When you live in an AFH, you keep a PNA of thirty-eight dollars and eighty-four cents, and pay any remaining income and general assistance grant to the facility for the cost of room and board up to the ADSA room and board standard described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>; or

(c) When you live in an ARC or DDD group home, you are only eligible to receive a cash grant of thirty-eight dollars and eighty-four cents which you keep for your PNA.

(5) The combination of the room and board amount and the cost of personal care and/or habilitation services (participation) after all allowable deductions have been considered is called your total responsibility. You pay this amount to the ARC, AFH or DDD group home provider.

WSR 08-21-147

**WITHDRAWAL OF PROPOSED RULES
SECRETARY OF STATE**

(By the Code Reviser's Office)
[Filed October 21, 2008, 12:41 p.m.]

WAC 434-662-080, proposed by the secretary of state in WSR 08-08-060 appearing in issue 08-08 of the State Register, which was distributed on April 16, 2008, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-21-149

**PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed October 21, 2008, 2:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-156.

Title of Rule and Other Identifying Information: Workers' compensation self-insurance rules and regulations, chapter 296-15 WAC. This chapter governs employers who are permitted to self-insure their workers' compensation obligation pursuant to Title 51 RCW. This filing includes modifications to existing sections regarding certification requirements, as well as a new section specifically related to the requirement for submitting data electronically through the self-insurance electronic data reporting system (SIEDRS).

Hearing Location(s): Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501-5414, on December 2, 2008, at 9:00 a.m.

Date of Intended Adoption: December 23, 2008.

Submit Written Comments to: Margaret Conley, P.O. Box 44890, Olympia, WA 98504-4890, e-mail mecgm235@Lni.wa.gov, fax (360) 902-6977, by December 2, 2008, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Margaret Conley by November 18, 2008, TTY (800) 833-6388 or (360) 902-6723.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule-making proposal will modify WAC 296-15-001 to define what SIEDRS is and its function. WAC 296-15-021 is modified to clarify how an employer applying to become self-insured must prepare for participation in SIEDRS. The proposal will also create a new section (WAC 296-15-231) to explain the requirements for each self-insurer for submitting data on an on-going basis and establishes penalties for violations of the rules.

Reasons Supporting Proposal: The legislation (chapter 145, Laws of 2005) was supported by the self-insured community. Representatives of the self-insured community have participated both in designing the SIEDRS system, as well as in providing feedback on these proposed rules.

Statutory Authority for Adoption: RCW 51.14.110.

Statute Being Implemented: RCW 51.14.110.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jean M. Vanek, 243 Israel Road S.E., Tumwater, WA 98501, (360) 902-6907.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 296-15 WAC applies only to businesses that are certified to self-insure in Washington state. Per RCW 19.85.020(1), a business must have fifty or fewer employees to qualify as a small business under the Regulatory Fairness Act. The department reviewed the number of worker hours reported by each employer currently certified to self-insure, and no self-insured business has fewer than fifty employees. Therefore, no small business economic impact statement is required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Josh Swanson, P.O. Box 44001, Olympia, WA 98504-4001, phone (360) 902-6805, fax (360) 902-4202, e-mail SWAJ235@Lni.wa.gov.

October 21, 2008

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 06-06-066, filed 2/28/06, effective 4/1/06)

WAC 296-15-001 Definitions. (1) "Self-insurance electronic data reporting system (SIEDRS)": SIEDRS is a computer system that collects claim data electronically from self-insurers. Effective July 1, 2008, all self-insurers must send timely and accurate claim data to SIEDRS in the required format.

(2) "Substantially similar":

(a) The text of the department's document has not been altered or deleted; and

(b) The self-insurer's document has the text:

(i) In approximately the same font size;

(ii) With the same emphasis (bolding, italics, underlining, etc.); and

(iii) In approximately the same location on the page as the department's document.

~~((2))~~ (3) "Third-party administrator": An entity which contracts to administer workers' compensation claims for a self-insured employer.

~~((3))~~ (4) "Claims management entity": All individuals designated by the self-insured employer to administer workers' compensation claims, including self-administered organizations and third-party administrators.

AMENDATORY SECTION (Amending WSR 06-06-066, filed 2/28/06, effective 4/1/06)

WAC 296-15-021 Self-insurance certification requirements and application process. (1) **What requirements must an employer meet to apply for self-insurance certification?** An employer must meet all the following minimum criteria:

(a) Be in business for three years prior to applying for self-insurance.

(b) Have a written accident prevention program in place in Washington state for at least six months prior to making application.

(c) Have total assets worth at least twenty-five million dollars as verified by audited financial statements prepared by independent certified accountants.

(d) Demonstrate positive earnings in the current year and two out of the last three years. The overall earnings for the last three years must also be positive.

(e) Have a current liquidity ratio of at least 1.3 to 1, and a debt to net worth ratio of not greater than 4 to 1.

(2) **When are applications processed?** The department processes applications for certification the quarter after the application is accepted. Self-insurance certification for approved applicants will be effective the quarter following processing.

(3) **What documentation must be submitted with an application?** The following documentation must be submitted with each self-insurance application:

(a) A completed application form (Form F207-001-000) with a nonrefundable application fee. The application fee is reviewed annually by the department and is based on the administrative costs incurred in processing an application, but in no instance will it be less than two hundred fifty dollars.

(b) Three years of audited financial statements prepared by independent certified accountants. The audited financial statements must be in the name of the applicant.

(c) A list of all of the applicant's physical locations and addresses in Washington state, including all subsidiary operations.

(d) A copy of the written accident prevention program for each of the applicant's operations in Washington. If the applicant or any of its subsidiaries has multiple locations,

more than one copy of the accident prevention program may be required.

(e) A completed Self-Insurance Certification Questionnaire (Form 207-176-000).

(f) A completed self-insurance electronic data reporting system (SIEDRS) enrollment form (Form F207-193-000).

(4) **What happens during the application review process?** The department:

(a) Assesses the accident prevention program at department-selected sites.

(b) Analyzes the financial information supplied by the applicant. The department may also consider relevant information obtained from other sources to assess the applicant's financial strength.

(c) Reviews the completed Claims Administration Questionnaire and attachments. Additional information may be requested.

The department determines whether the application is denied or tentatively approved. The department notifies each applicant of its decision. If the department denies an application, it will state the reasons for the denial in its notification.

(5) **If the application is denied, when may the applicant submit a new application?** If an application is denied for deficiencies in its accident prevention program, the applicant may submit a new application for certification after the corrections to the program are made and have been in place for six months.

If the application is denied for financial reasons, the applicant may submit a new application for certification after the next annual audited financial statement is available.

If the application is denied because the claims administration organization is deficient, the applicant may submit a new application for certification after corrections to the program are made.

(6) **What if the application is tentatively approved?** The applicant must submit the following:

(a) Surety in the amount determined by the department and issued on the department form.

(b) A signed copy of the service agreement with a third-party administrator, if applicable.

(i) The contract copy may delete clause(s) relating to payment of services.

(ii) However, if payment for services is based on the number of claims filed by the self-insurer's workers, this must be explained in detail.

(c) A copy of any excess insurance (reinsurance) policy including Washington state endorsements, if obtained.

(d) A signed copy of the Acknowledgement of Self-Insurance Responsibilities form.

(e) Payment of any outstanding premium of the applicant's state industrial insurance account.

(f) Payment of the applicant's estimated portion of the deficit, if a deficit condition in the state industrial insurance fund exists at the time of application.

(g) Adequate electronic test data to SIEDRS, to demonstrate the ability to submit claim data electronically in the required format. Requirements are defined in the SIEDRS enrollment package (Publication F207-194-000). The department may waive the testing requirement if the appli-

cant has a service agreement with a third-party administrator that already submits data to SIEDRS.

If the required items are not received prior to the end of the quarter, the application may be denied. If the application is denied, the applicant must reapply in order to be considered for self-insurance.

(7) How is the initial surety requirement established?

The initial surety requirement is established at the highest of the following:

- (a) The annual premiums the applicant pays (or would pay) into the state industrial insurance fund; or
- (b) The annual average of the last five years of developed incurred costs to the state industrial insurance fund; or
- (c) The minimum surety requirement as established annually by the department. The minimum surety requirement is equal to the average total cost of one permanent total disability award.

The applicant has the option of submitting an independent actuarial analysis of its projected liability. The department reserves the right to accept or reject this analysis. In no event will the surety requirement be established at less than the minimum surety in force at that time.

NEW SECTION

WAC 296-15-231 Self-insurance electronic data reporting system (SIEDRS). (1) **What is SIEDRS?** SIEDRS is a computer system that collects claim data electronically from self-insurers. Effective July 1, 2008, all self-insurers must send timely and accurate claim data to SIEDRS in the required format.

(2) **How often must a self-insurer report claim data to SIEDRS?** All claims opened during a calendar month, as well as any updates to post-enrollment claims made during that month, must be reported to SIEDRS by the tenth calendar day of the following month. Data can be submitted more often, but not more than once per day.

Newly certified self-insurers must begin submitting data by the tenth calendar day of the month following their date of certification. For example, if an employer is certified to self-insure effective January 1st, data must be submitted to SIEDRS by February 10th.

(3) **What is the required format?** Data submitted to SIEDRS must comply with all requirements outlined in the SIEDRS Enrollment Package (Publication F207-194-000).

(4) **When must a self-insurer correct errors?** Error corrections must be submitted to SIEDRS within ten calendar days of notification of the error. Notification occurs on the date SIEDRS provides the error report to the self-insurer.

(5) **What happens if a self-insurer doesn't comply with SIEDRS requirements?**

(a) The department may assess penalties for failure to comply with SIEDRS requirements. The department will consider penalties when a self-insurer:

- (i) Refuses or fails to send data files to SIEDRS.
- (ii) Repeatedly reports late.
- (iii) Repeatedly fails to correct errors on time.
- (iv) Demonstrates repeated and uncorrected inaccuracies in reporting format.
- (b) Repeated failure to comply with SIEDRS requirements may result in increased sanctions, up to and including withdrawal of self-insurance certification.

IMPORTANT:

- Penalties are assessed for any occurrences within a twelve-month period, and need not be consecutive.
- Penalties are cumulative. For example, failure to send data files for twelve occurrences results in a total penalty of seventy-one thousand dollars.
- An occurrence is defined as: A failure to comply with any part of this section.
- The department has the discretion to consider withdrawal of certification at any time, based on the self-insurer's compliance record.

Penalty	Failure to Send Data Files	Late Reporting	Failure to Correct Errors on Time	Uncorrected Reporting Format Inaccuracies
1st	\$500	\$250	\$250	\$500
2nd	\$500	\$250	\$250	\$500
3rd	\$1,000	\$500	\$500	\$1,000
4th	\$2,000	\$1,000	\$1,000	\$2,000
5th	\$4,000	\$1,500	\$1,500	\$4,000
6th	\$6,000	\$2,000	\$2,000	\$6,000
7th	\$7,000	\$3,000	\$3,000	\$7,000
8th	\$8,000	\$4,000	\$4,000	\$8,000
9th	\$9,000	\$5,000	\$5,000	\$9,000
10th	\$10,000	\$6,500	\$6,500	\$10,000
11th	\$11,000	\$8,000	\$8,000	\$11,000
12th	\$12,000	\$10,000	\$10,000	\$12,000

Notes:

- 1st and 2nd occurrences may be waived at the department's discretion for good cause.
- For any waived occurrence, a notification is sent to the employer indicating noncompliance subject to penalty on repeat violation.
- Any occurrence waived counts against the employer's overall SIEDRS compliance record.
- If the department waives two occurrences then the 3rd occurrence results in a penalty equal in amount to the 3rd occurrence.

WSR 08-21-156
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed October 21, 2008, 6:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-03-064.

Title of Rule and Other Identifying Information: WAC 246-824-075 Continuing education requirements for dispensing opticians, amending the list of approved organization.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Conference Room 153, Tumwater, WA 98501, on December 22, 2008, at 9:00 a.m.

Date of Intended Adoption: December 22, 2008.

Submit Written Comments to: Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870, web site <http://www3.doh.wa.gov/policyreview/>, fax 586-4359, by December 22, 2008.

Assistance for Persons with Disabilities: Contact Judy Haenke by December 15, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule is in response to a petition submitted by the Opticians Association of Washington requesting WAC 246-824-075 be amended to add the Joint Commission of Allied Health Personnel in Ophthalmology and the Council on Optometric Practitioner Education to the list of organizations presumed to qualify as providers of continuing education courses. The proposed amendment also deletes an organization that no longer exists. The proposal does not change the existing requirements.

Reasons Supporting Proposal: The proposed amendment will inform dispensing opticians that courses offered by these organizations are approved continuing education activities for Washington licensed opticians. Both programs meet established criteria which include educational activities designed to review existing concepts and techniques and convey information and knowledge about advances in the field of opticianry. Adding these organizations to the current list would eliminate approval of each individual course offered by these providers. An organization is deleted because it no longer exists.

Statutory Authority for Adoption: RCW 18.34.120.

Statute Being Implemented: RCW 18.34.120.

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

Name of Proponent: Department of health, Opticians Association of Washington, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4828.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does not set or alter a standard to obtain or keep a license. Does not create or significantly amend a policy or regulatory program. A preliminary cost-benefit

analysis may be obtained by contacting Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 236-4828, fax (360) 586-4359, e-mail judy.haenke@doh.wa.gov.

October 21, 2008

B. White

for Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-824-075 Continuing education requirements for dispensing opticians. Purpose and scope. The purpose of these requirements is to ensure the continued high quality of services provided by the licensed dispensing optician. Continuing education consists of educational activities designed to review existing concepts and techniques and conveys information and knowledge about advances in the field of opticianry, so as to keep the licensed dispensing opticians abreast of current and forecasted developments in a rapidly changing field.

(1) Basic requirements. Licensed dispensing opticians must complete thirty hours of continuing education every three years as required in chapter 246-12 WAC, Part 7.

(2) Fifteen of the credit hours must relate to contact lenses.

(3) Qualification of program for continuing education credit. Courses offered by the organizations and methods listed in this section will be presumed to qualify as continuing education courses. The secretary reserves the authority to refuse to accept credits in any course if the secretary determines that the course did not provide information sufficient in amount or relevancy to opticianry. Qualifying organizations and methods for the purposes of this section shall include in-class training, correspondence courses, video and/or audio tapes offered by any of the following:

- (a) American Board of Opticianry;
- (b) National Academy of Opticianry;
- (c) Optical Laboratories Association;
- (d) National Contact Lens Examiners;
- (e) (~~(Pacific coast contact lens society;~~
- (~~f~~)) Contact Lens Society of America;
- (~~(g~~)) (f) Opticians Association of Washington;
- (~~(h~~)) (g) Joint Commission of Allied Health

Personnel in Ophthalmology:

(h) Council on Optometric Practitioner Education;

(i) Opticianry colleges or universities approved by the secretary;

(~~(j~~)) (j) Speakers sponsored by any of the above organizations;

(~~(k~~)) (k) Any state or national opticianry association; and

(~~(l~~)) (l) Additional qualifying organizations or associations as approved by the secretary.

WSR 08-21-157
PROPOSED RULES
DEPARTMENT OF HEALTH
(Dental Quality Assurance Commission)
[Filed October 22, 2008, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-151, 05-09-001, 07-14-144.

Title of Rule and Other Identifying Information: WAC 246-817-701 through 246-817-780, administration of anesthetic agents for dental procedures, adding, amending and repealing sections to provide clear requirements and practice standards. The proposed rules are being updated to provide clearer education and training requirements and practice standards for licensees providing sedation and general anesthesia.

Hearing Location(s): Department of Health, Point Plaza East Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on December 4, 2008, at 5:45 p.m.

Date of Intended Adoption: December 4, 2008.

Submit Written Comments to: Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by November 28, 2008.

Assistance for Persons with Disabilities: Contact Jennifer Bressi by November 28, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will add equipment, education and training requirements to establish minimum requirements consistent with current standards of practice. The proposed rules will merge all rules associated with administration of anesthetic agents for dental procedures into one section of chapter 246-817 WAC.

Reasons Supporting Proposal: The proposed rules are needed to update existing rules with current sedation and general anesthesia education, training, and practice standards currently being used by dentists. There have been changes in education, training, scope of practice, technology, and procedures over the past several years that outdate existing rules.

Statutory Authority for Adoption: RCW 18.32.640 and 18.32.0365.

Statute Being Implemented: RCW 18.32.640.

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

Name of Proponent: Washington state dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Bressi, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4893.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry. A copy of the statement may be obtained by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be

obtained by contacting Jennifer Bressi, P.O. Box 47867, Olympia, WA 98504, phone (360) 236-4893, fax (360) 664-9077, e-mail jennifer.bressi@doh.wa.gov.

October 21, 2008

Jennifer Bressi

Program Manager

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-701 ((~~Purpose~~)) Administration of anesthetic agents for dental procedures. The purpose of WAC 246-817-701 through ((~~246-817-795~~)) 246-817-790 is to govern the administration of sedation and general anesthesia by dentists licensed in the state of Washington in settings other than hospitals as defined in WAC ((~~246-318-010(31)~~)) 246-320-010 and ambulatory surgical facilities as defined in WAC 246-310-010((~~(5)~~)), pursuant to the DQAC((~~(s)~~)) authority in RCW 18.32.640((~~(2)~~)).

(1) The DQAC has determined that anesthesia permitting should be based on the "level" of anesthesia because anesthesia/sedation is a continuum, and the route of administration and drug combinations are both capable of producing a deeper level of sedation/anesthesia than is initially intended. Practitioners intending to produce a given level of sedation should be able to rescue patients who enter a state deeper than initially intended.

(2) All anesthesia providers must provide twenty-four hour, on-call availability following an anesthesia procedure.

(3) The dental assistant and expanded function dental auxiliary may not administer any general or local anesthetic, including intravenous sedation.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-710 Definitions ((~~for~~))—The definitions in this section apply throughout WAC 246-817-701 through ((246-817-795)) 246-817-790 unless the context clearly requires otherwise. (1) "Analgesia" is the diminution of pain in the conscious patient.

((~~"Conscious sedation"~~ is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and/or verbal command, produced by a pharmacologic method, and that carries a margin of safety wide enough to render unintended loss of protective reflexes unlikely-)) (2) "**Anesthesia**" is the loss of feeling or sensation, especially loss of sensation of pain.

(3) "**Anesthesia assistant/anesthesia monitor**" means a credentialed health care provider specifically trained in monitoring patients under sedation and capable of assisting with procedures, problems and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(4) "**Anesthesia provider**" means a dentist, physician anesthesiologist, dental hygienist or certified registered nurse anesthetist licensed and authorized to practice within the state of Washington.

(5) **"Deep sedation/analgesia"** is a drug induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(6) **"Direct supervision"** means that a licensed provider whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedure to be performed. A dentist must be physically present in the treatment facility while the procedures are performed.

(7) **"Direct visual supervision"** means direct supervision and direct line of sight to the activity being performed, chairside.

(8) **"General anesthesia"** ~~((to include deep sedation))~~ is a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, including the ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof) is a drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof may be impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(9) **"Local anesthesia"** is the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.

(10) **"Minimal sedation"** is a drug induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected.

(11) **"Moderate sedation"** is a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Moderate sedation can include both moderate sedation/analgesia (conscious sedation) and moderate sedation with parenteral agent.

(12) **"Parenteral"** means a technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous).

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-720 Basic life support requirements. ~~((Whenever a licensee administers local anesthesia, nitrous oxide sedation, conscious sedation, or general anesthesia~~

~~(including deep sedation) in an in-office or out-patient setting, the dentist and his/her staff providing direct patient care must have a current basic life support (BLS) certification. New staff hired shall be allowed thirty days from the date they are hired to obtain BLS certification.))~~ **Dental staff providing direct patient care in an in-office or out-patient setting must hold a current and valid health care provider basic life support (BLS) certification. Dental staff providing direct patient care include: Licensed dentists, licensed dental hygienists, licensed expanded function dental auxiliaries, and registered dental assistants.**

~~Newly hired office staff providing direct patient care are required to obtain the required certification within forty-five days from the date hired.~~

NEW SECTION

WAC 246-817-722 Defibrillator. Every dental office in the state of Washington that administers anesthetic must have an automatic external defibrillator (AED) or defibrillator. The dentist and staff must be prepared to use this equipment in an emergency.

NEW SECTION

WAC 246-817-724 Recordkeeping, equipment and emergency medications or drugs required in all sites where anesthetic agents of any kind are administered. (1) Dental records must contain an appropriate medical history and patient evaluation. Any adverse reactions, and all medications and dosages, must be recorded.

(2) Office facilities and equipment must include:

(a) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(b) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;

(c) Blood pressure cuff (sphygmomanometer) of appropriate size;

(d) Stethoscope or equivalent monitoring device.

(3) The following emergency drugs must be available and maintained:

(a) Bronchodilator;

(b) Narcotic antagonist;

(c) Benzodiazepine antagonist;

(d) Antihistaminic;

(e) Coronary artery vasodilator;

(f) Anti-anaphylactic agent.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-730 Local anesthesia. ~~((1) Procedures for administration:))~~ Local anesthesia shall be administered only by a person qualified under this chapter and dental hygienists as provided in chapter 18.29 RCW.

~~((2) Equipment and emergency medications:))~~ (1) All offices ~~((in which local anesthesia is administered))~~ must comply with the ~~((following recordkeeping and equipment standards:~~

(a) ~~Dental records must contain an appropriate medical history and patient evaluation. Any adverse reactions shall be indicated.~~

(b) ~~Office facilities and equipment shall include:~~

(i) ~~Suction equipment capable of aspirating gastric contents from the mouth and pharynx.~~

(ii) ~~Portable oxygen delivery system including full face masks and a bag valve mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched ventilation to the patient.~~

(iii) ~~A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.~~

~~(3)) requirements listed in WAC 246-817-724.~~

~~(2) A permit of authorization is not required.~~

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-740 ((Nitrous oxide/oxygen sedation-)) "Minimal sedation by inhalation" (to include but not limited to nitrous oxide). (1) Training requirements: To administer ((nitrous oxide sedation-)) inhalation minimal sedation a dentist must have completed a course containing a minimum of fourteen hours of either predoctoral dental school or postgraduate instruction in inhalation minimal sedation.

(2) Procedures for administration: ((Nitrous oxide shall)) Inhalation minimal sedation must be administered under the close supervision of a person qualified under this chapter and dental hygienists as provided in chapter 18.29 RCW((-));

(a) When administering ((nitrous oxide)) inhalation minimal sedation, a second individual ((shall)) must be on the office premises ((who can)) able to immediately respond to any request from the person administering the ((nitrous oxide-)) inhalation minimal sedation;

(b) The patient ((shall)) must be continuously observed while ((nitrous oxide)) inhalation minimal sedation is administered.

(3) Equipment and emergency medications: All offices in which ((nitrous oxide)) inhalation minimal sedation is administered must comply with the ((following)) recordkeeping and equipment standards(=

(a) ~~Dental records must contain an appropriate medical history and patient evaluation. A notation must be made in the chart if any nitrous oxide and/or oxygen is dispensed.~~

~~(b) Office facilities and equipment shall include:~~

~~(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.~~

~~(ii) Portable oxygen delivery system including full face masks and a bag valve mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched ventilation to the patient.~~

~~(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices)) listed in WAC 246-817-724.~~

(4) Dental records must contain documentation in the chart of either nitrous oxide, oxygen or any other inhalation sedation agent dispensed. In the case of nitrous oxide seda-

tion only "N₂O used" is required. Other inhalation agents require a dose record noting the time each concentration or agent was used.

(5) Continuing education: A dentist who administers ((nitrous oxide)) inhalation sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas: Sedation((-)); physiology((-)); pharmacology((-nitrous oxide)); inhalation analgesia((-)); patient evaluation((-)); patient monitoring((-)) and medical emergencies((-basic life support (BLS), or advanced cardiac life support (ACLS));).

(b) Healthcare provider basic life support (BLS), or advanced cardiac life support (ACLS) training does not count towards this requirement; however, these continuing education credit hours may be used to meet renewal requirements for the dental license.

~~((5)) (6) A permit of authorization is not required.~~

NEW SECTION

WAC 246-817-745 "Minimal sedation." (1) Training requirements: To administer "minimal sedation," including:

(a) Oral agents, a dentist must have completed a course containing a minimum of fourteen hours of a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440) in the use of oral agents;

(b) Any agent or combination of agents, a dentist must have completed a course containing a minimum of twenty-one hours of either predoctoral dental school or postgraduate instruction.

(2) Procedures for administration:

(a) Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment;

(b) A second individual must be on the office premises and able to immediately respond to any request from the person administering the drug;

(c) The patient shall be continuously observed while in the office under the influence of the drug;

(d) Any adverse reactions must be documented in the records;

(e) If a patient unintentionally enters into a moderate level of sedation, the patient must be returned to a level of minimal sedation as quickly as possible. While returning the patient to the minimal sedation level, periodic monitoring of pulse, respiration, and blood pressure must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(3) Equipment and emergency medications: All offices must comply with the requirements listed in WAC 246-817-724. When a sedative drug is used that has a reversal agent, the reversal agent must be in the office emergency kit and the equipment to administer the reversal agent must be stored with the delivery device. Pulse oximetry equipment or equiv-

alent respiratory monitoring equipment must be available in the office.

(4) Dental records must contain documentation in the chart of all agents administered for minimal sedation. In the case of nitrous oxide sedation only "N₂O used" is required. Other inhalation agents require a dose record noting the time each concentration and agent was used.

(5) Continuing education: A dentist who administers minimal sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas:

- (i) Sedation;
- (ii) Physiology;
- (iii) Pharmacology;
- (iv) Nitrous oxide analgesia;
- (v) Patient evaluation;
- (vi) Patient monitoring; and
- (vii) Medical emergencies;

(b) Health care provider basic life support (BLS) or advanced cardiac life support (ACLS) must be taken in addition to the continuing education requirement; however, these continuing education credit hours may be used to meet the renewal requirements for the dental license.

(6) A permit of authorization is not required.

NEW SECTION

WAC 246-817-755 Moderate sedation. (1) Training requirements: To administer moderate sedation the dentist must have completed a course containing a minimum of seven hours of a predoctoral dental school, postgraduate instruction, or continuing education (as defined in WAC 246-817-440) in moderate sedation in addition to hours required for minimal sedation.

(2) Procedures for administration:

(a) Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment.

(b) A second individual must be on the office premises who can immediately respond to any request from the person administering the drug.

(c) The patient must be continuously observed while in the office under the influence of the drug.

(d) Any adverse reactions must be documented in the records.

(e) If a patient unintentionally enters a deeper level of sedation, the patient must be returned to a level of moderate sedation as quickly as possible. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, and blood pressure and pulse oximetry must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(3) Equipment and emergency medications: All offices must comply with the requirements listed in WAC 246-817-724. When a sedative drug is used that has a reversal agent, the reversal agent must be in the office emergency kit and the

equipment to administer the reversal agent must be stored with the delivery device. Pulse oximetry equipment or equivalent respiratory monitoring equipment must be available in the office.

(4) Continuing education: A dentist who administers moderate sedation to patients must participate in seven hours of continuing education or equivalent every five years.

(a) The education must include instruction in one or more of the following areas: Sedation; physiology; pharmacology; nitrous oxide analgesia; patient evaluation; patient monitoring or medical emergencies.

(b) Health care provider basic life support (BLS) or advanced cardiac life support (ACLS) must be taken in addition to the continuing education requirement; however, these continuing education credit hours may be used to meet the renewal requirements for the dental license.

(5) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-760 (~~Conscious sedation with parenteral or multiple oral agents.~~) Moderate sedation with parenteral agents. (~~Conscious sedation with parenteral or multiple oral agents includes the prescription or administration of more than one oral agent to be used concurrently for the purposes of sedation either as a combined regimen or in association with nitrous oxide oxygen. For purposes of this section, oral agents shall include any non-parenteral agents regardless of route of delivery. This also includes the parenteral administration of medications for the purpose of conscious sedation of dental patients.~~)

(1) Procedures for administration: Multiple oral sedative agents may be administered in the treatment setting or prescribed for patient dosage prior to the appointment. In the treatment setting, a patient receiving conscious parenteral sedation must have that sedation administered by a person qualified under this chapter. Only a dentist meeting the above criteria for administration of conscious parenteral sedation may utilize the services of a nurse licensed pursuant to chapter 18.88 RCW to administer conscious parenteral sedation under the close supervision of the dentist as defined in WAC 246-817-510. An intravenous infusion shall be maintained during the administration of a parenteral agent. The person administering the medications must be continuously assisted by at least one individual experienced in monitoring sedated patients.

In the treatment setting, a patient experiencing conscious sedation with parenteral or multiple oral agents shall have visual and tactile observation as well as continual monitoring of pulse, respiration, and blood pressure and/or blood oxygen saturation. Unless prevented by the patient's physical or emotional condition, these vital sign parameters must be noted and recorded whenever possible prior to the procedure. In all cases these vital sign parameters must be noted and recorded at the conclusion of the procedure. Blood oxygen saturation must be continuously monitored and recorded at appropriate intervals throughout any period of time in which purposeful response of the patient to verbal command cannot be main-

tained. The patient's level of consciousness shall be recorded prior to the dismissal of the patient and individuals receiving these forms of sedation must be accompanied by a responsible individual upon departure from the treatment facility. When verbal contact cannot be maintained during the procedure, continuous monitoring of blood oxygen saturation is required.

(2) Equipment and emergency medications: All offices in which parenteral or multiple oral sedation is administered or prescribed must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Dosage and forms of medications dispensed shall be noted.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation and oral and nasal pharyngeal airways of appropriate size.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(iv) An emergency drug kit with minimum contents of:

-Sterile needles, syringes, and tourniquet

-Narcotic antagonist

-A and B adrenergic stimulant

-Vasopressor

-Coronary vasodilator

-Antihistamine

-Parasympatholytic

-Intravenous fluids, tubing, and infusion set

-Sedative antagonists for drugs used if available.

(3) Continuing education: A dentist who administers conscious parenteral or multiagent oral sedation must participate in eighteen hours of continuing education or equivalent every three years. The education must include instruction in one or more of the following areas: Venipuncture, intravenous sedation, physiology, pharmacology, nitrous oxide analgesia, patient evaluation, patient monitoring, medical emergencies, basic life support (BLS), or advanced cardiac life support (ACLS).

(4) A permit of authorization is required. (See WAC 246-817-175 for training requirements.)) (1) Training requirements: To administer moderate sedation with parenteral agents, the dentist must have successfully completed a postdoctoral course(s) of sixty clock hours or more which includes training in basic moderate sedation, physical evaluation, venipuncture, technical administration, recognition and management of complications and emergencies, monitoring, and supervised experience in providing moderate sedation to fifteen or more patients.

(2) In addition to meeting the above criteria, the dentist must also have a current and documented proficiency in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS). One way to demonstrate such proficiency is to hold a valid and current ACLS, PALS certificate or equivalent.

(3) Procedures for administration:

(a) In the treatment setting, a patient receiving moderate parenteral sedation must have that sedation administered by a person qualified under this chapter.

(b) A patient may not be left alone in a room and must be monitored by a dentist or trained anesthesia monitor.

(c) An intravenous infusion shall be maintained during the administration of a parenteral agent.

(d) When the operative dentist is also the person administering the moderate sedation, the operative dentist must be continuously assisted by at least one individual experienced in monitoring sedated patients.

(e) In the treatment setting, a patient experiencing moderate sedation with parenteral agents shall have visual and tactile observation as well as continual monitoring of pulse, respiration, blood pressure and blood oxygen saturation. Unless prevented by the patient's physical or emotional condition, these vital sign parameters must be noted and recorded whenever possible prior to the procedure. In all cases these vital sign parameters must be noted and recorded at the conclusion of the procedure.

(f) Blood oxygen saturation must be continuously monitored and recorded at appropriate intervals.

(g) The patient's level of consciousness shall be recorded prior to the dismissal of the patient.

(h) Patient's receiving these forms of sedation must be accompanied by a responsible adult upon departure from the treatment facility.

(i) If a patient unintentionally enters a deeper level of sedation, the patient must be returned to a level of moderate sedation as quickly as possible. While returning the patient to the moderate level of sedation, periodic monitoring of pulse, respiration, blood pressure and continuous monitoring of oxygen saturation must be maintained. In such cases, these same parameters must be taken and recorded at appropriate intervals throughout the procedure and vital signs and level of consciousness must be recorded during the sedation and prior to dismissal of the patient.

(4) Dental records must contain appropriate medical history and patient evaluation. Dosage and forms of medications dispensed shall be noted.

(5) Equipment and emergency medications: All offices in which moderate parenteral sedation is administered or prescribed must comply with the following equipment standards:

Office facilities and equipment shall include:

(a) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(b) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation and oral and nasal pharyngeal airways of appropriate size;

(c) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices;

(d) An emergency drug kit with minimum contents of:

(i) Sterile needles, syringes, and tourniquet;

(ii) Narcotic antagonist;

(iii) Alpha and beta adrenergic stimulant;

(iv) Vasopressor;

(v) Coronary vasodilator;

(vi) Antihistamine;

(vii) Parasympatholytic;

(viii) Intravenous fluids, tubing, and infusion set; and

(ix) Sedative antagonists for drugs used, if available.

(6) Continuing education: A dentist who administers moderate parenteral sedation must participate in eighteen hours of continuing education or equivalent every three years.

(a) The education must include instruction in one or more of the following areas: Venipuncture; intravenous sedation; physiology; pharmacology; nitrous oxide analgesia; patient evaluation; patient monitoring and medical emergencies.

(b) Health care provider basic life support (BLS), advanced cardiac life support (ACLS) or pediatric advanced life support (PALS) must be taken in addition to the continuing education requirement; however, these continuing education credit hours may be used to meet the renewal requirements for the dental license.

(7) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-770 General anesthesia ((including) and deep sedation((b))). Deep sedation and general anesthesia must be administered by an individual qualified to do so under this chapter.

~~((1) Training requirements for monitoring personnel: In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions. The individual monitoring patients receiving deep sedation or general anesthesia must have received a minimum of fourteen hours of documented training in a course specifically designed to include instruction and practical experience in use of all equipment required in this section. This must include, but not be limited to, the following equipment:~~

~~(a) Sphygmomanometer;~~

~~(b) Pulse oximeter;~~

~~(c) Electrocardiogram;~~

~~(d) Bag-valve-mask resuscitation equipment;~~

~~(e) Oral and nasopharyngeal airways;~~

~~(f) Defibrillator;~~

~~(g) Intravenous fluid administration set.~~

~~A course, or its equivalent, may be presented by an individual qualified under this section or sponsored by an accredited school, medical or dental association or society, or dental specialty association.~~

~~(2) Procedures for administration: Patients receiving deep sedation or general anesthesia must have continual monitoring of their heart rate, blood pressure, and respiration. In so doing, the licensee must utilize electrocardiographic monitoring and pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at least every five minutes. During deep sedation or general anesthesia, the per-~~

~~son administering the anesthesia and the person monitoring the patient, may not leave the immediate area.~~

~~During the recovery phase, the patient must be monitored continually by an individual trained to monitor patients recovering from general anesthesia or deep sedation. A discharge entry shall be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.~~

~~(3) Equipment and emergency medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following recordkeeping and equipment standards:~~

~~(a) Dental records must contain appropriate medical history and patient evaluation. Anesthesia records shall be recorded during the procedure in a timely manner and must include: Blood pressure, heart rate, respiration, blood oxygen saturation, drugs administered including amounts and time administered, length of procedure, any complications of anesthesia.~~

~~(b) Office facilities and equipment shall include:~~

~~(i) An operating theater large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient.~~

~~(ii) An operating table or chair which permits the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support.~~

~~(iii) A lighting system which is adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any operation underway at the time of general power failure.~~

~~(iv) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available.~~

~~(v) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system.~~

~~(vi) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater.~~

~~(vii) Ancillary equipment which must include the following:~~

~~(A) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb.~~

~~(B) Endotracheal tubes and appropriate connectors.~~

~~(C) Oral airways.~~

~~(D) Tonsillar or pharyngeal suction tip adaptable to all office outlets.~~

~~(E) Endotracheal tube forceps.~~

~~(F) Sphygmomanometer and stethoscope.~~

~~(G) Adequate equipment to establish an intravenous infusion.~~

~~(H) Pulse oximeter.~~

~~(I) Electrocardiographic monitor.~~

~~(J) Synchronized defibrillator available on premises.~~

~~(e) Drugs. Emergency drugs of the following types shall be maintained:~~

(i) Vasopressor.
 (ii) Corticosteroid.
 (iii) Bronchodilator.
 (iv) Muscle relaxant.
 (v) Intravenous medications for treatment of cardiac arrest.
 (vi) Narcotic antagonist. Sedative antagonist, if available.
 (vii) Antihistaminic.
 (viii) Anticholinergic.
 (ix) Antiarrhythmic.
 (x) Coronary artery vasodilator.
 (xi) Antihypertensive.
 (xii) Anticonvulsant.

(4) Continuing education: A dentist granted a permit to administer general anesthesia (including deep sedation) under this chapter, must participate in eighteen hours of continuing education every three years. A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years. The education must be provided by organizations approved by the DQAC and must be in one or more of the following areas: General anesthesia, conscious sedation, physical evaluation, medical emergencies, monitoring and use of monitoring equipment, pharmacology of drugs and agents used in sedation and anesthesia, or basic life support (BLS), or advanced cardiac life support (ACLS).

(5) A permit of authorization is required:)) (1) Training requirements: To administer deep sedation or general anesthesia, the dentist must meet one or more of the following criteria:

(a) Any provider currently permitted as of the effective date of this revision to provide deep sedation or general anesthesia by the state of Washington will be grandfathered regarding formal training requirements, provided they meet current continuing education and other ongoing applicable requirements.

(b) New applicants with anesthesia residency training will be required to have had two years of continuous full-time anesthesia training meeting the following requirements based on when they began their anesthesia training:

(i) For dentists who began their anesthesia training prior to 2008, training must include two full years of continuous full-time training in anesthesiology beyond the undergraduate dental school level, in a training program as outlined in part 2 of "*Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry*," published by the American Dental Association, Council on Dental Education (last revised October 2005).

(ii) For dentists who begin their anesthesia training in January 2008 or after, must have either received a certificate of completion.

(A) From a dental anesthesiology program accredited by CODA (ADA Commission on Dental Accreditation, "*Accreditation Standards for Advanced General Dentistry Education Programs in Dental Anesthesiology*," January 2007); or

(B) From a dental anesthesiology program approved by the Dental Quality Assurance Commission; or

(C) With a minimum of two years of full-time anesthesia residency training at a medical program accredited by the Accreditation Council for Graduate Medical Education (ACGME).

(c) New applicants who completed residency training in oral and maxillofacial surgery must meet at least one of the following requirements:

(i) Be a diplomate of the American Board of Oral and Maxillofacial Surgery;

(ii) Be a fellow of the American Association of Oral and Maxillofacial Surgeons; or

(iii) Be a graduate of an Oral and Maxillofacial Residency Program accredited by CODA.

(2) In addition to meeting one or more of the above criteria, the dentist must also have a current and documented proficiency in advanced cardiac life support (ACLS).

(3) Procedures for administration:

(a) Patients receiving deep sedation or general anesthesia must have continual monitoring of their heart rate, blood pressure, and respiration. In so doing, the licensee must utilize electrocardiographic monitoring and pulse oximetry;

(b) The patient's blood pressure and heart rate shall be recorded every five minutes and respiration rate shall be recorded at least every fifteen minutes;

(c) During deep sedation or general anesthesia, the person administering the anesthesia and the person monitoring the patient may not leave the immediate area;

(d) During the recovery phase, the patient must be continually observed by the anesthesia provider or credentialed personnel;

(e) A discharge entry shall be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.

(4) Dental records must contain appropriate medical history and patient evaluation. Anesthesia records shall be recorded during the procedure in a timely manner and must include: Blood pressure; heart rate; respiration; blood oxygen saturation; drugs administered including amounts and time administered; length of procedure; and any complications of anesthesia.

(5) Equipment and emergency medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following equipment standards:

(a) An operating theater large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which is adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any operation underway at the time of general power failure;

(d) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available;

(e) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system;

(f) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater;

(g) Ancillary equipment which must include the following:

(i) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb;

(ii) Endotracheal tubes and appropriate connectors, and laryngeal mask airway (LMA) and other appropriate equipment necessary to do an intubation;

(iii) Oral airways;

(iv) Tonsillar or pharyngeal suction tip adaptable to all office outlets;

(v) Endotracheal tube forceps;

(vi) Sphygmomanometer and stethoscope;

(vii) Adequate equipment to establish an intravenous infusion;

(viii) Pulse oximeter or equivalent;

(ix) Electrocardiographic monitor;

(x) Defibrillator or automatic external defibrillator (AED) available and in reach within sixty seconds from any area where general or deep anesthesia care is being delivered. Multiple AEDs or defibrillators may be necessary in large facilities. The AED or defibrillator must be on the same floor. (In dental office settings where sedation or general anesthesia are not administered, AEDs or defibrillators are required as defined in WAC 246-817-722);

(h) Emergency drugs of the following types shall be maintained:

(i) Vasopressor or equivalent;

(ii) Corticosteroid or equivalent;

(iii) Bronchodilator;

(iv) Muscle relaxant;

(v) Intravenous medications for treatment of cardiac arrest;

(vi) Narcotic antagonist;

(vii) Benzodiazepine antagonist;

(viii) Antihistaminic;

(ix) Anticholinergic;

(x) Antiarrhythmic;

(xi) Coronary artery vasodilator;

(xii) Antihypertensive;

(xiii) Anticonvulsant.

(6) Continuing education:

(a) A dentist granted a permit to administer general anesthesia (including deep sedation) under this chapter, must complete eighteen hours of continuing education every three years.

A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years.

(b) The education must be provided by organizations approved by the DQAC and must be in one or more of the following areas: General anesthesia; conscious sedation; physical evaluation; medical emergencies; pediatric advanced life

support (PALS); monitoring and use of monitoring equipment; pharmacology of drugs; and agents used in sedation and anesthesia.

(c) Hourly credits earned from certification in health care provider basic life support (BLS) and advanced cardiac life support (ACLS) courses may not be used to meet the continuing education hourly requirements for obtaining or renewing a general anesthesia and deep sedation permit, however these continuing education hours may be used to meet the renewal requirement for the dental license.

(7) A permit of authorization is required. See WAC 246-817-774 for permitting requirements.

NEW SECTION

WAC 246-817-772 Training requirements for anesthesia monitor. (1) In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions.

(2) When the dentist is also administering the deep sedation or general anesthesia, one additional appropriately trained team member must be designated for patient monitoring.

(3) When deep sedation or general anesthesia is administered by a dedicated anesthesia provider, the anesthesia provider may serve as the monitoring personnel.

(4) The dentist cannot employ an individual to monitor patients receiving deep sedation or general anesthesia unless that individual has received a minimum of fourteen hours of documented training (such as national certification American Association of Oral and Maxillofacial Surgeons "AAOMS") in a course specifically designed to include instruction and practical experience in use of equipment to include, but not be limited to, the following equipment:

(a) Sphygmomanometer; or a device able to measure blood pressure;

(b) Pulse oximeter; or other respiratory monitoring equipment;

(c) Electrocardiogram;

(d) Bag-valve-mask resuscitation equipment;

(e) Oral and nasopharyngeal airways;

(f) Defibrillator; automatic external defibrillator.

(5) The course referred to in subsection (4) of this section must also include instruction in:

(a) Basic sciences;

(b) Evaluation and preparation of patients with systemic diseases;

(c) Anesthetic drugs and techniques;

(d) Anesthesia equipment and monitoring; and

(e) Office anesthesia emergencies.

NEW SECTION

WAC 246-817-774 Permitting/renewal requirements. (1) To administer moderate sedation (oral and/or parenteral), or general anesthesia (including deep sedation), a dentist must first meet the requirements of this chapter, possess and maintain a current dental license pursuant to chapter 18.32 RCW and obtain a permit of authorization from the DQAC through the department of health. Application forms

for permits may be obtained on-line or from the department and must be fully completed and include the current application fee.

(2) A permit of authorization is valid for three years from the date of issuance and must be renewed prior to the expiration date.

(3) In addition to the renewal application form, the permit holder must:

(a) Demonstrate continuing compliance with this chapter.

(b) Submit satisfactory evidence of continuing education hours as required by this chapter.

The dentist must maintain records that can be audited and must submit course titles, instructors, dates of attendance, sponsors and number of hours for each course every three years as required by this chapter.

(c) Pay the applicable renewal fee.

(4) Site visits may be conducted at the DQAC discretion. Site visits will be conducted by an anesthesia provider permitted at the same level, in conjunction with a department of health investigator. Site visits may include the evaluation of equipment, medications, patient records, documentation of training of personnel, and other items as determined necessary.

NEW SECTION

WAC 246-817-776 Discharge criteria for all levels of sedation/general anesthesia. The anesthesia provider must assess patient responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(1) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(2) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(3) The patient can talk and respond coherently to verbal questioning as appropriate to age and preoperative psychological status;

(4) The patient can sit up unassisted;

(5) The patient can walk with minimal assistance;

(6) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness;

(7) A discharge entry must be made in the patient's record by the anesthesia provider indicating the patient's condition upon discharge, and the name of the responsible party to whom the patient is released (if a patient is required to be released to a responsible party);

(8) If the patient does not meet established discharge criteria, the anesthesia provider must evaluate the patient and determine if the patient has safely recovered to be discharged. The evaluation determining that the patient can be safely discharged must be noted in the patient's record.

NEW SECTION

WAC 246-817-778 Nondental anesthesia providers.

(1) A licensed dentist, certified registered nurse anesthetist (CRNA) or physician anesthesiologist may provide anesthesia services in dental offices where dentists do not have an

anesthesia permit when the anesthesia provider ensures that all equipment, facility, monitoring and assistant training requirements as established within this chapter related to anesthesia have been met. The anesthesia provider is exclusively responsible for the pre, intra, and post operative anesthetic management of the patient.

(2) The dentist without a general anesthesia permit must establish a written contract with the anesthesia provider to guarantee that when anesthesia is provided, all facility, equipment, monitoring and training requirements, for all personnel, as established by DQAC related to anesthesia, have been met.

(a) The dentist and the anesthesia provider may agree upon and arrange for the provision of items such as facility, equipment, monitoring and training requirements to be met by either party, provided the delineation of such responsibilities is written into the contract.

(b) Any contract under this section must state that the anesthesia provider must ensure anesthesia related requirements as set forth in this chapter have been met.

AMENDATORY SECTION (Amending WSR 95-21-041, filed 10/10/95, effective 11/10/95)

WAC 246-817-780 Mandatory reporting of death or significant complication as a result of any dental procedure. ~~((If a death or other life-threatening complication or permanent injury which may be a result of the administration of nitrous oxide, conscious sedation, deep sedation or general anesthesia, the dentist involved must submit a written report to the DQAC within thirty days of the incident.~~

~~The written report must include the following:~~

~~(1) Name, age, and address of the patient.~~

~~(2) Name of the dentist and other personnel present during the incident.~~

~~(3) Address of the facility or office where the incident took place.~~

~~(4) Description of the type of sedation or anesthetic being utilized at the time of the incident.~~

~~(5) Dosages, if any, of drugs administered to the patient.~~

~~(6) A narrative description of the incident including approximate times and evolution of symptoms.~~

~~(7) Additional information which the DQAC may require or request.)) All licensees engaged in the practice of dentistry must submit a report of any patient death or other life-threatening incident or complication, permanent injury or admission to a hospital that results in a stay at the hospital for more than twenty-four hours, which is or may be a result of a dental procedure caused by a dentist or dental treatment.~~

(1) The dentist involved must notify the department of health/DQAC, by telephone, e-mail or fax within seventy-two hours of discovery and must submit a complete written report to the DQAC within thirty days of the incident.

(2) When a patient comes into an office with an existing condition, and hospital admission is the result of that condition and not the dental procedure, it is not reportable.

(3) The written report must include the following:

(a) Name, age, and address of the patient.

(b) Name of the dentist and other personnel present during the incident.

- (c) Address of the facility or office where the incident took place.
- (d) Description of the type of sedation or anesthetic being utilized at the time of the incident.
- (e) Dosages, if any, of drugs administered to the patient.
- (f) A narrative description of the incident including approximate times and evolution of symptoms.
- (g) Additional information which the DQAC may require or request.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|---|
| WAC 246-817-170 | Applications—Permits—Renewals for the administration of conscious sedation with multiple oral or parenteral agents or general anesthesia (including deep sedation). |
| WAC 246-817-175 | Conscious sedation with parenteral or multiple oral agents—Education and training requirements—Application. |
| WAC 246-817-180 | General anesthesia (including deep sedation)—Education and training requirements. |
| WAC 246-817-750 | Conscious sedation with an oral agent. |

**WSR 08-21-160
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION**

[Filed October 22, 2008, 9:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-14-167.

Title of Rule and Other Identifying Information: Amends WAC 390-16-310 Limitations on contributions, to include the term "domestic partner" when referencing spouse or other immediate family members, to clarify contribution limits, to include the statutory reference to RCW 42.17.645, and to incorporate language clarifying that limited liability partnerships (LLP) and limited liability corporations (LLC) have a separate contribution limit from their individual members.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA, on December 4, 2008, at 9:30 a.m.

Date of Intended Adoption: December 4, 2008.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA

98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by November 24, 2008.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to WAC 390-16-310 are needed to conform to Section 1303 of 2SHB 3104 that requires state agencies to adopt rules to implement the legislation by January 2009. The rule includes domestic partner when referencing spouse or other immediate family members and clarifies contribution limitations under RCW 42.17.640 and 42.17.645.

Reasons Supporting Proposal: To implement 2SHB 3104.

Statutory Authority for Adoption: RCW 42.17.370 and 2SHB 3104, Section 1303.

Statute Being Implemented: Chapter 6, Laws of 2008, RCW 42.17.105, 42.17.640, and 42.17.645.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amended rule is designed to clarify the definition and use of "domestic partner" for purposes of public disclosure and to clarify limitations on contributions.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of this rule amendment has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of this rule pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of this rule.

October 22, 2008

Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 05-06-070, filed 3/1/05, effective 4/1/05)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17.105 (8) (~~and RCW~~), 42.17.640, and 42.17.645 shall be as follows:

(1)(a) The limitation on contributions in RCW 42.17.640 or 42.17.645 shall not apply to a "candidate" as that term is defined in RCW 42.17.020(~~(8)~~) when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17.105(8), 42.17.640, or 42.17.645 shall apply to contributions to the candidate from the candidate's spouse, domestic partner or other immediate family members.

(2) ~~((The limitations on contributions shall apply separately to the contributions made by each spouse.))~~ Contributions by a husband and wife are considered separate contributions. Contributions by domestic partners are considered separate contributions.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions and the contribution is properly attributed to the emancipated minor child if;

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to ~~((the))~~ that parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under RCW 42.17.105(8) ~~((and)),~~ 42.17.640, or 42.17.645.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership, limited liability partnership and limited liability corporation from the contributions made by an individual partner ~~((except that,))~~ or member. However, contributions made from or charged against the capital account of an individual partner, or member of a limited liability partnership or limited liability corporation shall be aggregated with the partner's or member's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8) ~~((and)),~~ 42.17.640, or 42.17.645.

(6) The limitations on contributions in RCW 42.17.105(8), 42.17.640, and 42.17.645 shall apply separately to the contributions made by an entity (corporation, subsidiary or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and their local units) ~~((pursuant to))~~ unless the ~~((standards set forth))~~ criteria in RCW 42.17.660 and WAC 390-16-309 are met.

WSR 08-21-162
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Division of Consumer Services)
 [Filed October 22, 2008, 10:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-052 [08-14-050].

Title of Rule and Other Identifying Information: Amending the rules in chapter 208-620 WAC, implementing the Consumer Loan Act, chapter 31.04 RCW.

Hearing Location(s): John A. Cherberg Senate Building, Senate Hearing Room 3, Capitol Campus, Olympia, Washington 98504, on November 25, 2008, at 9:00 a.m. to 11:00 a.m.

Date of Intended Adoption: December 23, 2008.

Submit Written Comments to: Elizabeth Stancil, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, e-mail estancil@dfi.wa.gov, fax (360) 586-5068, by November 21, 2008.

Assistance for Persons with Disabilities: Contact Elizabeth Stancil by November 17, 2008, TTY (360) 664-8126 or (360) 902-8793.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending the rules in chapter 208-620 WAC to implement chapters 78 and 108, Laws of 2008, that amend the Consumer Loan Act, and to generally amend the rules for clarity and consistency.

Reasons Supporting Proposal: Passage of chapters 78 and 108, Laws of 2008.

Statutory Authority for Adoption: RCW 43.320.040.

Statute Being Implemented: Chapter 31.04 RCW.

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

Name of Proponent: Department of financial institutions, division of consumer services, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Olympia, WA, (360) 902-8800; Implementation and Enforcement: Deb Bortner, 150 Israel Road, Olympia, WA, (360) 902-8800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments will not impose more than minor costs on the businesses impacted by the proposed rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

October 22, 2008

Deborah Bortner, Director
 Division of Consumer Services

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

"Act" means the Consumer Loan Act, chapter 31.04 RCW.

"Affiliate" means any person who controls, is controlled by, or is under common control with another.

"Annual percentage interest rate" means the rate of interest specified in the note.

"Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. Section 226 et seq.

"Bank Secrecy Act" means the Bank Secrecy Act (BSA), 31 U.S.C. 1051 et seq. and 31 C.F.R. Section 103.

"Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

"Borrower" means any natural person who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan, regardless of whether that person actually obtains such a loan.

"Common ownership" exists if an entity or entities possess an ownership or equity interest of five percent or more in another entity.

"Department" means the department of financial institutions.

"Depository Institutions Deregulatory and Monetary Control Act" means the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDMCA), 12 U.S.C. § 1735f-7a.

"Director" means the director of the department of financial institutions or his or her designated representative.

"Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. section 1691 and Regulation B, 12 C.F.R. Section 202.

"Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Section 1681 et seq.

"Fair Debt Collection Practices Act" means the Fair Debt Collection Practices Act, 15 U.S.C. sections 1692 through 1692o.

"Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. section 45(a).

"Filing" means filing, recording, releasing or reconveying mortgages, deeds of trust, security agreements or other documents, or transferring certificates of title to vehicles.

"Gramm-Leach-Bliley Act (GLBA)" means the ~~((Gramm-Leach-Bliley Act (GLBA)))~~ Financial Modernization Act of 1999, 15 U.S.C. ~~((sections 6801 through 6809 and 6821 through 6827))~~ Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

"Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. sections 2801 through 2810 and 12 C.F.R. Section 203.

"Insurance" means life insurance, disability insurance, property insurance, insurance covering involuntary unemployment and such other insurance as may be authorized by the insurance commissioner in accordance with Title 48 RCW.

"Lender" means any person that extends money to a borrower with the expectation of being repaid.

"License" means a license issued under the authority of this chapter with respect to a single place of business.

"Licensee" means a person who holds one or more current licenses.

"Live check" means a loan solicited through the mail in the form of a check, which, when endorsed by the payee, binds the payee to the terms of the loan agreement contained on the check.

"Loan" means a sum of money lent at interest or for a fee or other charges and includes both open-end and closed-end transactions.

"Loan originator" means the same as in RCW 19.146.-010.

"Long-term subordinated debt" means for the purposes required in RCW 31.04.045 outstanding promissory notes or other evidence of debt with initial maturity of at least seven years and remaining maturity of at least two years.

"Material litigation" means proceedings that differ from the ordinary routine litigation incidental to the business. Litigation is ordinary routine litigation if it ordinarily results from the business and does not deviate from the normal business litigation. Litigation involving five percent of the licensee's assets or litigation involving the government would constitute material litigation.

"Mortgage broker" means the same as in RCW 19.146.-010 except that for purposes of this chapter, a licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a mortgage broker in the same transaction.

"Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

"Out-of-state licensee" means any licensee that does not maintain a physical presence within the state.

"Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.

"Principal" means either (1) any person who controls, directly or indirectly through one or more intermediaries, a ten percent or greater interest in a partnership, company, association or corporation; or (2) the owner of a sole proprietorship.

"Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

"Principal balance" means the principal amount plus any allowable origination fee.

"RCW" means the *Revised Code of Washington*.

"Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Sections 2601 et seq., and Regulation X, 24 C.F.R. Sections 3500 et seq.

"Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

"Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or "S.A.F.E. Act" means Title V of the Housing and Economic Recovery Act of 2008 ("HERA" or H.R. 3221), Public Law No. 110-289, effective July 30, 2008.

"Senior officer" means an officer of a consumer loan company at the vice-president level or above.

"Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. Each payment shall first be applied to any unpaid penalties, fees, or charges, then to accumulated interest, and last to the unpaid balance of the principal amount until paid in full. In using such method, interest shall not be payable in advance or compounded.

"State" means the state of Washington.

"Subsidiary" means a person that is controlled by another.

"Telemarketing and Consumer Fraud and Abuse Act" means the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. § 6101 to 6108.

"Telephone Sales Rule" means the rules promulgated in 16 C.F.R. Part 310.

"Third-party service provider" means any person other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

"Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sections 1601 et seq., and Regulation Z, 12 C.F.R. Sections 226 et seq.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-230 Do I need to apply for a consumer loan license if I am lending money in the state of Washington? ~~((In order to make credit available to high risk borrowers the act authorizes interest rates up to twenty-five percent for certain types of loans, subject to the requirements of the act.))~~ If you are in the business of making secured or unsecured loans of money or credit at rates above those allowed under chapter 19.52 RCW, the Usury Act, and you do not qualify for an exception under RCW 31.04.025, you must hold a license to avoid noncompliance with the Usury Act. The current allowable rate under RCW 19.52.020 is twelve percent or less but that rate may change.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-235 Is there a maximum rate of interest allowed under the act? ~~((The legislature authorized interest rates up to twenty-five percent for loans made under the act in order to make credit available to high risk borrowers.))~~ Yes. Interest rates not exceeding twenty-five percent per annum are allowed.

AMENDATORY SECTION (Amending WSR 08-15-125, filed 7/22/08, effective 8/22/08)

WAC 208-620-320 What is the amount of the bond required for my consumer loan license? (1) **Loans not secured by real estate.** For licensees making loans not secured by real property, the penal sum of the bond is one hundred thousand dollars for each office up to five locations. For each additional branch office over five, the amount of the bond must be increased by ten thousand dollars.

(2) **Loans secured by real estate.** For a licensee making loans secured by real property, the penal sum of the bond is four hundred thousand dollars ~~((for the first five locations. For each additional branch office over five, the amount of the bond must be increased by ten thousand dollars, up to a maximum bond amount of seven hundred thousand dollars. For example:))~~

((Number of Offices	Penal Sum of Bond -- Licensee making non-real estate loans	Penal Sum of Bond -- Licensee making real estate loans
1	\$100,000	\$400,000
2	\$200,000	\$400,000
3	\$300,000	\$400,000
4	\$400,000	\$400,000
5	\$500,000	\$400,000
6	\$510,000	\$410,000
7	\$520,000	\$420,000
8	\$530,000	\$430,000
9	\$540,000	\$440,000
10	\$550,000	\$450,000))

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-330 Does the surety bond need to reflect coverage for licensee and its W-2 employees and independent contractors? Yes. The surety bond ~~((needs to))~~ must cover both the licensee and all ~~((types of))~~ employees and independent contractors working for the licensee. ~~((If a licensee has independent contractors, exclusive or otherwise, the bond needs to cover them, as well as employees of the licensee.))~~

NEW SECTION

WAC 208-620-511 What is the disclosure required under RCW 19.144.020? See WAC 208-600-200.

AMENDATORY SECTION (Amending WSR 06-04-053, filed 1/27/06, effective 2/27/06)

WAC 208-620-560 What restrictions are there for charging fees on junior lien loans other than the loan origination fee when acting as a lender or correspondent lender? (1) **Filing fees.** A licensee cannot charge or collect any funds from the borrower for the cost of filing, as defined in WAC 208-620-010, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing. Any fee a licensee collects for releasing or reconveying the security for the obligation must be paid to an unrelated third party.

(2) **Dishonored check fees.** A licensee may not charge or collect a fee in excess of twenty-five dollars for a check returned unpaid by the bank drawn upon. Only one fee may be collected with respect to a particular check even if it has been redeposited and returned more than once.

(3) **Fees for third-party services.** A licensee may not charge or collect any fee to be paid to a third-party service provider, as defined in WAC 208-620-010, in excess of the actual costs paid or to be paid. A licensee may charge the borrower for costs of allowable third-party services as provided by RCW 31.04.105(3) at the time of application for the loan or at any time thereafter except as prohibited.

(4) Credit and noncredit insurance.

(a) Except for the transaction described in (b) of this subsection, a licensee may include the premiums for credit and noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing and the borrower's confirmation is obtained by signature on the disclosure form.

(b) A licensee may not sell single premium credit insurance to a borrower at the inception of coverage unless the sale is in compliance with chapter 48.18 RCW.

(5) Fees on existing loans. Unless otherwise preempted under the Depository Institutions Deregulatory and Monetary Control Act, if a licensee makes a new loan or increases a credit line within one hundred twenty days after originating a previous loan or credit line to the same borrower, the origination fee on the new loan or increased credit line shall be limited as follows:

(a) The licensee may charge an origination fee only on that part of the new loan not used to pay the amount due on the previous loan;

(b) The licensee may charge an origination fee only on the difference between the amount of the existing credit line and the increased credit line;

(c) The limits in (a) and (b) of this subsection do not apply if the licensee refunds the origination fee on the existing loan or credit line.

(6) Administrative fees. A licensee may not collect a document preparation fee, a processing fee or a courier fee unless paid to an unrelated third party and agreed to in advance by the borrower.

(7) Prepayment penalty. A licensee may not collect a prepayment penalty on the following loans:

(a) Any nonmortgage loan made at rates authorized by the act; or

(b) Any adjustable rate residential mortgage loan in violation of RCW 19.144.040; or

(c) Any junior lien mortgage loan made at rates authorized by the act; or

~~((e))~~ (d) Any loan made by a licensee that is not a "creditor" under DIDMCA.

NEW SECTION

WAC 208-620-565 What fees am I allowed and not allowed to charge or receive when acting as a broker under the act? When acting as a broker under the act, you are allowed to:

(1) Charge and collect a broker's fee pursuant to WAC 208-620-515 (1)(b).

(2) Receive a yield spread premium (YSP). You must disclose the YSP as a dollar amount or dollar amount range on the good faith estimate, and as a dollar amount on the settlement statement.

(3) Charge a processing fee. When acting as a broker under the act, you are NOT allowed to:

(a) Charge or receive fees on discount points;

(b) Charge or receive a loan origination fee in addition to a broker's fee; or

(c) Charge or receive an underwriting fee.

AMENDATORY SECTION (Amending WSR 08-15-125, filed 7/22/08, effective 8/22/08)

WAC 208-620-611 What federal guidance has the director adopted for use by the department in determining if a violation under RCW 31.04.027 has occurred? The director has adopted:

~~((1) The Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators Guidance on Nontraditional Mortgage Product Risks; and~~

~~(2) The Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators, and National Association of Consumer Credit Administrators Statement on Subprime Mortgage Lending-))~~ (1) The Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators "Guidance on Nontraditional Mortgage Product Risks" (released November 14, 2006); and

(2) The Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators, and National Association of Consumer Credit Administrators "Statement on Subprime Mortgage Lending," effective July 10, 2007 (published in the Federal Register at Vol. 72, No. 131).

NEW SECTION

WAC 208-620-612 What must I do to comply with the federal guidelines on nontraditional mortgage loan product risks and statement on subprime lending? You must adopt written policies and procedures implementing the federal guidelines. The policies and procedures must be maintained as a part of your books and records and must be made available to the department upon request.

NEW SECTION

WAC 208-620-613 When I develop policies and procedures to implement the federal guidelines, what topics must be included? (1) The policies and procedures must include, at a minimum, underwriting standards, risk management, consumer protection, and control systems. If you only broker loans under your CLA license, your policies and procedures must comply with WAC 208-660-XXX. For purposes of this section, the definition of "subprime" and "subprime loans" is taken from the *2001 Interagency Expanded Guidance for Subprime Lending Programs* (an attachment to SR 01-4 (GEN), January 31, 2001, by the Board of Governors of the Federal Reserve System, Division of Banking, Supervision and Regulation).

(a) Underwriting standards. To ensure that underwriting standards are consistent with prudent lending practices, the underwriting standards should include, at a minimum, an analysis of borrower characteristics, loan product attributes, and the borrower's ability to repay the obligation.

(i) Analysis of borrower characteristics. The analysis must include tolerances for combining borrowers with certain characteristics with certain nontraditional loan products.

The criteria or range of reasonable tolerances should consider the characteristics listed in the *2001 Interagency Expanded Guidance for Subprime Lending Programs*.

(ii) Loan product attributes. Products with the following attributes, when combined with the borrower characteristics above result in higher risk. The risks are increased if borrowers are not adequately informed of the product features and risks.

- Low initial payments based on a fixed introductory rate that expires after a short time and then adjusts to a variable index rate plus a margin. Because initial and subsequent monthly payments are based on these low introductory rates, a wide initial spread means that borrowers are more likely to experience negative amortization, severe payment shock, and an earlier than scheduled recasting of monthly payments. Loans made to subprime borrowers must not contain any provisions that may lead to negative amortization.

- Very high or no limits on how much the payment amount or the interest rate may increase.

- Limited or no documentation of the borrower's income. Stated income is only acceptable if there are mitigating factors that clearly minimize the need for direct verification of repayment capacity. Licensees generally must be able to readily document income using recent W-2 statements, pay stubs, or tax returns. An exception to this is when the loan product underwriting itself contemplates reduced documentation (for example, FHA loans).

- Substantial prepayment penalties or prepayment penalties that extend beyond sixty days prior to the date the interest rate will reset.

- Simultaneous second lien loans. When features are layered, mitigating factors should be present to support the underwriting decision and the borrower's repayment capacity.

(iii) Ability to repay. For all nontraditional mortgage loan products, the analysis of a borrower's repayment capacity must include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. In addition, for prime borrowers qualifying for loan products that permit negative amortization, the repayment analysis must be based on the initial loan amount plus any balance increase that may accrue from the negative amortization provision. The analysis should avoid over reliance on credit scores as a substitute for income verification. The higher a loan's credit risk, either from borrower characteristics or loan features, the more important it is to verify the borrower's income, assets, and outstanding liabilities.

(b) Risk management. The scope of the risk management activities should be determined by the volume of non-traditional mortgages originated or used as investment. Licensees that target subprime borrowers through tailored marketing, underwriting standards, and risk selection must ensure that such programs do not feature terms that could become predatory or abusive. Policy topics should include, at a minimum:

(i) Acceptable product attributes;

(ii) Production, sales and securitization practices;

(iii) Limits on risk layering. When features are layered, licensees should demonstrate that mitigating factors support the underwriting decision and the borrower's repayment capacity. Mitigating factors could include higher credit

scores, lower LTV and DTI ratios, significant liquid assets, mortgage insurance, or other credit enhancements;

(iv) Growth and volume limits by loan type;

(v) Performance measures. Incentive programs should not produce high concentrations of nontraditional products. Design performance measures and reporting systems that provide early warning for increased risk;

(vi) Management reporting and quality control. Focus on the high risk lending activities. Monitor and document compliance with underwriting standards. Quality control should include regular audits of nontraditional loan products. Perform due diligence in establishing and maintaining relationships with third party originators. Third party originations must meet the underwriting standards. Document and respond in writing to all complaints. Take immediate remedial action which could include more thorough application reviews, more frequent reunderwriting, or terminating the third party originator;

(vii) Secondary market activity. The risk management practices should be commensurate with the nature and volume of activity and should include contingency planning for response to reduced demand in the secondary market. Establish a policy on repurchase practices.

(c) Consumer protection.

Communication with borrowers. Providers must focus on information important to consumer decision making; highlight key information so that it will be noticed; employ a user-friendly and readily navigable format for presenting the information; and use plain language, with concrete and realistic examples. Comparative tables and information describing key features of available loan products, including reduced documentation programs, also may be useful for consumers. Specifically:

- Promotional materials and other product descriptions must provide information about the costs, terms, features, and risks of nontraditional mortgages that can assist consumers in their product selection decisions.

- Licensees must apprise borrowers of potential increases in payment obligations. The information should describe when structural payment changes will occur and what the new payment would be or how it was calculated.

- If negative amortization is possible under the terms of a nontraditional mortgage product, borrowers must be advised of the potential for increasing principal balances and decreasing home equity as a consequence of the borrower making minimum payments.

- Borrowers must be alerted to the fact that the loan has a prepayment penalty and the amount of the penalty.

- Borrowers must be made aware of any pricing premium based on reduced documentation.

- Monthly statements must provide information that enables borrowers to make informed payment choices, including an explanation of each payment option available and the impact of that choice on loan balances. For example, the monthly payment statement must contain an explanation, if applicable, next to the minimum payment amount that making this payment would result in an increase to the borrower's principal loan balance.

(d) Control standards.

(i) Actual practices must be consistent with the written policies and procedures. Employees must be trained in the policies and procedures and performance monitored for compliance. Incentive programs should not produce high concentrations of nontraditional products. Performance measures and reporting systems should be designed to provide early warning of increased risk.

(ii) Reporting to DFI. In a separate written document, as prescribed by the director and submitted with the consolidated annual report, every licensee must submit information regarding the offering of nontraditional mortgage loan products as prescribed by rule.

AMENDATORY SECTION (Amending WSR 08-15-125, filed 7/22/08, effective 8/22/08)

WAC 208-620-630 What are the advertising restrictions, and what are some examples of those restrictions?

(1) Licensees are prohibited from advertising with envelopes or stationery that contain an official-looking emblem designed to resemble a government mailing or that suggest an affiliation that does not exist. What are some examples of emblems or government-like names, language, or nonexistent affiliations that will violate the state and federal advertising laws? Some examples include, but are not limited to:

(a) Characterizing products as "government loan programs," "government-supported loans," or other words that may mislead a consumer into believing that the government is guaranteeing, endorsing, or supporting the advertised loan product. Using the words "FHA loan," "VA loan," or words for other products that are in fact endorsed or sponsored by a federal, state, or local government entity is allowed.

(b) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(c) Envelopes designed to resemble official government mailings, such as IRS or U.S. Treasury envelopes, or other government mailers.

(d) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the mailing.

(e) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(f) Any suggestion or representation that the solicitor is affiliated with any agency, bank, or other entity that it does not actually represent.

(2) When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR? ~~((The type size of the APR must be the same size or larger than any other rates stated in the advertisement.))~~ The required disclosures in your advertisement must be reasonably understandable. Consumers must be able to see, read, or hear, and understand the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the advertisement, can affect whether the information is clear and conspicuous. This requirement

applies to all mandatory disclosures. The disclosure of the APR must be at least equivalent to any other rates disclosed in the advertisement.

(3) The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised? Whenever a specific interest rate is advertised, the licensee must retain a copy of supporting rate information, and the APR calculation for the advertised interest rate.

(4) Must I quote the annual percentage rate when discussing rates with a borrower? Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 C.F.R., part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

(5) May a licensee advertise rates or fees as the "lowest" or "best"? No. Rates described as "lowest," "best," or other similar words cannot be proven to be actually available at the time they are advertised. Therefore, they are a false or deceptive statement or representation prohibited by RCW 19.146.0201(7).

(6) May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am? No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

(7) If I advertise using a borrower's current loan information, what must I disclose about that information? When an advertisement includes information about a borrower's current loan that you did not obtain from a solicitation, application, or loan, you must provide the borrower with the name of the source of the information.

(8) Is it a violation to advertise that third-party services are "free" when the licensee has paid for the services? Yes. Advertising using the term "free," or any other similar term or phrase that implies there is no cost to the applicant is deceptive because you can recover the cost of the purportedly "free" item through the negotiation process. This is a violation of RCW 19.146.0201 (2), (7), and (11). See the Federal Trade Commission's *Guide Concerning Use of the Word "Free" and Similar Representations*, available at <http://www.ftc.gov/bcp/guides/free.htm>, 16 C.F.R. § 251.1 (g) (2003).

WSR 08-21-165
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Consumer Services)
[Filed October 22, 2008, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-051.

Title of Rule and Other Identifying Information: Amending the rules in chapter 208-660 WAC, implementing the Mortgage Brokers Practices Act, chapter 19.146 RCW.

Hearing Location(s): John A. Cherberg Senate Building, Senate Hearing Room 3, Capitol Campus, Olympia, Washington 98504, on November 26, 2008, at 1:00 p.m. to 3:00 p.m.

Date of Intended Adoption: December 23, 2008.

Submit Written Comments to: Elizabeth Stancil, P.O. Box 41200, 150 Israel Road, Olympia, WA 98504-1200, e-mail estancil@dfi.wa.gov, fax (360) 586-5068, by November 21, 2008.

Assistance for Persons with Disabilities: Contact Elizabeth Stancil by November 17, 2008, TTY (360) 664-8126 or (360) 902-8793.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending the rules in chapter 208-660 WAC to implement chapters 78, 108, and 109, Laws of 2008, that amended the Mortgage Broker Practices Act, and generally amending the rules for clarity and consistency.

Reasons Supporting Proposal: Passage of chapters 78, 108, and 109, Laws of 2008.

Statutory Authority for Adoption: RCW 43.320.040.

Statute Being Implemented: Chapter 19.146 RCW.

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

Name of Proponent: Department of financial institutions, division of consumer services, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Olympia, WA, (360) 902-8800; Implementation and Enforcement: Deb Bortner, 150 Israel Road, Olympia, WA, (360) 902-8800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments will not impose more than minor costs on the businesses impacted by the proposed rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to the proposed rules.

October 22, 2008

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 08-11-103, filed 5/20/08, effective 6/20/08)

WAC 208-660-006 Definitions. What definitions are applicable to these rules? Unless the context clearly requires otherwise, the definitions in this section apply throughout these rules.

"Act" means the Mortgage Broker Practices Act, chapter 19.146 RCW.

"Advertising material" means any form of sales or promotional materials used in connection with the mortgage broker business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; or internet pages.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

"Application" means the same as in Regulation X, Real Estate Settlement Procedures, 24 ((C.F.R. See-)) CFR Part 3500, as of the effective date of these rules, which is the submission, whether written or computer-generated, of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

For a refinance or purchase application that is not a prequalification, the credit report may be enough to constitute an application. The credit report date determines when the mortgage broker, or loan originator on behalf of the mortgage broker, has gathered sufficient information to make a credit decision. This may be a trigger for early disclosures when the property address is known.

"Appraisal" means the act or process of developing an opinion of value, the act pertaining to an appraisal-related function, or any verbal or written opinion of value offered by an appraiser. The opinion of value by the appraiser includes any communication that is offered as a single point, a value range, a possible value range, exclusion of a value, or a minimum value.

"Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

"Branch office" means a fixed physical location such as an office, separate from the principal place of business of the licensee, where the licensee holds itself out as a mortgage broker.

"Branch office license" means a branch office license issued by the director allowing the licensee to conduct a mortgage broker business at the location indicated on the license.

"Business day" means any day of the week except Sunday and federally recognized bank holidays.

"Certificate of passing an approved examination" means a certificate signed by the testing administrator verifying that the individual performed with a satisfactory score or higher.

"Certificate of satisfactory completion of an approved continuing education course" means a certificate signed by

the course provider verifying that the individual has attended an approved continuing education course.

"Compensation or gain" means remuneration, benefits, or an increase in something having monetary value, including, but not limited to, moneys, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing moneys that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special or unusual bank or financing terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payments of another person's expenses, or reduction in credit against an existing obligation. "Compensation or gain" is not evaluated solely on a loan by loan basis.

For example, a realtor advertising that buyers using their services will receive free loan origination assistance is doing so in the anticipation of "compensation or gain" through increased real estate business.

"Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

For purposes of this definition, the CLI system includes computer hardware or software, an internet-based system, or any combination of these, which provides information to consumers about residential mortgage interest rates and other loan terms which are available from another person.

"Computer loan information system provider" or "CLI provider" is any person who provides a computer loan information service, either directly, or as an owner-operator of a CLI system, or both.

"Consumer Protection Act" means chapter 19.86 RCW.

"Control" including the terms "controls," "is controlled by," or "is under common control" means the power, directly or indirectly, to direct or cause the direction of the management or policies of a person, whether through ownership of the business, by contract, or otherwise. A person is presumed to control another person if such person is:

- A general partner, officer, director, or employer of another person;
- Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interests of another person; or
- Has similar status or function in the business as a person in this definition.

"Convicted of a crime," irrespective of the pronouncement or suspension of sentence, means a person:

- Has been convicted of the crime in any jurisdiction;
- Has been convicted of a crime which, if committed within this state would constitute a crime under the laws of this state;
- Has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to such a charge before a court or federal magistrate; or

- Has been found guilty of a crime by the decision or judgment of a state or federal judge or magistrate, or by the verdict of a jury.

"Department" means the department of financial institutions.

"Designated broker" means a natural person designated as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter and who meets the experience and examination requirements set forth in RCW 19.146.210 (1)(e).

"Director" means the director of financial institutions.

"Discount points" or "points" mean a fee paid by a borrower to a lender to reduce the interest rate of a residential mortgage loan. Pursuant to Regulation X, discount points are to be reflected on line 802 of the good faith estimate and settlement statement as a percentage of the loan amount.

"Division of consumer services" means the division of consumer services within the department of financial institutions, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

"Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

"Examination" or "compliance examination" means the examination performed by the division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules to determine whether the licensee is in compliance with applicable laws and regulations.

Federal statutes and regulations used in these rules are:

- "Alternative Mortgage Transaction Parity Act" means the Alternative Mortgage Transaction Parity Act (AMTPA), 12 U.S.C. Sec. 3801 et seq.

- "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 et seq., Regulation B, 12 (~~(C.F.R.)~~) CFR Part 202.

- "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

- "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

- "Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 (~~(C.F.R.)~~) CFR Parts 313-314.

- "Home Equity Loan Consumer Protection Act" means the Home Equity Loan Consumer Protection Act, 15 U.S.C. Sec. 1637 and 1647.

- "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Sec. 2801-2810, Regulation C, 12 (~~(C.F.R.)~~) CFR Part 203.

- "Home Ownership and Equity Protection Act" means the Home Ownership and Equity Protection Act (HOEPA), 15 U.S.C. Sec. 1639.

- "Homeowners Protection Act" means the Homeowners Protection Act of 1998 (HPA), 12 U.S.C. Sec. 4901 et seq.

- "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C.

Sec. 2601 et seq., Regulation X, 24 ((C.F.R.)) CFR Part 3500 et seq.

"Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or "S.A.F.E. Mortgage Licensing Act of 2008" means Title V of the Housing and Economic Recovery Act of 2008 ("HERA," or H.R. 3221), Public Law No. 110-289, effective July 30, 2008.

- "Telemarketing and Consumer Fraud and Abuse Prevention Act" means the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. Sec. 6101-6108, Telephone Sales Rule, 16 ((C.F.R.)) CFR Part 310.

- "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sec. 1601 et seq., Regulation Z, 12 ((C.F.R.)) CFR Part 226 et seq.

"Federally insured financial institution" means a savings bank, savings and loan association, or credit union, whether state or federally chartered, or a federally insured bank, authorized to conduct business in this state.

"Financial misconduct," for the purposes of the act, means a criminal conviction for any of the following:

- Any conduct prohibited by the act;
- Any conduct prohibited by statutes governing mortgage brokers in other states, or the United States, if such conduct would constitute a violation of the act;
- Any conduct prohibited by statutes governing other segments of the financial services industry, including but not limited to the Consumer Protection Act, statutes governing the conduct of securities broker dealers, financial advisers, escrow officers, title insurance companies, limited practice officers, trust companies, and other licensed or chartered financial service providers; or
- Any conduct commonly known as white collar crime, including, but not limited to, embezzlement, identity theft, mail or wire fraud, insider trading, money laundering, check fraud, or similar crimes.

"Independent contractor" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.

The following factors may be considered to determine if a person is an independent contractor:

Is the person instructed about when, where and how to work?

Is the person guaranteed a regular wage?

Is the person reimbursed for business expenses?

Does the person maintain a separate business?

Is the person exposed to potential profits and losses?

Is the person provided employee benefits such as insurance, a pension plan, or vacation or sick pay?

"Licensee" means:

- A mortgage broker licensed by the director; or
- The principal(s) or designated broker of a mortgage broker; or
- A loan originator licensed by the director; or
- Any person subject to licensing under RCW 19.146.-200; or

- Any person acting as a mortgage broker or loan originator subject to any provisions of the act.

"License application fee" means immediately available funds paid to the department for each mortgage broker, loan originator, or mortgage broker branch office license application.

"Loan application" means the same as "application," in this section.

"Loan originator" means a natural person who:

- Takes a residential mortgage loan application for a mortgage broker; or
- Offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain. "Loan originator" also includes a person who holds themselves out to the public as able to perform any of these activities. "Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

For purposes of further defining "loan originator," "taking a residential mortgage loan application" includes soliciting, accepting, or offering to accept an application for a residential mortgage loan or assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application.

For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate lists or other promotional items.

"Loan originator licensee" means a natural person who is licensed as a loan originator or is subject to licensing under RCW 19.146.200 or who is acting as a loan originator subject to any provisions of the act.

"Loan processor" means a natural person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed or exempt mortgage broker. The job responsibilities may include the receipt, collection and distribution of information common for the processing of a loan. The loan processor may also communicate with a borrower to obtain the information necessary for the processing of a loan, provided that such communication does not include offering or negotiating loan rates or terms, or counseling borrowers about loan rates or terms.

"Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker or loan originator agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

"Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as

being able to assist a person in obtaining or applying to obtain a residential mortgage loan.

For purposes of this definition, a person "assists a person in obtaining or applying to obtain a residential mortgage loan" by, among other things, counseling on loan terms (rates, fees, other costs), preparing loan packages, or collecting enough information on behalf of the consumer to anticipate a credit decision under Regulation X, 24 CFR Part 3500, Section 3500 (2)(b).

For purposes of this definition, a person "holds himself or herself out" by advertising or otherwise informing the public that they engage in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate sheets, or other promotional items.

"Mortgage broker licensee" means a person that is licensed as a mortgage broker or is subject to licensing under RCW 19.146.200 or is acting as a mortgage broker subject to any provisions of the act.

"Mortgage Broker Practices Act" means chapter 19.146 RCW.

"Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

"Out-of-state applicant or licensee" means a person subject to licensing that maintains an office outside of this state.

"Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

"Prepaid escrowed costs of ownership," as used in RCW 19.146.030(4), means any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the property used as security for the loan.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a partnership, company, association, or corporation, and the owner of a sole proprietorship.

"Registered agent" means a person located in Washington appointed to accept service of process for a licensee.

"Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units.

For purposes of this definition, a loan "primarily for personal, family, or household use" includes loan applications for a finance or refinance of a primary residence for any purpose, loan applications on second homes, and loan applications on nonowner occupied residential real estate provided the licensee has knowledge that proceeds of the loan are intended to be used primarily for personal, family or household use.

"Residential real estate" is real property upon which is constructed or intended to be constructed, a single family dwelling or multiple family dwelling of four or less units.

- Residential real estate includes, but is not limited to:
 - A single family home;

- A duplex;
- A triplex;
- A fourplex;
- A single condominium in a condominium complex;
- A single unit within a cooperative;
- A manufactured home when the home and real property together will secure the residential mortgage loan; or
- A fractile, fee simple interest in any of the above.
- Residential real estate does not include:
 - An apartment building or dwelling of five or more units;
 - A single piece of real estate with five or more single family dwellings unless each dwelling is capable of being financed independently of the other dwellings; or
 - Any dwelling on leased or rented land or space, such as dwellings in a manufactured home park unless the mortgage broker treats such property as residential real estate.

"Table-funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds. The mortgage broker originates the loan and closes the loan in its own name with funds provided contemporaneously by a lender to whom the closed loan is assigned.

"Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

A lender is considered a third party only when the lender provides lock-in arrangements to the mortgage broker in connection with the preparation of a borrower's loan.

"Underwriting" means a lender's detailed credit analysis preceding the offering or making of a loan. The analysis may be based on information furnished by the borrower (employment history, salary, financial statements), the borrower's credit history from a credit report, the lender's evaluation of the borrower's credit needs and ability to pay, and an assessment of the collateral for the loan. While mortgage brokers may have access to various automated underwriting systems to facilitate an evaluation of the borrower's qualifications, the mortgage broker who qualifies or approves a borrower in this manner is not the underwriter of the loan and cannot charge a fee for underwriting the loan. Third-party charges the mortgage broker incurs in using or accessing an automated system to qualify or approve a borrower may, like other third-party expenses, be passed on to the borrower.

AMENDATORY SECTION (Amending WSR 08-11-103, filed 5/20/08, effective 6/20/08)

WAC 208-660-008 Exemption from licensing. (1) If I am licensed as an insurance agent under RCW 48.17.060, must I have a separate license to act as a loan originator or mortgage broker? Yes. You will need a separate license as a loan originator or mortgage broker if you are a licensed insurance agent and you do any of the following:

- (a) Take a residential mortgage loan application for a mortgage broker;

(b) Offer or negotiate terms of a mortgage loan for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(c) ~~((Make a residential mortgage loan, or))~~ Assist a person in obtaining or applying to obtain a residential mortgage loan, for compensation or gain; or

(d) Hold yourself out as being able to perform any of the above services.

(2) Are insurance companies exempt from the Mortgage Broker Practices Act? Yes. Insurance companies authorized to transact the business of insurance in this state by the Washington state office of the insurance commissioner are exempt from the Mortgage Broker Practices Act.

(3) If I make residential mortgage loans under the Consumer Loan Act, chapter 31.04 RCW, am I exempt from the Mortgage Broker Practices Act? If you are licensed under the Consumer Loan Act, only residential mortgage loans are exempt from the Mortgage Broker Practices Act. Complying with the Consumer Loan Act includes abiding by the requirements and restrictions of that act and counting all loans originated and made under that act for purposes of your annual assessment.

(4) If I make residential mortgage loans under the Consumer Loan Act, chapter 31.04 RCW, are my loan originators exempt from the Mortgage Broker Practices Act? Your loan originator employees are also exempt from the Mortgage Broker Practices Act for their loan originator activities on residential mortgage loans.

Your independent contractor loan originators are not exempt from the Mortgage Broker Practices Act for their residential mortgage loan originator activities.

(5) As an attorney, must I have a mortgage broker or loan originator license to assist a person in obtaining or applying to obtain a residential mortgage loan in the course of my practice?

(a) If you are an attorney licensed in Washington and if the mortgage broker activities are incidental to your professional duties as an attorney, you are exempt from the Mortgage Broker Practices Act under RCW 19.146.020 (1)(c).

(b) Whether an exemption is available to you depends on the facts and circumstances of your particular situation. For example, if you hold yourself out publicly as being able to perform the services of a mortgage broker or loan originator, or if your fee structure for those services is different from the customary fee structure for your professional legal services, the department will consider you to be principally engaged in the mortgage broker business and you will need a mortgage broker or loan originator license before performing those services. A "customary" fee structure for the professional legal service does not include the receipt of compensation or gain associated with assisting a borrower in obtaining a residential mortgage loan on the property.

(6) As a licensed real estate broker or salesperson, must I have a mortgage broker or loan originator license when I assist the purchaser in obtaining financing for a residential mortgage loan involving a bona fide sale of real estate? You are exempt from the act under RCW 19.146.020 (1)~~((g))~~ (f) if you only receive the customary real estate commission in connection with the transaction. A "customary" real estate commission does not include receipt

of compensation or gain associated with the financing of the property. A "customary" real estate commission only includes the agreed upon commission designated in the listing or purchase and sale agreement for the bona fide sale of the subject property.

(7) Under what circumstances will the director approve an exemption under RCW 19.146.020(4) for the exclusive agents working as loan originators of an affiliate of a bank that is wholly owned by the bank holding company that owns that bank?

(a) The director will provide a written exemption from loan originator licensing for the exclusive agents of an affiliate of a bank that is wholly owned by the bank holding company that owns the bank if the director finds that the affiliate is licensed and is in "good standing" with the department and the affiliate has procedures in place, as evidenced by a written "plan of business," to reasonably assure the department that:

(i) The exclusive agents of the affiliate of a bank operate exclusively as loan originators for the affiliate and not for other mortgage brokers;

(ii) The affiliate of the bank requires continuing education for the exclusive agents that meets the same or similar requirements approved by the director for licensed loan originators;

(iii) The affiliate of the bank will notify the department if the affiliate terminates an exclusive agent because the exclusive agent:

(A) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years; or

(B) Has been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct, within the prior seven years; or

(C) Has been subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(b) To qualify for this exemption, the affiliate must make a written request to the department and submit a "plan of business" with the request. After receipt of this request, the department will notify the affiliate in writing within ten business days whether the affiliate's exclusive agents qualify for the exemption, or if the department will conduct additional review of the affiliate and the "plan of business." The affiliates must receive the department's notice of qualification for exemption before the affiliate's exclusive agents take any action that would subject them to licensing under the act.

(c) The exemption granted by the director remains valid as long as the affiliate complies in all material respects with its "plan of business" and the affiliate remains in good standing with the department.

(8) What are the responsibilities of a mortgage broker that is exempt from the licensing provisions of the act? The owners of companies exempt from licensing under RCW 19.146.020 (1)(e), (g), or (4), are responsible for:

(a) Complying with RCW 19.146.0201 through 19.146.080, and 19.146.235;

(b) Ensuring compliance with the act by all persons representing the exempt mortgage broker; and

(c) Notifying the director of any change affecting the mortgage broker's exempt status under the act.

(9) Are the independent contractor(s) loan originators of a mortgage broker exempt from licensing under RCW 19.146.020 (1)(b), (c), (e), and (g) themselves exempt? No. After January 1, 2007, an independent contractor working as a loan originator for a mortgage broker exempt under RCW 19.146.020 (1)(b), (c), (e), and (g) must hold a loan originator license.

(10) What other persons or entities are exempt from the Mortgage Broker Practices Act?

(a) Any person doing any act under order of any court except for a person subject to an injunction to comply with any provision of the act or any order of the director issued under the act.

(b) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (b).

(11) When is a CLI provider exempt from the licensing requirements of the act? A CLI provider is exempt from the licensing requirements of the act:

(a) When the CLI provider meets the general statutory requirements under RCW 19.146.020 (1)(a), (c), (d), (e), (g), or (h); or

(b) When a real estate broker or salesperson licensed in Washington, acting as a CLI provider and a real estate agent, obtains financing for a real estate transaction involving a bona fide sale of real estate and does not receive either:

(i) A separate fee for the CLI service; or

(ii) A sales commission greater than that which would be otherwise customary in connection with the sales transaction; or

(c) When a person, acting as a CLI provider:

(i) Provides only information regarding rates, terms, and lenders;

(ii) Complies with all requirements of subsection (12) of this section;

(iii) Does not represent or imply to a borrower that they are able to obtain a residential mortgage loan from a mortgage broker or lender;

(iv) Does not accept a loan application, assist in the completion of a loan application, or submit a loan application to a mortgage broker or lender on behalf of a borrower;

(v) Does not accept any deposit for third-party provider services or any loan fees from a borrower in connection with a loan, regardless of when the fees are paid;

(vi) Does not negotiate interest rates or terms of a loan with a mortgage broker or lender on behalf of a borrower; and

(vii) Does not provide to the borrower a good faith estimate or other disclosure(s) required of mortgage brokers or lender(s) by state or federal law.

(d) If the CLI provider is not exempt under (a), (b), or (c) of this subsection, the CLI provider is not required to have a mortgage broker license if the CLI provider does not receive any fee or other compensation or gain, directly or indirectly, for performing or facilitating the CLI service.

(12) When is a CLI provider required to have a mortgage broker license?

(a) If a CLI provider, who is not otherwise exempt from the licensing requirements of the act, performs any act that would otherwise require that they be licensed, including accepting a loan application, or submitting a loan application to a mortgage broker or lender, the CLI provider must obtain a mortgage broker or a loan originator license.

(b) Example - License required: A CLI provider uses an internet-based CLI system in which an abbreviated application is available for online completion by borrower. Once the borrower presses "submit," the information collected in the abbreviated application is forwarded to lender. The information contains the borrower's name, Social Security number, contact information, purpose of the loan sought (e.g., purchase, refinance, home equity, second mortgage), size of loan requested, annual salary, and a self-declaration of total unsecured debt. The electronic entries made by the borrower are then used by lender to electronically populate "form fields" and to initiate lender's loan application. A loan originator for the lender then follows up with borrower to complete the loan application. On or after closing, CLI provider receives a CLI service fee.

(c) Example - License not required: A CLI provider uses an internet-based CLI system in which various interactive informational tools are present, including an online "prequalification" tool. Based upon borrower's self-declared data input, borrower receives an indication of borrower's "maximum affordable loan amount," based upon standard norms of debt-to-income ratio and loan-to-value ratio, and also subject to verification of information, availability and suitability of loan products, and independent underwriting by any lender. The borrower indicates a desire for follow-up from one or more lenders by inputting personal contact information and pressing "submit." A number of lenders receive only the personal identity information of borrower and not any financial information. However, the CLI system has been programmed (and may be continuously reprogrammed) to route personal contact information to certain lenders based upon borrower's "prequalification" data input and the lending criteria of each of the lenders for whom CLI provider has a relationship. None of borrower's self-declared financial information is actually submitted to any of the lenders whose criteria match borrower's profile. Loan originators from lender A and lender B initiate contact with borrower based solely on borrower's contact information. Lender A and lender B, through their assigned loan originators, contact borrower with the object of beginning and hopefully completing a loan application. In this example, CLI provider has not taken a loan application.

(13) Must the CLI provider provide any disclosures?

(a) Yes. If a borrower using or accessing the CLI services pays for the CLI service, either directly or indirectly, the CLI provider must give the following disclosure:

(i) The amount of the fee the CLI provider charges the borrower for the service;

(ii) That the use of the CLI system is not required to obtain a residential mortgage loan; and

(iii) That the full range of loans available may not be listed on the CLI system, and different terms and conditions,

including lower rates, may be available from others not listed on the system.

(b) Each CLI provider must give the borrower a copy of the disclosure form when the first CLI service is provided to the borrower. The form must be signed and dated by the borrower and a copy maintained as part of the CLI provider's books and records for at least two years.

(14) **Are CLI system providers subject to enforcement under the act?** Yes. CLI system providers are responsible for any violations of the act and will be subject to any applicable fines or penalties.

AMENDATORY SECTION (Amending WSR 06-23-137, filed 11/21/06, effective 1/1/07)

WAC 208-660-155 Mortgage brokers—General. (1) May I originate residential mortgage loans in Washington without a license? No. Mortgage brokers and loan originators must have a valid Washington license, or be exempt from licensing pursuant to RCW 19.146.020, in order to originate residential mortgage loans. There is no "one-time one loan" exception.

(2) **May I originate a Washington residential mortgage loan using the license of an already licensed or exempt Washington mortgage broker and then split the proceeds with that mortgage broker?** No. Mortgage broker licenses may only be used by the person named on the license. Mortgage broker licenses may not be transferred, sold, traded, assigned, loaned, shared, or given to any other person.

(3) **As a licensed mortgage broker, am I responsible for the actions of my employees and independent contractors?** Yes. You are responsible for any conduct violating the act or these rules by any person you employ, or engage as an independent contractor, to work in the business covered by your license.

(4) **Who at the licensed mortgage broker company is responsible for the licensee's compliance with the act and these rules?** The designated broker, principals, and owners with supervisory authority are responsible for the licensee's compliance with the act and these rules.

(5) **What is the nature of my relationship with the borrower?** You have a fiduciary relationship with the borrower. See RCW 19.146.095.

(6) **Under what circumstances may a mortgage broker charge the borrower a fee, commission, or other compensation for services rendered by the mortgage broker in obtaining a loan for the borrower?** The mortgage broker may charge the borrower a fee, commission, or other compensation for the preparation, negotiation, and brokering of a residential mortgage loan when the loan is closed on the terms and conditions agreed upon by the borrower and the mortgage broker.

~~((6))~~ (7) **Under what circumstances may a mortgage broker charge the borrower a fee, commission, or other type of compensation for services rendered when the loan does not close at all, or does not close on the terms and conditions agreed upon by the borrower and the mortgage broker?** A mortgage broker may charge a fee, and may bring a suit for collection of the fee, not to exceed three hun-

dred dollars, for services rendered, for the preparation of documents, or for the transfer of documents in the borrower's file which were prepared for, or paid for by, the borrower if:

(a) The mortgage broker has obtained a written commitment from a lender on the same terms and conditions agreed upon by the borrower and the mortgage broker; and

(b) The borrower fails to close on a loan through no fault of the mortgage broker; and

(c) The fee is not otherwise prohibited by the Truth in Lending Act.

~~((7))~~ (8) **As a mortgage broker, may I solicit or accept fees from a borrower in advance to pay third-party providers?** Yes. However, prior to accepting the funds, you must provide the borrower in writing a notice identifying the specific third-party provider goods and services the funds are to be used for. Additionally, you must not charge the borrower more for the third-party provider goods and services than the actual costs of the goods and services charged by the provider. Once you have the funds you must then:

(a) Deposit the funds in a trust account pursuant to the act and these rules (see WAC 208-660-410 on Trust accounting);

(b) Refund any fees collected for goods or services not provided.

~~((8))~~ (9) **What is a "written commitment from a lender on the same terms and conditions agreed upon by the borrower and mortgage broker"?** The written commitment is a written agreement or contract between the mortgage broker and lender containing mutually acceptable loan provisions and terms. The lender must be one with whom the mortgage broker maintains a written correspondent or loan brokerage agreement as required by RCW 19.146.040(3). The mutually acceptable loan provisions and terms must be the same terms and conditions set forth in the most recent good faith estimate signed by both the borrower and the mortgage broker.

~~((9))~~ (10) **What action must a mortgage broker take to activate a loan originator license?** To activate a loan originator license, the licensed mortgage broker must ~~(confirm with the department that the loan originator will be working for the licensed mortgage broker)~~ file a sponsorship request through the NMLSR.

~~((10))~~ (11) **What action must a mortgage broker take to terminate a working relationship with a loan originator?** The licensed mortgage broker must notify the department it is terminating the working relationship with the licensed loan originator.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-163 Mortgage brokers—Licensing. (1) How do I apply for a mortgage broker license? Your application consists of an on-line filing through the NMLSR and Washington specific requirements provided directly to DFI. You must pay an application fee through the NMLSR system.

(a) **Appoint a designated broker.** You must appoint a designated broker who meets the requirements of WAC 208-660-250.

(b) **Submit an application.** You must ~~((fill out))~~ complete an application in a form prescribed by the director. ~~((Submit the application with the appropriate attachments to the department for review.))~~

(c) **Pay the application and license fees.** You will have to pay ~~((an))~~ application fees to cover the ~~((department's))~~ costs of processing ~~((and reviewing))~~ the application. You must also pay a separate annual license fee. See WAC 208-660-550, Department fees and costs.

(d) **Prove your identity.** You must provide information about the identity of owners, principals, officers, and the designated broker, including fingerprints.

(e) **Provide a surety bond.** Mortgage brokers must have a surety bond of twenty to sixty thousand dollars depending on the average number of loan originators representing the mortgage broker. See WAC 208-660-175 (1)(e).

(2) **What information will the department consider when deciding whether to approve a mortgage broker license application?** The department considers the financial responsibility, character, and general fitness of the applicant, principals, and the designated broker.

(3) **Why does the department consider financial responsibility, character, and general fitness before issuing a mortgage broker license?** One of the purposes of the act is to ensure that mortgage brokers and loan originators deal honestly and fairly with the public. Applicants, principals, and designated brokers who have demonstrated their financial responsibility, character, and general fitness to operate their businesses honestly, fairly, and efficiently are more likely to deal honestly and fairly with the public.

(4) **What specific information will the department consider to determine if the mortgage broker business will be operated honestly, fairly, and in compliance with applicable law?**

(a) Whether the applicant, licensee, or other person subject to the act has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years.

(b) Whether the applicant, licensee or other person subject to the act has been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within the prior seven years.

(c) Whether the licensee or other person subject to the act is, or has been, subject to a cease and desist order or an injunction issued pursuant to the act, or the Consumer Protection Act, or has been found through an administrative, civil, or criminal proceeding to have violated the provisions of the act or rules, or the Consumer Protection Act, chapter 19.86 RCW.

(d) Whether the director has filed a statement of charges, or there is an outstanding order by the director to cease and desist against the licensee or other person subject to the act.

(e) Whether there is documented evidence of serious or significant complaints filed against the licensee, or other person subject to the act, and the licensee or other person subject to the act has been notified of the complaints and been given the opportunity to respond.

(f) Whether the licensee has allowed the licensed mortgage broker business to deteriorate into a condition that would result in denial of a new application for a license.

(g) Whether the licensee or other person subject to the act has failed to comply with an order, directive, subpoena, or requirement of the director or director's designee, or with an assurance of discontinuance entered into with the director or director's designee.

(h) Whether the licensee or other person subject to the act has interfered with an investigation, or disciplinary proceeding by willful misrepresentation of facts before the director or director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action.

(5) **What will happen if my mortgage broker license application is incomplete?** The department will reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You can then resubmit the application package.

(6) **How do I withdraw my application for a mortgage broker license?** Send the department a written request, in a form prescribed by the department, to withdraw your mortgage broker license application.

(7) **When will the department consider my mortgage broker license application package abandoned?** If you do not respond to the department within ten business days from the date of the department's second request for information, your application is considered abandoned. You may reapply by submitting a new application per subsection (1) of this section.

(8) **What are my rights if the director denies my application for a mortgage broker license?** You have the right to request an administrative hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW. To request a hearing, you must notify the department within twenty days from the date of the director's notice to you that your license application has been denied, that you wish to have a hearing.

Upon denial of your mortgage broker license application, and provided the department finds no unlicensed activity, the department will return your surety bond, and refund the license fee and any unused portion of the application fee.

(9) **What Washington law protects my rights when my application for a mortgage broker license is denied, or my mortgage broker license is suspended or revoked?** The Administrative Procedure Act, chapter 34.05 RCW, governs the proceedings for license application denials, cease and desist orders, license suspension or revocation, the imposition of civil penalties or other remedies ordered by the department, and any appeals or reviews of those actions.

(10) **May I advertise my business while I am waiting for my mortgage broker license application to be processed?** No. It is a violation of the act for nonlicensed, non-exempt mortgage brokers or loan originators to hold themselves out as mortgage brokers or loan originators in Washington.

(11) **May I originate Washington residential mortgage loans while waiting for my mortgage broker license application to be processed?** No. You may not originate loans prior to receiving your mortgage broker license.

(12) **How do I change information on my mortgage broker license?** You must file a license amendment application with the department, in a form prescribed by the department. You must file the amendment application within thirty days of the change occurring.

(13) **When does a mortgage broker license expire?** The mortgage broker license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

(14) **When may the department issue interim mortgage broker licenses?** To prevent an undue delay, the director may issue interim mortgage broker licenses, including branch office licenses, with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in licensing uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the result of the applicant's background check.

(15) **May the department issue replacement licenses with an expiration date?** Yes. In order to create and maintain a licensing system with expiration or renewal dates that are uniform, the department may issue new licenses with expiration dates to existing license holders. The new licenses will expire annually.

(16) **How do I renew my mortgage broker license?**

(a) Before the license expiration date you must:

(i) File the mortgage broker annual report, and any other required notices, with the director. See WAC 208-660-400, Reporting requirements.

(ii) Show evidence that your designated broker completed the required annual continuing education.

(iii) Verify the surety bond is adequate for the average number of loan originators, including all locations.

(iv) Pay the annual license assessment fee.

(b) The renewed license is valid for the term listed on the license or until surrendered, suspended, or revoked.

(17) **If I let my mortgage broker license expire must I apply to get a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date, you may renew an expired license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (16) of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license until your license has been renewed.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or a department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

(18) **May I still conduct my mortgage broker business if my mortgage broker license has expired?** No. If your mortgage broker license expires, you must not conduct any business under the act that requires a license until you renew your license.

(19) **What should I do if I wish to close my mortgage broker business?** You may surrender the mortgage broker license by notifying the department, in a form prescribed by the department, of your intention to stop doing mortgage loan business in Washington. Surrendering your license does not change your civil or criminal liability, or your liability for any administrative actions arising from any acts or omissions occurring before you surrender your license. Contact the Washington department of revenue to find out how to handle any unclaimed funds in your trust account.

(20) **May I transfer, sell, trade, assign, loan, share, or give my mortgage broker license to another person or company?** No. A mortgage broker license authorizes only the person named on the license to conduct the business at the location listed on the license. See also WAC 208-660-155(2).

(21) **Must I display my mortgage broker license?** Yes. Your mortgage broker license must be prominently displayed at the licensed location.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-195 Mortgage brokers—Branch offices. (1) **May I open branch offices under my mortgage broker license?** Yes. A licensed mortgage broker may submit license application(s) to the department to establish branch office(s) under the existing mortgage broker license. Each branch office must be licensed and must pay an annual license fee. See WAC 208-660-550, Department fees and costs.

(2) **If my branch offices are under separate ownership, does that limit my liability for their activities?** No. Licensed mortgage brokers are responsible for the activity and violations at their branch offices regardless of the structure or label given the branch offices. Licensure of a branch office creates a direct line of responsibility from the main office to the branch.

(3) **If my branch offices are under separate ownership, what level of supervision must I maintain?** Because branch offices, regardless of their business structure, are not independent from your license and surety bond, you are responsible for the conduct of anyone conducting business under your license. You must have a written supervisory plan. The details of the plan, and how you implement the plan for your branch offices, must take into account the number of branch offices, their location, and the number of individuals working at the branch offices. You must maintain

your written supervisory plan as part of your business books and records.

(4) How do I apply for a mortgage broker branch office license? As the licensed mortgage broker, you must apply to the department for a branch office license and receive a branch office license before operating from any location other than your licensed location. The application for a mortgage broker branch office license must be in a form prescribed by the director. The licensed mortgage broker must be in good standing, and may need to increase the amount of the surety bond. You will have to pay application and annual assessment fees. See WAC 208-660-550, Department fees and costs.

(5) What does the department consider when reviewing an application for a branch office license? The department considers:

(a) Whether the mortgage broker is in good standing. See WAC 208-660-007.

(b) Whether the amount of the mortgage broker's surety bond is sufficient to cover the loan originators that will be working from the branch office.

(c) Whether the physical address listed in the application can be verified as a branch office location.

(6) Must I display my branch office license? Yes. Your mortgage broker branch office license must be prominently displayed in the branch office.

(7) If I am an internet company, how do I display my license? You must display your license information, as it appears on your license, including any or all business names, and the license number, on your web site. The information must also include a list of the states in which you are licensed.

(8) How do I change information on my mortgage broker branch office license? You must file a license amendment (~~application with the department, in a form prescribed by the department. You must file the application~~) through the NMLSR within thirty days of the change occurring.

(9) Does my branch office license expire? The license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

(10) How do I renew my mortgage broker branch office license?

(a) Before the expiration date, the licensed mortgage broker must:

(i) Verify the surety bond is adequate for the licensee's average number of loan originators.

(ii) Submit a renewal and pay the branch office annual assessment fee through the NMLSR.

(b) The renewed mortgage broker branch office license is valid for the term listed on the license or until surrendered, suspended, or revoked.

(11) If my mortgage broker branch office license expires, must I apply for a new license? If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your branch office license, you must pay an additional fifty percent of

your annual assessment for that branch. See subsection (10) of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license until your license has been renewed.

Any renewal requirements received by the department must be evidenced by either a postmark or "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

(12) If my mortgage broker branch office license has expired, may I still conduct my mortgage broker business from that location? No. Once the mortgage broker branch office license has expired, you must not conduct any business under the act that requires a license until you renew your license.

(13) If my mortgage broker main office license expires, may I still conduct my mortgage broker business from a branch office? No. Once the mortgage broker main office license expires, you must not conduct any business under the act that requires a license from any location until you renew the main office license.

(14) May I add a trade name (or "DBA") to my mortgage broker branch office license? Yes. You may add a trade name, or "DBA" name, to the mortgage broker branch office license if you first apply to the department, in a form prescribed by the director, and receive department approval. The branch office trade name must at all times be identified as connected with the mortgage broker's license name as it appears on the mortgage broker license. When the department has approved the trade name, you must conduct business under that trade name in at least one of the two following ways:

(a) Use your license name together with the branch office trade name; or

(b) Use the branch office trade name and mortgage broker branch office license number together.

(c) See WAC 208-660-180(10).

(15) How must I identify my mortgage broker branch office(s)? The branch office must be prominently identified as a branch or division of the licensed mortgage broker so as not to appear to be an independent enterprise.

(16) Does my branch office have to be a physical location? Yes. The physical location may be at a commercial or residential address but does not have to be in Washington. See WAC 208-660-420, Out-of-state mortgage brokers and loan originators.

(17) Must I have a branch manager? No. Although you may appoint one, the act does not require a branch manager. The licensee and designated broker are responsible for the business conducted at all locations.

(18) Must I have a designated broker at each branch? No. The licensed mortgage broker may have only one designated broker who is responsible for the mortgage broker business at all locations.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-250 Designated brokers—General. (1)

How do I become a designated broker?

- (a) Be eighteen years or older.
- (b) Have a high school diploma, an equivalent to a high school diploma, or two years experience in the industry in addition to the experience required in (e) of this subsection. The experience must meet the criteria in (e) of this subsection.
- (c) You must pass the designated broker test. See WAC 208-660-260, Designated brokers—Testing.
- (d) You must be appointed to the designated broker position by the licensed mortgage broker through an application and approval process with the department and the NMLSR.
- (e) You must have a minimum of two years experience lending or originating residential mortgage loans.
 - (i) The work experience must be in one or more of the following, within the last five years:
 - (A) As a mortgage broker or designated broker of a mortgage broker for a minimum of two years; or
 - (B) As a mortgage banker, responsible individual, or manager of a mortgage banking business; or
 - (C) As a loan originator with responsibility primarily for originating loans secured by a lien on residential real estate; or
 - (D) As a branch manager of a lender with responsibility primarily for loans secured by a lien on residential real estate; or
 - (E) As a manager or supervisor of mortgage loan originators; or
 - (F) As a mortgage processor, underwriter, or quality control professional; or
 - (G) As a regulator, examiner, investigator, compliance expert, or auditor, whose primary function is the review of mortgage companies and their compliance processes, and the department determines your background is sufficient.
 - (ii) The work experience must be evidenced by a detailed work history and:
 - (A) W-2 Federal Income Tax Reporting Forms in the designated broker appointee's name; or
 - (B) 1099 Federal Income Tax Reporting Forms in the designated broker appointee's name; or
 - (C) Corporate tax returns signed by the designated broker appointee or corporate officer for a licensed or exempt residential mortgage company; or
 - (f) In addition to supplying the application information, both you and the licensed mortgage broker must be in good standing with the department.
 - (g) **Financial background.**
 - (i) You are not eligible to become a designated broker if you have one hundred thousand dollars or more of tax liens against you at the time of appointment by a licensed mortgage broker.
 - (ii) You may not be eligible to become a designated broker if your financial background during the two years prior to the appointment application shows a history of unpaid debts.
- (2) **May I work as the designated broker for more than one company?** Yes. You may be the designated broker for more than one licensee.

(3) **Must the designated broker (~~also~~) hold a loan originator's license?** Yes. A designated broker approved by the department will be given a loan originator license if they do not already have one. If the designated broker already has a loan originator license, that license will be added to the licensed mortgage broker's list of loan originators.

(4) **May I work as the designated broker for one licensee and a licensed loan originator for another licensee?** Yes. If you want to originate loans for a mortgage broker different from the mortgage broker for whom you are the designated broker, you must apply to the department for an additional loan originator license.

(5) **May a designated broker hire employees or independent contractors apart from the employees or independent contractors working for the mortgage broker licensee?** No. Only the mortgage broker licensee can have employees or independent contractors. This prohibition against a designated broker having employees or independent contractors includes clerical or administrative personnel whose work is related to the mortgage broker licensee's activities, and loan processors.

(6) **As a designated broker, what reporting requirements must I comply with?** See WAC 208-660-400, Reporting requirements.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-260 Designated brokers—Testing. (1)

Must I pass a test prior to becoming a designated broker? Yes. You must take and pass a test prior to becoming a designated broker. See WAC 208-660-250(1) if you have never been a designated broker.

(2) **I am currently a designated broker, will I have to take the test again?** You will only have to take the designated broker test again if you stop working as a designated broker for five years or longer.

(3) **I am currently a designated broker that originates loans. Will I have to take the loan originator test and obtain a loan originator license?** No. The department will provide you with a loan originator license automatically because you are a designated broker. Your loan originator license will renew in conjunction with the renewal of the mortgage broker main office you work with. If you stop acting as a designated broker, your loan originator license will become inactive. See WAC 208-660-350(12). You can reactivate the license by becoming affiliated with the same or another licensed mortgage broker as a loan originator. If you do not renew your license as provided in WAC 208-660-350(19), the license will expire.

(4) **Where can I get information about the designated broker test?** The department will publish the names and contact information of approved testing providers on the department web site.

(5) **What topics may be covered in the designated broker test?** ~~((The department will publish a list of designated broker test topics on the department's web site.))~~ See WAC 208-660-600.

(6) **How soon after failing the designated broker test may I take it again?** After failing the test three consecutive

times you must wait at least fourteen days before taking the test again.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-300 Loan originators—General. (1) May I work as a loan originator for more than one mortgage broker? Yes.

(2) **How do I obtain approval to work for more than one mortgage broker?** ~~((Use the form prescribed by the director to get approval to add mortgage broker relationships to your license.))~~ Using the NMLSR, the company will submit a sponsorship request. The department will notify you ~~((if the))~~ when the relationship is ~~((not))~~ approved. The department will notify you and others associated with your license upon approval of your request. The ~~((application must include))~~ NMLSR will charge a fee for the additional relationship. See WAC 208-660-550.

(3) **If I work as a loan originator for more than one mortgage broker, may I take an application from a borrower without identifying one specific mortgage broker?** No. You may take an application for only one mortgage broker at a time in any one transaction. Prior to presenting yourself to a specific borrower as licensed to originate mortgage loans, you must state who you represent. You must clearly identify the mortgage broker by name and address on the application, on all disclosures, authorization forms, and other material provided to the borrower. There must be no confusion by the borrower as to which mortgage broker you are representing at any given time.

(4) **May I work from any location when I am a licensed loan originator?** No. You can only work from a licensed location. The licensed location can be the main company office, or any licensed branch.

(5) **May a loan originator transfer loan files to a mortgage broker other than the mortgage broker the loan originator is associated with?** No. Only the borrower may submit a written request to the licensed mortgage broker to transmit the borrower's selected information to another mortgage broker or lender. Loan files are the property of the mortgage broker named on the loan application and the mortgage broker must keep the original files and documents. The licensed mortgage broker must transmit the information within five business days after receiving the borrower's written request.

~~((5))~~ (6) **May I act as a loan originator and a real estate agent in the same transaction or for the same borrower in different transactions?** Yes, you may be both the loan originator and real estate broker or salesperson in the same transaction, or for the same borrower in different transactions. When either of these occur, you must provide to the borrower the following written disclosure:

"THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS, AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER, OR LENDER OF YOUR CHOOSING."

~~((6))~~ (7) **As a loan originator, may I be paid directly by the borrower for my services?** No. As a loan originator, you may not be paid any compensation or fees directly by the borrower.

~~((7))~~ (8) **May a loan originator charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?** No. A loan originator may not charge the borrower a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan.

~~((8))~~ (9) **As a loan originator, may I be paid my portion of the mortgage broker fee directly from the loan closing?**

(a) Yes. If authorized in the mortgage broker's demand, the settlement service provider may pay your portion of the mortgage broker fee directly to you; provided however, that the HUD-1 or equivalent settlement statement has the following information:

(i) Your name as it appears on your loan originator license;

(ii) Your loan originator license number; and

(iii) The amount to be paid to you by the settlement service provider.

(b) You must provide a copy of the HUD-1 or equivalent settlement statement to the licensed mortgage broker within twenty-four hours of your receipt of funds from closing.

~~((9))~~ (10) **May a loan originator bring a lawsuit against a borrower for the collection of compensation?** No. Only licensed mortgage brokers, or exempt mortgage brokers, may bring collection actions against borrowers to collect compensation.

~~((10))~~ (11) **May I work as a licensed loan originator for a mortgage broker located out of the state?** Yes. You may originate loans for any mortgage broker you are affiliated with who is licensed under Washington law.

~~((11))~~ (12) **May a licensed loan originator hire employees or independent contractors to assist in the mortgage broker licensee's activities?** No. Only the mortgage broker licensee can have employees or independent contractors. This prohibition against loan originators hiring employees or independent contractors includes clerical or administrative personnel whose work is related to the mortgage broker licensee's activities, and loan processors.

~~((12))~~ (13) **Do loan processors have to be licensed as loan originators?** ~~((No.))~~ W-2 employee loan processors are not required to have a loan originator license provided they work under the supervision and instruction of a licensed or exempt mortgage broker and do not hold themselves out as able to conduct the activities of a mortgage broker or loan originator. ~~((However, a))~~ Independent contractor loan processors ~~((may not work as an independent contractor unless))~~ must be licensed as a mortgage broker, mortgage broker branch office, or loan originator.

(14) May loan processors work on files from an unlicensed location? A loan processor may work on loan files from an unlicensed location under the following circumstances:

(a) The loan files are in electronic format and the loan processor accesses the files directly from the licensed mortgage broker's main computer system. The loan processor may not maintain any electronic files on any computer system other than the system belonging to the licensed mortgage broker.

(b) The loan processor does not conduct any of the activities of a licensed loan originator.

(c) The licensed mortgage broker must have safeguards in place for the computer system that safeguards borrower information.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license? Your application consists of an on-line filing through the NMLSR and Washington specific requirements provided directly to DFI. You must pay an application fee through the NMLSR system.

(a) Be eighteen years or older.

(b) Have a high school diploma, an equivalent to a high school diploma, or three years experience in the industry. The experience must meet the criteria in WAC 208-660-250 (1)(e)(i) and (ii).

(c) Pass a licensing test. You must take and pass a test that assesses your knowledge of the mortgage business and related regulations. See WAC 208-660-360, Loan originators—Testing.

(d) Submit an application. ~~((The application form will be prescribed by the director.))~~ You must complete an application in a form prescribed by the director.

(e) Prove your identity. You must provide information to prove your identity.

(f) Pay the application fee. You must pay an application fee ~~((to cover the department's cost of processing and reviewing))~~ for your application(s). See WAC 208-660-550, Department fees and costs.

(2) In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?

(a) General fitness and prior compliance actions. The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) License suspensions or revocations. You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license

issued under the act or any similar state statute suspended or revoked within five years of the filing of the present application.

(c) Criminal history.

(i) You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

(ii) You are not eligible for a loan originator license if you have been convicted of a felony, at any time, for fraud, dishonesty, a breach of trust, or money laundering. H.R. 3221.

(d) Financial background.

(i) You are not eligible to receive a loan originator license if you have one hundred thousand dollars or more of tax liens against you at the time of appointment by a licensed mortgage broker.

(ii) You may not be eligible to receive a loan originator license if your financial background during the two years prior to the appointment application shows a history of unpaid debts.

(3) ~~((May I originate residential mortgage loans in Washington without a loan originator license?))~~ Persons conducting the business of a loan originator without an active loan originator license must fall under one of the following categories of exemption from loan originator licensing:

(a) ~~Persons conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(a)(i); or~~

(b) ~~The exclusive agents conducting residential mortgage loan business for any exempt person under RCW 19.146.020 (1)(a)(ii); or~~

(c) ~~The bona fide employees conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(b), (c), (g) or (h); or~~

(d) ~~Those persons exempt under RCW 19.146.020 (1)(c) or (d).~~

(4)) What will happen if my loan originator license application is incomplete? After submitting your on-line application through the NMLSR, the department will ((reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You may then resubmit the application package)) notify you of any application deficiencies.

~~((5))~~ (4) How do I withdraw my application for a loan originator license? ((Provide the department with a written request to withdraw your application in a form prescribed by the director.)) Once you have submitted the on-line application through NMLSR you may withdraw the application through NMLSR. You will not receive a refund of the NMLSR application fee.

~~((6))~~ (5) When will the department consider my loan originator license application to be abandoned? If you do not respond within ten business days to the department's second request for information, your loan originator license application is considered abandoned and you forfeit all fees paid. Failure to provide the requested information will not affect new applications filed after the abandonment. You

may reapply by submitting a new application package and new application fee.

~~((7))~~ **(6) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?**

(a) The department will notify you if your application is denied. ~~((You will receive a refund of any unused portion of the application fee.))~~

(b) If your license application lists any mortgage brokers, the department will also notify the mortgage brokers of the license denial.

(c) Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request brief adjudicative proceeding. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied.

(i) Brief Adjudicative Proceeding Adopted. The director adopts RCW 34.05.482 through 34.05.494 to administer brief adjudicative proceedings under WAC 208-660-350.

(ii) Presiding Officer. Brief adjudicative proceedings are conducted by a presiding officer designated by the director. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's licensing application denial, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

(iii) Preliminary Records. The preliminary record for the brief adjudicative proceeding consists of the application and all associated documents including all documents relied upon by the department to deny the application and all correspondence between the applicant and the department regarding the application.

(iv) Notice of Hearing. The department will set the date, time, and place of the hearing, giving at least seven business days notice to the applicant.

(v) Written Documents. The applicant or their representatives may present written documentation. The presiding officer must designate the date for submission of written documents.

(vi) Oral Argument. The presiding officer may exercise discretion in allowing oral argument.

(vii) Witnesses. Witnesses will not be allowed to testify.

(viii) Agency Expertise Considered. The presiding officer may rely upon agency expertise in addition to the written record as a basis for a decision.

(ix) Initial Order. The presiding officer must make a written initial order within ten business days of the final date for submission of materials, or oral argument, if any. The initial order will become final twenty-one days after service on the applicant unless the applicant requests an administrative review or the department decides to review the matter.

~~((8))~~ **(7) How will the department provide me with my loan originator license?** The department may use any of the following methods to provide you with your loan originator license:

(a) A printed paper license sent to you by regular mail.

(b) A license sent to you electronically that you may print.

(c) A license verification available on the department's web site and accessible for viewing by the public.

~~((9))~~ **(8) May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

~~((10))~~ **(9) How do I change information on my loan originator license?** ~~((You must file a license amendment application with the department, in a form prescribed by the director within thirty days of the change occurring.))~~

~~((11))~~ **If I am not required to have a loan originator license to do my job, may I apply for and receive a loan originator license?** Yes, you may apply for a license at any time. However, if you are not required to hold the license to conduct the activities of your job, your license will be considered inactive.

~~((12))~~ **You must submit an amendment to your license through the NMLSR. You may be charged a fee.**

(10) What is an inactive loan originator(~~(s)~~) license? ~~((If an individual holds a loan originator license when they are not required to under the act, they hold an inactive license))~~ When a licensed loan originator is not sponsored by a licensed or exempt company, the license is inactive. When a person (~~(holding)~~) holds an inactive license, they may not conduct any of the activities of a loan originator, or hold themselves out as a licensed loan originator.

~~((13))~~ **(11) When my loan originator(~~(s)~~) license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

~~((14))~~ **(12) When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?** Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

~~((15))~~ **(13) May I originate loans from a web site when my license is inactive?** No. You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive ~~((except as allowed in subsection (3) of this section)).~~

~~((16))~~ **(14) How do I activate my loan originator license?** ~~((When the department receives a notice, in a form prescribed by the department, from a licensed or exempt mortgage broker establishing a working relationship with you, your loan originator license will become active.))~~ The sponsoring company must submit a sponsorship request for your license through the NMLSR. The department will notify you and all (~~(mortgage brokers)~~) the companies you are working with of the new working relationship (~~(established by the licensed mortgage broker)~~) if approved.

~~((17))~~ **(15) When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the results of the applicant's background check.

~~((18))~~ **(16) When does my loan originator license expire?** The loan originator license expires annually on December 31st. ~~((The expiration date is shown on the license.))~~ If the license is an interim license, it may expire in less than one year.

~~((19))~~ **(17) How do I renew my loan originator license?**

(a) Before the license expiration date you must renew your license through the NMLSR. Renewal consists of:

- (i) Pay the annual assessment fee; and
- (ii) Meet the continuing education requirement.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

~~((20))~~ **(18) If I let my loan originator license expire, must I apply to get a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection ~~((19))~~ **(17)** of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

~~((21))~~ **(19) If I let my loan originator license expire and then apply for a new loan originator license within one year of the expiration, must I comply with the continuing education requirements from the prior license period?** Yes. Before the department will consider your new loan originator application complete, you must provide proof of satisfying the continuing education requirements from the prior license period.

~~((22))~~ **(20) May I still originate loans if my loan originator license has expired?** No. Once your license has expired you may no longer conduct the business of a loan originator, or hold yourself out as a licensed loan originator, as defined in the act and these rules.

~~((23))~~ **(21) What happens to the loan applications I originated before my loan originator license expired?** Existing loan applications must be processed by the licensed mortgage broker or another licensed loan originator working for the mortgage broker.

~~((24))~~ **(22) May I surrender my loan originator's license?** Yes. Only you may surrender your license before the license expires ~~((by notifying the department, in a form prescribed by the department))~~ through the NMLSR.

~~((Surrender of))~~ Surrendering your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

~~((25))~~ **(23) Must I display my loan originator license where I work as a loan originator?** No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

~~((26))~~ **(24) If I operate as a loan originator on the internet, must I display my license number on my web site?** Yes. You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

~~((27))~~ **(25) Must I include my loan originator license number on any documents?** You must include your license number immediately following your name on solicitations, including business cards, advertisements, and residential mortgage loan applications.

~~((28))~~ **(26) When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

- (a) When asked by any party to a loan transaction, including third party providers;
- (b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;
- (c) When asked by any person who contacts you about a residential mortgage loan;
- (d) When taking a residential mortgage loan application.

(27) May I conduct business under a name other than the name on my loan originator license? No. You must only use the name on your license when conducting business. If you use a nickname for your first name, you must use your name like this: "FirstName "Nickname" LastName."

AMENDATORY SECTION (Amending WSR 06-23-137, filed 11/21/06, effective 1/1/07)

WAC 208-660-360 Loan originators—Testing. (1) Must I pass a test prior to becoming a loan originator? Yes. You must take and pass a test prior to becoming a loan originator. You must receive a score of seventy-five percent or higher to pass the test.

(2) Where may I find information about the loan originator test? The department will publish the names and contact information of approved testing providers on the department web site.

(3) How much does the loan originator test cost? Testing costs are set by contract between the test provider and the department and may be modified from time to time. The department will publish the current testing fee with the testing provider contact information.

(4) How do I register to take the loan originator test?

The department will publish registration information with the testing provider contact information.

(5) What topics may be covered in the loan originator test? ~~((The department will publish a list of loan originator))~~ At a minimum, the test topics ((on the department's web site)) will include ethics, federal and state law and regulation pertaining to mortgage origination, federal and state law and regulation on fraud, consumer protection, nontraditional mortgage products, and fair lending. See WAC 208-660-600.

(6) After passing the loan originator test, will I have to take it again? You must retake the loan originator test if you have not been a loan originator within the past five years.

(7) How soon after failing the loan originator test may I take it again? After taking and failing the test three consecutive times, you must then wait at least fourteen days before taking the test again.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-370 Loan originators—Continuing education. (1) **Where may I get information about continuing education for loan originators?** The department will publish a list of the approved professional organizations that provide continuing education, and approved individual courses on the department's web site. The professional organizations will have detailed information about the continuing education courses they offer. See also WAC 208-660-600.

(2) How many clock hours of loan originator continuing education must I have each year? ~~((The continuing education requirement will be in the form of approved courses. While the individual clock hours may vary,))~~ You must complete ((two courses, of no less than three hours each, annually. Alternatively, you may attend three mortgage broker commission meetings instead of completing one continuing education course)) eight hours annually.

(3) As a loan originator, may I take the same approved course multiple times to meet my annual continuing education requirement? No. You may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) If I teach an approved continuing education course may I use my course as credit toward my annual loan originator continuing education requirement? Yes. As an instructor of an approved continuing education course, you may receive credit for your annually required loan originator continuing education courses from the course(s) you teach. You will receive credit at the rate of one course taught equaling two continuing education course credits.

(5) How do I receive credit toward my continuing education requirement when I teach an approved continuing education course? When you renew your license and seek to get credit for continuing education, submit to the department documentation evidencing approval of the continuing course you taught. The department will credit you with completing two continuing education courses for each one approved course you teach.

(6) Is ethics a required continuing education course for loan originators? Yes. You must take ~~((an ethics con-~~

~~tinuing education course in your first year of holding a loan originator license. However, if you teach an approved continuing education course on ethics during your first year of holding a loan originator license, that will satisfy your ethics continuing education requirement for that year))~~ at least two ethics hours annually. The annual ethics credits must include the topics of fraud, consumer protection, and fair lending.

(7) If I take a loan originator continuing education course approved for multiple jurisdictions, will the department accept it as part of my continuing education requirement? ~~((If any state has continuing education requirements or standards at least as stringent as Washington's, their continuing education courses may be approved by the department as meeting the continuing education requirements under the act and these rules.))~~ Yes. There will be continuing education courses that meet the requirements for all states.

(8) If I accumulate more than the required loan originator continuing education course credits during a year, may I carry-over the excess credit to the next year? No. Continuing education credits only apply to the year in which they are taken.

(9) If I fail to complete the required continuing education, what happens to my loan originator license? When your license expires, the department will not renew it, and you cannot continue conducting any business under the act. See WAC 208-660-350~~((20))~~ (18) to renew your license within forty-five days of it expiring. See also, WAC 208-660-350~~((21))~~ (19).

(10) How will I know which courses and providers satisfy the continuing education requirement? The department will approve continuing education courses offered by course providers and will approve professional organizations offering courses. The providers, courses, and contact information will be listed on the department's web site.

(11) How do I provide the department with proof of the continuing education courses I have completed? You must provide the department with proof of your satisfactory completion of the course, in a form prescribed by the department.

(12) If the department reissues my license and the new expiration date does not coincide with the prior annual assessment period, will the department still give me credit for the continuing education courses I have taken in preparation for meeting the prior annual assessment date? Yes. The department will give you credit for the continuing education courses you have taken. You will not lose any credits due to the department's license expiration date adjustment.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-400 Reporting requirements and notices to the department. (1) **As a licensed mortgage broker, what annual report must I provide to the department?** You must file a mortgage broker annual report, in a form prescribed by the director. The report must include:

(a) The total number of residential mortgage loans secured by Washington real estate that you originated and closed in the prior calendar year; and

(b) The total dollar volume (principal loan amounts) of the residential mortgage loans secured by Washington real estate that you originated and closed in the prior calendar year.

(2) When must I provide the mortgage broker annual report to the department? You must provide the completed report to the department by March 31st of each year. The first annual report, for activity occurring in 2007, must be received by the department before or on March 31, 2008.

(3) What period of time must the mortgage broker annual report cover? The mortgage broker annual report must cover the prior calendar year from January 1st to December 31st.

(4) What action will the department take if I fail to file my mortgage broker annual report?

(a) When the report is over thirty days late, the department may begin an enforcement action against you.

(b) When your license is due for renewal, the department will not renew it if you have not filed your annual report.

(5) How do I notify the department when I want to change information on my mortgage broker or loan originator license? You must file a license amendment ~~((application with the department, in a form prescribed by the department))~~ through the NMLSR within thirty days of the change occurring.

(6) As a designated broker or loan originator, must I notify the department if I change my residential address or telephone number? Yes. Whether your license is active or inactive, you must notify ~~((the department in a form prescribed by))~~ the department, through the NMLSR, within thirty days of a change in your residential address and telephone number.

(7) As a designated broker or loan originator must I notify the department if I change my name? Yes. Whether your license is active or inactive, you must notify the department ~~((in a form prescribed by the department)),~~ through NMLSR, within thirty days of a name change.

(8) Must I notify the department of the physical address of my mortgage broker books and records? Yes. You must provide the physical address of your mortgage broker books and records in your initial license application through NMLSR. If the location of your books and records changes, you must provide the department, ~~((in a form prescribed by the department))~~ through the NMLSR, with the new physical address within five business days of the change.

(9) Must I notify the department if my designated broker leaves, or is no longer my designated broker? Yes. You must notify the department, ~~((in a form prescribed by the department))~~ through NMLSR, within five business days of the loss of or change of status of your designated broker. See WAC 208-660-180(3).

(10) When and how do I change the information about my registered agent? Within five business days of the change, you must file a statement of change ~~((with the department, in a form prescribed by the department))~~ through the NMLSR.

(11) If I am a registered agent under the act, must I notify the department if I resign? Yes. You must provide the department with your statement of resignation letter at least thirty-one days prior to the intended effective date. You must also provide a copy of the resignation letter to the licensed mortgage broker. The department will terminate your appointment thirty-one days after receiving your resignation letter.

(12) Must I notify the department if I change the business structure of my company? When must I notify the department? If the change to your business adds officers, directors, or principal stockholders owning ten percent or more of the company, you must notify the department, ~~((in a form prescribed by the department))~~ through the NMLSR, at least thirty days prior to the change. The department will consider the qualifications of the new people and notify you whether or not the proposed change is acceptable. You may have to submit fingerprint cards for new controlling people directly to DFI.

(13) What are my responsibilities when I sell my business?

(a) At least thirty days prior to the effective date of sale, you must notify the department of the pending sale ~~((in a form prescribed by the director.~~

~~(b) You must surrender your license and complete the year's annual report.~~

~~(c))~~ by completing the following: Update and file all required information through the NMLSR for your main and any branch offices, including updating information about the location of your books and records.

(b) You must give written notice to borrowers whose applications or loans are in process, advising them of the change in ownership.

~~((c))~~ (c) You must give written notice to third party providers that have or will provide services on loans in process, and all third-party providers you owe money to, bringing accounts payable current.

~~((e) You must maintain your records as required under the act and these rules.~~

~~(f))~~ (d) Surrender all physical licenses to DFI.

(e) You must reconcile the trust account and return any funds to the borrowers or others to whom they belong, or transfer funds into a new trust account at the borrower's direction. If excess funds still remain and are unclaimed, follow the procedures provided by the department of revenue's unclaimed property division.

(14) Must I notify the department if I cease doing business in this state? Yes. You must notify the department within twenty days after you cease doing business in the state by updating your record and filing a surrender through the NMLSR, and filing your Mortgage Broker ((Closure Form and the)) annual report directly with DFI.

(15) Must I notify the department of changes to my trust account? Yes. You must notify the department within five business days of any change in the status, location, account number, or other particulars of your trust account, made by you or the federally insured financial institution where the trust account is maintained. A change in your trust account includes the addition of a trust account.

(16) Must I notify the department of changes to my Washington master business license? Yes. You must notify the department within five business days of any changes to your Washington master business license made by you or the agency issuing the license.

(17) Must I notify the department of changes to my standing with the Washington secretary of state? Yes. You must notify the department within five business days of any changes to your standing with the Washington secretary of state made by you or the secretary of state.

(18) What must I do if my licensed mortgage broker company files for bankruptcy?

(a) Chapter 7 bankruptcy. If you are a licensed mortgage broker that files for a Chapter 7 bankruptcy, you must:

(i) Notify the director and surrender your mortgage broker license within ten business days of filing the bankruptcy.

(ii) Provide the department with a mortgage broker annual report for the calendar year preceding the filing within ten business days of filing the bankruptcy.

(b) Chapter 11 bankruptcy. If your licensed mortgage broker company files for a Chapter 11 bankruptcy, you must notify the director within ten business days of filing the bankruptcy.

(c) Chapter 13 bankruptcy. If your licensed mortgage broker company files for a Chapter 13 bankruptcy, you must:

(i) Notify the director and surrender your mortgage broker license within ten business days of filing the bankruptcy.

(ii) Provide the department with a mortgage broker annual report for the calendar year preceding the filing within ten business days of filing the bankruptcy.

(19) If I am a designated broker and file for personal bankruptcy, what are my reporting responsibilities? A designated broker must notify the department in writing within ten business days of filing for bankruptcy protection.

(20) If I am a designated broker and file for personal bankruptcy, what action may the department take? The director may require the licensed mortgage broker to replace you with another designated broker.

(21) If I am a loan originator and file for personal bankruptcy, what are my reporting responsibilities? A licensed loan originator must notify the director in writing within ten business days of filing for bankruptcy protection.

(22) If I am a loan originator and file for personal bankruptcy, what action may the department take? Depending on the circumstances, the director may revoke or condition your license.

(23) When may I apply for a license after surrendering one due to my personal bankruptcy filing? If you surrendered your license, you may apply for a license at any time. However, the department may deny your license application for three years after the bankruptcy has been discharged provided that no new bankruptcies have occurred or are in progress.

(24) When may I apply for a license after the department has revoked my license due to my personal bankruptcy filing? The director will not issue a license to any person who has had their license revoked within five years of applying. While you may apply at any time, the application will be denied until the five years have elapsed. For this rea-

son it is important for you to consider a surrender of your license rather than allowing it to be revoked.

(25) Who in the mortgage broker company must notify the department if they are charged with or convicted of a crime? Licensees, whether on active or inactive license status, must notify the department in writing within ten business days of being:

(a) Charged by indictment or information with any felony, or a gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(b) Convicted of any felony, or any gross misdemeanor involving dishonesty or financial misconduct in any jurisdiction.

(c) Convicted outside of Washington for any crime that if charged in Washington would constitute a felony, or gross misdemeanor for dishonesty or financial misconduct.

(26) Who in the mortgage broker company must notify the department if they are the subject of an administrative enforcement action? Licensees, whether holding active or inactive licenses, must notify the department in writing within ten business days of the occurrence if:

(a) Charged with any violations by an administrative authority in any jurisdiction; or

(b) The subject of any administrative action, including a license revocation action, in any jurisdiction.

AMENDATORY SECTION (Amending WSR 06-23-137, filed 11/21/06, effective 1/1/07)

WAC 208-660-420 Out-of-state mortgage brokers and loan originators. (1) **May I be a licensed mortgage broker in Washington without a physical office in Washington?** Yes. You are not required by the act to have a physical location in Washington.

(2) **May I be a licensed mortgage broker in Washington and have branch offices both in Washington and outside of Washington?** Yes. However, each of your branch offices that offer Washington residential mortgage loans must hold a Washington license, even if the location is outside Washington.

(3) **May my mortgage broker business be conducted entirely on the internet?** Yes. But you must have a license for all locations including those that offer loans by mail or internet.

(4) **May I work as a loan originator in Washington if I do not have a physical location in Washington?** Yes. You may originate Washington loans from any location licensed under the act, inside or outside of Washington.

(5) **May I work as a licensed loan originator for a mortgage broker that is out of the state?** Yes, as long as the location from which you work is licensed under the act.

(6) **If my mortgage broker business is not located in Washington, where must I keep my records?** If your business is located outside of Washington, you may either maintain the books and records at a location in Washington, or pay the department's travel expenses to the out-of-state location to examine the books and records. Travel expenses may include, but are not limited to, transportation, meals, and lodging.

(7) **What additional requirements must I comply with if my business does not have a physical location in Washington?** You must continuously maintain a registered agent in Washington and provide the department with the registered agent's name, physical and mailing address, and written consent to be the registered agent.

(8) **How do I change the information about my registered agent?** You must ~~((file a statement of change with the department))~~ update the information in the NMLSR within five business days from the change. ~~((The statement of change must contain:~~

~~(a) Your name and license number.~~

~~(b) If the agent's office location has changed, the new physical address.~~

~~(c) If the registered agent has changed, the name and physical address of the new registered agent. The director will send a request directly to the new agent to obtain written consent to the appointment.))~~

(9) **If I am a registered agent under the act, what must I do to resign as registered agent?**

(a) Provide the department with a statement of resignation at least thirty-one days prior to the intended effective date of your resignation.

(b) Provide a copy of the statement of resignation to the licensed mortgage broker.

(c) The department will terminate your appointment on the thirty-first day after the date on which the statement of resignation was delivered.

(10) **Where must the director initiate lawsuits arising under the act against out-of-state licensees?** Lawsuits initiated by the director under the act must be initiated in the superior court of Thurston county, Washington.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-430 Disclosure requirements. (1) What disclosures must I make to borrowers and when? Within three business days of receiving a borrower's loan application, or receiving money from a borrower for third-party provider services, you, as a mortgage broker or loan originator on behalf of a mortgage broker, must make all disclosures required by RCW 19.146.030 (1), (2), ~~((and))~~ (3), and 19.144.020. The disclosures must be in a form acceptable to the director.

(2) **What is the disclosure required under RCW 19.146.030(1)?** A full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker. A good faith estimate of a fee or cost must be provided if the exact amount of the fee or cost is not determinable. This subsection does not require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.

The specific content of the disclosure required under RCW 19.146.030(1) is identified in RCW 19.146.030(2).

(3) **What is the disclosure required under RCW 19.146.030(2)?** Mortgage brokers must disclose the following content:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase.

Disclosure in compliance with the requirements of the Truth-in-Lending Act and Regulation Z, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of RESPA and Regulation X, as now or hereafter amended, is considered compliance with the disclosure content requirements of this subsection; however, RCW 19.146.030(1) governs the delivery requirement of these disclosures;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been entered, disclosure in a form acceptable to the director that the disclosed interest rate and terms are subject to change;

(d) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower, to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) Whether and under what conditions any lock-in fees are refundable to the borrower; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

(4) **What is the disclosure required under RCW 19.144.020?** See WAC 208-600-200.

(5) **How do I disclose my mortgage broker fees on the good faith estimate and settlement statement?** You must disclose or direct the disclosure of your fees on lines 808 through 811 of the good faith estimate and HUD-1/1A settlement statement or similar document.

~~((5))~~ (6) **How do I disclose my yield spread premium (YSP) from the lender?**

(a) You should disclose the YSP in the 800 series of lines on the GFE. The YSP must be listed using the words "yield

spread premium" and expressed as a dollar amount or dollar amount range.

(b) You must direct the settlement service provider to disclose the YSP in the 800 series of lines on the HUD-1 or equivalent settlement statement. The YSP must be listed using the words "yield spread premium" and expressed as a dollar amount (~~(or dollar amount range)~~).

(c) Failure to properly disclose the YSP is a violation of RCW 19.146.0201 (6) and (11), and RESPA.

~~((6))~~ **(7) Are there additional disclosure requirements related to interest rate lock-ins?** Yes. Pursuant to RCW 19.146.030(3), if subsequent to the written disclosure being provided under this section, a mortgage broker or loan originator enters into a lock-in agreement with a borrower or represents to the borrower that the borrower has entered into a lock-in agreement, then within three business days the mortgage broker or loan originator must deliver or send by first-class mail to the borrower a written confirmation of the terms of the lock-in agreement, which must include a copy of the disclosure made under subsection (3)(c) of this section.

~~((7))~~ **(8) What must I disclose to the borrower if they do not choose to enter into a lock-in agreement?** If a lock-in agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change.

~~((8))~~ **(9) Will a lock-in agreement always guarantee the interest rate and terms?** No. A lock-in agreement may or may not be guaranteed by the mortgage broker or lender. The lock-in agreement must clearly state whether the lock-in agreement is guaranteed by the mortgage broker or lender.

~~((9))~~ **(10) Must a mortgage broker enter into a lock-in agreement with a borrower?** No. The statute does not require a mortgage broker to enter into a lock-in agreement with a borrower.

~~((10))~~ **(11) Are there any model forms that suffice for the disclosure content under RCW 19.146.030(2)?** Yes. The following model forms are acceptable forms of disclosure:

(a) For RCW 19.146.030 (2)(a), mortgage brokers are encouraged to use the federal truth-in-lending disclosure form for mortgage loan transactions provided under the Truth-in-Lending Act and Regulation Z, as now or hereafter amended. However, the federal truth-in-lending disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(a). The delivery of disclosures is governed by RCW 19.146.030(1).

(b) For RCW 19.146.030 (2)(b), mortgage brokers are encouraged to use the federal good faith estimate disclosure form provided under the Real Estate Settlement Procedures Act and Regulation X, as now or hereafter amended. However, the federal good faith estimate disclosure only suffices for the content of disclosures under RCW 19.146.030 (2)(b). The delivery of disclosures is governed by RCW 19.146.030 (1).

(c) For RCW 19.146.030 (2)(c), (d), (e), (f) and (3), the department encourages mortgage brokers to use the department published model disclosure forms that can be found on the department's web site.

~~((11))~~ **(12) May my mortgage broker fees increase following the disclosures required under RCW 19.146.-**

030(1)? Pursuant to RCW 19.146.030(4), a mortgage broker must not charge any fee that inures to the benefit of the mortgage broker if it exceeds the fee disclosed on the initial written good faith estimate disclosure required in RCW 19.146.-030 (1) and (2)(b), unless:

(a) The need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided; and

(b) The mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed.

~~((12))~~ **(13) Are there any situations in which fees that benefit the mortgage broker can increase without additional disclosure?** Yes, there are two possible situations where an increase in the fees benefiting the mortgage broker may increase without the requirement to provide additional disclosures. These situations are:

(a) The additional disclosure is not required if the borrower's closing costs, excluding prepaid escrowed costs of ownership, on the final settlement statement do not exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower. For purposes of this section "prepaid escrowed costs of ownership" mean any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the property used as security for the loan; or

(b) The fee or set of fees that benefit the mortgage broker are disclosed as a percentage of the loan amount and the increase in fees results from an increase in the loan amount, provided that:

(i) The increase in loan amount is requested by the borrower; and

(ii) The fee or set of fees that are calculated as a percentage of the loan amount have been disclosed on the initial written disclosure as both a percentage of the loan amount and as a dollar amount based upon the assumed loan amount used in the initial written disclosure; and

(iii) The total aggregate increase in the fee or set of fees that benefit the mortgage broker as a result of the increase in loan amount is less than seven hundred fifty dollars.

This section does not apply to the disclosure required in RCW 19.144.020.

~~((13))~~ **(14) What action may the department take if I disclose my mortgage broker fees on the good faith estimate and HUD-1/1A statement on lines other than 808 through 811?** If you fail to disclose your mortgage broker fees as required, the department may request, direct, or order you to refund those fees to the borrower. For example, if you disclose your mortgage broker fees as loan origination fees or discount points, the department may find that this is a deceptive practice and take action against you as indicated.

~~((14))~~ **(15) May the department take action against a mortgage broker when mortgage broker fees are disclosed incorrectly on the HUD-1/1A and the incorrect disclosure was made by an independent escrow agent, title company, or lender?** If the mortgage broker can show the department that they disclosed their fees correctly on the good faith estimate, and have instructed the independent

escrow agent, title company, or lender to disclose the fees correctly on the HUD-1/1A, and the independent escrow agent, title company, or lender has not followed the instructions, the department may not take action against the mortgage broker.

~~((15))~~ **(16) What action may the department take if I fail to provide additional disclosures as required under RCW 19.146.030(4)?** Generally, the department may request, direct, or order you to refund fees.

~~((16))~~ **(17) How will the department determine whether to request, direct or order me to refund fees to the borrowers?** Generally, the department will make its determination by answering the following questions:

(a) Has an initial good faith estimate disclosure of costs been provided to the borrower in accordance with RCW 19.146.030 (1) and (2)(b)?

(b) Were any subsequent good faith estimate disclosures of costs provided to the borrower no less than three business days prior to the signing of the loan closing documents? Additionally, was the subsequent disclosure accompanied by a clear written explanation of the change?

(c) How were the costs disclosed in each good faith estimate (e.g., dollar amount, percentage, or both)?

(d) Did the total costs, excluding prepaid escrowed costs of ownership, on the final settlement statement exceed the total closing costs, excluding prepaid escrowed costs of ownership, in the most recent good faith estimate provided to the borrower no less than three business days prior to the signing of the loan closing documents?

(e) If the costs at closing did exceed the most recent disclosure of costs was the need to charge the fee reasonably foreseeable at the time the written disclosure was provided?

(f) If the costs at closing did exceed the most recent disclosure of costs did the mortgage broker provide a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed, no less than three business days prior to the signing of the loan closing documents?

~~((17))~~ **(18) If I failed to provide the initial good faith estimate or TILA disclosure under RCW 19.146.030 (1) and (2)(a) and (b) what action may the department take?** If you have not provided the initial good faith estimate or TILA disclosure as required, including both delivery and content requirements, the department may request, direct or order you to refund to the borrower fees that inured to your benefit.

~~((18))~~ **(19) If I received trust funds from a borrower, but failed to provide the disclosures as required in RCW 19.146.030 (1) and (2), what action may the department take?** If you did not provide the disclosures as required, including both delivery and content requirements, the department may request, direct, or order you to refund to the borrower any trust funds they have paid regardless of whether you have already expended those trust funds on third-party providers.

~~((19))~~ **(20) Under what circumstances must I redisclose the initial disclosures required under the act?** Generally, any loan terms or conditions that change must be redisclosed to the borrower no less than three business

days(-) prior to (~~(closing, to the borrower)~~) the signing of the loan closing documents. Some examples are:

(a) Adjustable rate loan terms, including index, margin, and any changes to the fixed period.

(b) The initial fixed period.

(c) Any balloon payment requirements.

(d) Interest only options and any changes to the options.

(e) Lien position of the loan.

(f) Terms and the number of months or years for amortization purposes.

(g) Prepayment penalty terms and conditions.

(h) Any other term or condition that may be specific to a certain loan product.

~~((20))~~ **(21) Must I provide the written disclosures required under RCW 19.146.030 if all I do is obtain a credit report on a consumer who has identified a specific property for a purchase and sales agreement or contract, or a refinance loan?** Yes. At that point, you have collected enough information on behalf of the consumer for you to anticipate a credit decision under RESPA's Regulation X, 24 (~~(C.F.R.)~~) CFR Sections 3500 et seq. and you must provide the consumer with all required disclosures. See the definition of "application" in these rules.

~~((21))~~ **(22) If a loan application is canceled within three days of application must I provide the disclosures required under RCW 19.146.030?** If you have not used any borrower trust funds and those funds have been returned to the borrower in conformance with these rules, the disclosures pursuant to RCW 19.146.030 are not required.

~~((22))~~ **(23) Is a mortgage broker that table funds a loan exempt from disclosures?** No. A mortgage broker must provide all disclosures required by the act, and disclose all fees as required by Regulation X, regardless of the funding mechanism used in the transaction.

~~((23))~~ **(24) What must I disclose to a potential borrower when I advertise my business or services to them using information about their current loan?** You must disclose the source from which you obtained the information about the borrower's current loan when the information was not obtained by soliciting, making a residential loan, or assisting that potential borrower in obtaining or applying to obtain a residential mortgage loan. If the information was provided by a company that searched public records and provided you the information, the "source" is the company that provided the records, not "public records."

~~((24))~~ **(25) What must I provide to the borrower if I am unable to complete a loan for them and they have paid for services from third-party providers?** If you are unable to complete a loan for the borrower for any reason, and if the borrower has paid you for third-party provider services, and the borrower makes a written request to you, you must provide the borrower with copies of the product from any third-party provider, including, but not limited to, an appraisal, title report, or credit report. You must provide the copies within five business days of the borrower's request.

The borrower may also request that you provide the originals of the documents to another mortgage broker or lender of the borrower's choice. By furnishing the originals to another mortgage broker or lender, you are conveying the right to use the documents to the other broker or lender. You

must, upon request by the other broker or lender, provide written evidence of the conveyance. You must provide the originals to the mortgage broker or lender within five business days of the borrower's request.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-440 Advertising. (1) **Am I responsible for ensuring that my advertising material is accurate, reliable, and in compliance with the act?** Yes. Each mortgage broker is responsible for ensuring the accuracy and reliability of the advertising material.

(2) **A licensee is prohibited from advertising with envelopes or stationery that contain an official-looking emblem designed to resemble a government mailing or that suggest an affiliation that does not exist. What are some examples of emblems or government-like names, language, or nonexistent affiliations that will violate the state and federal advertising laws?** Some examples include, but are not limited to:

(a) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(b) Envelopes designed to resemble official government mailings, such as IRS or U.S. Treasury envelopes, or other government mailers.

(c) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the mailing.

(d) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(e) Any suggestion or representation that the solicitor is affiliated with any agency, bank, or other entity that it does not actually represent.

(3) **Is it a violation to advertise that third-party services are "free" when the licensee has paid for the services?** Yes. Advertising using the term "free," or any other similar term or phrase that implies there is no cost to the applicant is deceptive because you can recover the cost of the purportedly "free" item through the negotiation process. This is a violation of RCW 19.146.0201 (2), (7), and (11). See the Federal Trade Commission's *Guide Concerning Use of the Word "Free" and Similar Representations* (16 CFR §251.1(g) (2003)) available at <http://www.ftc.gov/bcp/guides/free.htm>.

(4) **When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR?** The required disclosures in your advertisements must be reasonably understandable. Consumers must be able to read or hear, and understand the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the advertisement, can affect whether the information is clear and conspicuous. The disclosure of the APR must be as prominent or more prominent than any other rates disclosed in the advertisement, regardless of the form of the advertisement.

~~((4))~~ (5) **The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised?** Whenever a specific interest rate is advertised, the mortgage broker must retain a copy of the lender's "rate sheet," or other supporting rate information, and the APR calculation for the advertised interest rate.

~~((5))~~ (6) **Must I quote the annual percentage rate when discussing rates with a borrower?** Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 ~~(C-F-R-)~~ CFR, part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

~~((6))~~ (7) **May a mortgage broker or loan originator advertise rates or fees as the "lowest" or "best"?** No. Rates described as "lowest," "best," or other similar words cannot be proven to be actually available at the time they are advertised. Therefore, they are a false or deceptive statement or representation prohibited by RCW 19.146.0201(7).

~~((7))~~ (8) **When I advertise, or present a business card to a potential borrower, must I make the disclosures required under the act and these rules?** No. You are not required to make disclosures until you accept a residential mortgage loan application, or until you assist a borrower in preparing an application.

~~((8))~~ (9) **May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am?** No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

~~((9))~~ (10) **If I advertise using a borrower's current loan information, what must I disclose about that information?** When an advertisement includes information about a borrower's current loan that you did not obtain from a solicitation, application, or loan, you must provide the borrower with:

- (a) The name of the source of the information;
- (b) A statement that you are not affiliated with the borrower's lender; and
- (c) The information disclosed in (a) and (b) of this subsection must be in the same size type font as the rest of the information in the advertisement.

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-500 Prohibited practices. (1) **What may I request of an appraiser?** You may request an area or market survey. While there are no strict definitions of these terms, generally they refer to general information regarding a region, area, or plat. The information usually includes the

high, low and average sales price, numbers of properties available for sale or that have been sold within a set period, marketing times, days on market, absorption rate or the mixture of different property types in the specified area, among other possible components. An area survey does not contain sufficient information or is not so defining as to allow an appraiser or reader to determine the value of a specified property or property type.

(2) **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?** You may inform the appraiser of your opinion of value, the borrower's opinion of value, or the list or sales price of the property. You are prohibited from telling the appraiser the value you need or that is required for your loan to be successful.

(3) **What business practices are prohibited?** The following business practices are prohibited:

(a) Directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(b) Engaging in any unfair or deceptive practice toward any person.

(c) Obtaining property by fraud or misrepresentation.

(d) Soliciting or entering into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(e) Charging discount points on a loan which does not result in a reduction of the interest rate. Some examples of discount point misrepresentations are:

(i) A mortgage broker or lender charging discount points on the good faith estimate or settlement statement payable to the mortgage broker or any party that is not the actual lender on the resident mortgage loan.

(ii) Charging loan fees or mortgage broker fees that are represented to the borrower as discount points when such fees do not actually reduce the rate on the loan, or reflecting loan origination fees or mortgage broker fees as discount points.

(iii) Charging discount points that are not mathematically determinable as the same direct reduction of the rate available to any two borrowers with the same program and underwriting characteristics on the same date of disclosure.

(f) Failing to clearly and conspicuously disclose whether a payment advertised or offered for a residential mortgage loan includes amounts for taxes, insurance, or other products sold to the borrower. This prohibition includes the practice of misrepresenting, either orally, in writing, or in any advertising materials, a loan payment that includes only principal and interest as a loan payment that includes principal, interest, tax, and insurance.

(g) Failing to provide the exact pay-off amount of a loan you own or service as of a certain date five or fewer business days after being requested in writing to do so by a borrower of record or their authorized representative.

(h) Failing to record a borrower's payment, on a loan you own or service, as received on the day it is delivered to any of the licensee's locations during its regular working hours.

(i) Negligently making any false statement or willfully making any omission of material fact in connection with any application or any information filed by a licensee in connection with any application, examination or investigation conducted by the department.

(j) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower in order to verify that the asset is not otherwise insured.

(k) Willfully filing a lien on property without a legal basis to do so.

(l) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction.

(m) Failing to reconvey title to collateral, if any, within thirty days when the loan is paid in full unless conditions exist that make compliance unreasonable.

(n) Failing to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law.

(o) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan.

(p) Engage in bait and switch advertising.

Bait and switch means a deceptive practice of soliciting or promising a loan at favorable terms, but later "switching" or providing a loan at less favorable terms. While bait and switch will be determined by the facts of a case, the following examples, alone or in combination, may exhibit a bait and switch practice:

(i) A deceptive change of loan program from fixed to variable rate.

(ii) A deceptive increase in interest rate.

(iii) The misrepresentation of discount points. This may include discount points that have a different rate buydown effect than promised, or origination fees that a borrower has been led to believe are discount points affecting the rate.

(iv) A deceptive increase in fees or other costs.

(v) A deceptive disclosure of monthly payment amount. This practice may involve soliciting a loan with payments that do not include monthly amounts for taxes and insurance or other reserved items, while leading the borrower to believe that such amounts are included.

(vi) Additional undisclosed terms such as prepayment penalties or balloon payments, or deceiving borrowers about the effect of disclosed terms.

(vii) Additional layers of financing not previously disclosed that serve to increase the overall cost to the borrower. This practice may involve the surprise combination of first and second mortgages to achieve the originally promised loan amount.

(viii) Leading borrowers to believe that subsequent events will be possible or practical when in fact it is known that the events will not be possible or practical.

(ix) Advertising or offering rates, programs, or terms that are not actually available at the time. See WAC 208-660-440(4).

(q) Engage in unfair or deceptive advertising practices. Unfair advertising may include advertising that offends pub-

lic policy, or causes substantial injury to consumers or to competition in the marketplace.

(r) Negligently making any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department.

(s) Making any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

(t) Advertising a rate of interest without clearly and conspicuously disclosing the annual percentage rate implied by the rate of interest.

(u) Failing to comply with the federal statutes and regulations in RCW 19.146.0201(11).

(v) Failing to pay third-party providers within the applicable timelines.

(w) Collecting or charging, or attempting to collect or charge, or use or propose any agreement purporting to collect or charge any fees prohibited by the act.

(x) Acting as a loan originator and real estate broker or salesperson, or acting as a loan originator in a manner that violates RCW 19.146.0201(14).

(y) Failing to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

(4) What federal guidance has the director adopted for use by the department in determining if a violation under subsection (3)(b) of this section has occurred? The director has adopted the following documents:

(a) The Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators "Guidance on Nontraditional Mortgage Product Risks" (released November 14, 2006); and

(b) The Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators, and National Association of Consumer Credit Administrators "Statement on Subprime Mortgage Lending," effective July 10, 2007 (published in the Federal Register at Vol. 72, No. 131).

(5) What must I do to comply with the federal guidelines on nontraditional mortgage loan product risks and statement on subprime lending? You must adopt written policies and procedures implementing the federal guidelines. The policies and procedures must be maintained as a part of your books and records and must be made available to the department upon request.

(6) When I develop policies and procedures to implement the federal guidelines, what topics must be included? The policies and procedures must include, at a minimum, risk management, consumer protection, and control systems.

(a) **Risk management.** The scope of the risk management activities should be determined by the volume of nontraditional mortgages originated. The risk management analysis must include the development of tolerances for borrower characteristics that indicate risk, must include a tolerance for the borrower's ability to repay, and must include tolerances for combining borrowers with certain characteristics with certain nontraditional loan products. For borrower character-

istics see the documents described in subsection (4)(b) of this section.

(i) Ability to repay. For all nontraditional mortgage loan products, the analysis of a borrower's repayment capacity must include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. In addition, for prime borrowers qualifying for loan products that permit negative amortization, the repayment analysis must be based on the initial loan amount plus any balance increase that may accrue from the negative amortization provision. The analysis should avoid over reliance on credit scores as a substitute for income verification. The higher a loan's credit risk, either from borrower characteristics or loan features, the more important it is to verify the borrower's income, assets, and outstanding liabilities.

(ii) Loan product attributes. Loan products with certain attributes, when combined with the borrower characteristics above result in higher risk. The risks are increased if borrowers are not adequately informed of the product features and risks. The following loan attributes, when combined with borrower characteristics may result in higher risk:

- Low initial payments based on a fixed introductory rate that expires after a short time and then adjusts to a variable index rate plus a margin. Because initial and subsequent monthly payments are based on these low introductory rates, a wide initial spread means that borrowers are more likely to experience negative amortization, severe payment shock, and an earlier than schedule recasting of monthly payments. Loans made to subprime borrowers must not contain any provisions that may lead to negative amortization.

- Very high or no limits on how much the payment amount or the interest rate may increase.

- Limited or no documentation of the borrower's income. Stated income is only acceptable if there are mitigating factors that clearly minimize the need for direct verification of repayment capacity. Licensees generally must be able to readily document income using recent W-2 statements, pay stubs, or tax returns. An exception to this is when the loan product underwriting itself contemplates reduced documentation (for example, FHA loans).

- Substantial prepayment penalties or prepayment penalties that extend beyond sixty days prior to the date the interest rate will reset on adjustable rate mortgages.

- Simultaneous second lien loans. Loans with little or no borrower equity should not have a payment structure that allows for delayed amortization unless the borrower has risk mitigating factors.

(b) Consumer protection.

Communication with borrowers. Providers must focus on information important to consumer decision making; highlight key information so that it will be noticed; employ a user-friendly and readily navigable format for presenting the information; and use plain language, with concrete and realistic examples. Comparative tables and information describing key features of available loan products, including reduced documentation programs, also may be useful for consumers. Specifically:

- Promotional materials and other product descriptions must provide information about the costs, terms, features, and

risks of nontraditional mortgages that can assist consumers in their product selection decisions.

• Licensees must apprise borrowers of potential increases in payment obligations. The information should describe when structural payment changes will occur and what the new payment would be or how it was calculated.

• If negative amortization is possible under the terms of a nontraditional mortgage product, borrowers must be advised of the potential for increasing principal balances and decreasing home equity as a consequence of the borrower making minimum payments.

• Borrowers must be alerted to the fact that the loan has a prepayment penalty and the amount of the penalty.

• Borrowers must be made aware of any pricing premium based on reduced documentation.

(c) Control standards.

(i) Actual practices must be consistent with the written policies and procedures. Employees must be trained in the policies and procedures and performance monitored for compliance. Incentive programs should not produce high concentrations of nontraditional products. Performance measures and reporting systems should be designed to provide early warning of increased risk.

(ii) Reporting to DFI. In a separate written document, as prescribed by the director and submitted with the mortgage broker annual report, every licensee must submit information regarding the offering of nontraditional mortgage loan products.

(7) May I charge a loan origination fee or discount points when I originate but do not make a loan? No. You may not charge a loan origination fee or discount points as described in Regulation X, Part 3500, Appendix A.

~~((6))~~ **(8) What mortgage broker fees may I charge?** You may charge a mortgage broker fee that was agreed upon between you and the borrower as stated on a good faith estimate disclosure form or similar document provided that such fee is disclosed in compliance with the act and these rules.

~~((7))~~ **(9) How do I disclose my mortgage broker fees on the good faith estimate and settlement statement?** You must disclose or direct the disclosure of your fees on lines 808 through 811 of the good faith estimate and HUD-1/1A Settlement Statement or similar document.

~~((8))~~ **(10) May I charge the borrower a fee that exceeds the fee I initially disclosed to the borrower?** Pursuant to RCW 19.146.030(4), you may not charge any fee that benefits you if it exceeds the fee you initially disclosed unless:

(a) The need to charge the fee was not reasonably foreseeable at the time the initial disclosure was provided; and

(b) You have provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. See WAC 208-660-430 for specific details, disclosures, and exceptions implementing RCW 19.146.030(4).

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-600 Administration and facilitation of continuing education. (1) **Who may offer continuing education courses to principals, designated mortgage brokers, and loan originators?** Continuing education may be offered by:

(a) Course providers with courses of education approved by the director; or

(b) Course providers with courses of education approved by professional organizations approved by the director.

(2) **What does it mean to offer and administer a course of education?** Offering and administering a course of education is the creation of a curriculum and the administrative processes to operate and maintain the curriculum. See the department's approval standards in subsections (7) and (14) of this section.

(3) **What is a "course of education" under the act?** A course of education is formal training that satisfies all or part of the continuing education requirements of the act and these rules.

(4) **What is a "course provider" under the act?** A course provider is a person or organization that provides continuing education. Course providers may provide education that meets the requirements of the act and these rules by applying for and receiving approval from the department for a specific course of education.

(5) **What is a "professional organization" under the act?** A professional organization is an organization with at least ten members created for the primary purpose of furthering the professional interests of its members, protecting the public interest, or both. Education must be an essential element of the professional organization's purpose. A professional organization must have the director's approval to offer and administer courses of education.

(6) **If I am a course provider not affiliated with a professional organization, how do I obtain approval for my courses of education?** You must apply to the department for course approval. If the department approves the course, you will be issued a certificate of approval that will be effective for two years from the date of issuance.

(7) **What standard is required and what will the department review when considering approval of continuing education provided by course providers not affiliated with professional organizations?** Continuing education courses must provide the course taker with a working knowledge of, and competency in, the subject matter. To ensure this standard, the department will review the following when considering approval of education courses:

(a) The instructor's experience and qualifications;

(b) Whether the instructor or proposed course of education has been approved, denied, or rescinded by the department in the past; and

(c) The course materials and lesson plans for the proposed courses. Each course must run a minimum of three hours; the materials and lesson plans must have the content to support a presentation of this length.

(8) **If I am a course provider with courses of education approved by a professional organization, may I also offer courses of education unaffiliated with the profes-**

sional organization? Yes. However, your courses of education unaffiliated with the professional organization must be approved by the department.

(9) May the department rescind approval of a course provider's course of education? Yes. The department may rescind approval of a course of education:

(a) Upon a determination that the course of education does not meet the standards in subsection (7) of this section; or

(b) If the course provider does not provide the required quarterly reports described in subsection (13) of this section.

(10) What action must a course provider take if notified by the department that its course of education has been rescinded? The course provider must immediately:

(a) Cease advertising or soliciting for the course of education;

(b) Inform registered course takers of the department's rescission of course approval, and cancel the course of education; and

(c) Refund any fees paid by course takers for the course.

(11) May a course provider appeal the department's decision to deny or rescind course approval? Yes. A course provider may appeal the department's decision to deny or rescind a course. The course provider must appeal the decision to the department within twenty days of being notified by the department of the decision.

(12) If a course provider has appealed the department's denial or rescission of a course of education, must it still take the immediate action in subsection (10) of this section? Yes. A course provider appealing a department decision about a course of education must comply with subsection (10) of this section.

(13) I am a course provider who provides approved continuing education courses directly to licensees, or I provide courses with the approval of a professional organization. What reports must I provide to the department? You must provide quarterly reports to the department, in a form prescribed by the director. The reports must be received by the department no later than April 10, July 10, October 10, and January 10 of each year. The reports must contain the following information:

(a) The course taker's name;

(b) The course taker's license number, or Social Security number;

(c) The name of the course;

(d) The date the course was taken; and

(e) Whether the course taker received a certificate of satisfactory completion.

If you provide the reports electronically, the data must be encrypted as prescribed by the director.

(14) What standards will the department review when considering approving professional organizations to offer and administer courses of education under the act and rules? The department will review the following:

(a) A description of the course of education curriculum that satisfies the content of continuing education under subsection (22) of this section;

(b) Whether the professional organization has sufficient procedures and guidelines to:

(i) Establish a course(s) of education and approve a course provider(s);

(ii) Audit and evaluate an approved course(s) of education and course provider(s);

(iii) Remove courses and providers from the professional organization's curriculum;

(iv) Provide board reconsideration of denial or removal of a course of education or a course provider;

(v) Ascertain the identity of course of education takers;

(vi) Issue certificates of satisfactory completion, that include, at a minimum, the course taker's name, the course provider's name, the course title, and the date of course completion;

(vii) Collect, hold, disburse and refund course of education fees;

(c) Whether the professional organization requires members to adhere to an established code of conduct or ethics.

(15) Is the department liable for a professional organization's decision to approve, deny, or revoke authorization for a course provider to offer courses of education? No. The department is not liable for a professional organization's decision to approve, deny, or revoke a course provider's authorization to provide courses of education for the professional organization.

(16) Is the department liable for a course provider's contractual relationship with a professional organization? No. Course providers independently contract with professional organizations and the department is not liable for the consequences of that relationship.

(17) May the department remove a professional organization's authorization to offer and administer courses of education? Yes. The department may rescind a professional organization's authorization to offer and administer courses of education:

(a) Upon a determination that the professional organization fails to meet subsection (14) of this section; or

(b) If the professional organization fails to provide the required quarterly reports described in subsection (21) of this section.

(18) What action must a professional organization take if notified by the department that its authorization has been rescinded? The professional organization must immediately:

(a) Cease advertising or soliciting for all courses of education;

(b) Inform registered course takers of the department's rescission of approval, and cancel the courses of education; and

(c) Refund any fees paid by course takers for the courses.

(19) May a professional organization appeal the department's decision to deny or rescind authorization? Yes. A professional organization may appeal the department's decision to deny or rescind the professional organization's authorization to approve course providers. The professional organization must appeal the decision to the department within twenty days of being notified by the department of the decision.

(20) If a professional organization has appealed the department's denial or rescission of authorization, must it still take the immediate action in subsection (18) of this

section? Yes. A professional organization appealing a department decision about a course provider or course of education must comply with subsection (18) of this section.

(21) When a professional organization is approved by the department to offer continuing education courses to licensees, and does so, what reports must the professional organization provide to the department? The professional organization must provide quarterly reports to the department, in a form prescribed by the director. The reports must be received by the department no later than April 10, July 10, October 10, and January 10 of each year. The reports must contain the following information:

- (a) The course taker's name;
- (b) The course taker's license number, or Social Security number if not currently licensed;
- (c) The name of the course;
- (d) The date the course was taken; and
- (e) Whether the course taker received a certificate of satisfactory completion.

If you provide the reports electronically, the data must be encrypted as prescribed by the director.

(22) How long does department approval for a professional organization to offer continuing education courses last, and may the approval be renewed? Approval of a continuing education course is valid for two years. Approval may be renewed by applying to the director forty-five days prior to expiration of a current approval and providing detailed information about the course(s) and instructor(s) if they are to be changed.

(23) What topics must be included as continuing education courses? Continuing education courses must include some or all of the topics listed below. Courses may be designed to cover a range of topics or they may focus in detail on a single topic.

(a) General.

(i) Ethics in the mortgage industry.

The responsibilities and liabilities of the profession including instruction on fraud, consumer protection, and fair lending issues.

(ii) Lending standards for nontraditional mortgage products.

(iii) Arithmetical computations common to mortgage lending including without limitation, the computation of annual percentage rate, finance charge, amount financed, payment and amortization.

(b) Compliance and internal audit standards.

Proper use and application of the department's published standards and guidelines for examinations.

Internal audit and compliance practices, standards, methods and procedures.

Developing policies and procedures for regulatory compliance.

Responding to regulatory inquiries, directives, subpoenas and enforcement orders.

Training and supervision of mortgage professionals.

Establishing, managing, reconciling and reviewing a trust account (trust account compliance under the act and these rules).

(c) Washington law and associated regulations.

The Mortgage Broker Practices Act.

The Consumer Protection Act.

The Escrow Agent Registration Act.

The Usury Act.

Unfair practices with respect to real estate transactions (RCW 49.60.222).

Mortgage, deed of trust, and real estate contract statutes set forth in Title 61 RCW.

Real estate and appraisal law, including without limitation, the provisions of chapters 18.85 and 18.140 RCW.

Washington principal and agent law.

Any subsequent act or regulation applying to mortgage brokers.

(d) Federal law and associated regulations.

The Real Estate Settlement Procedures Act.

Truth in Lending Act.

Equal Credit Opportunity Act.

Fair Credit Reporting Act.

Fair Housing Act.

Home Mortgage Disclosure Act.

Community Reinvestment Act.

Gramm-Leach Bliley Act.

Home Ownership Protection Act.

Bank Secrecy Act.

Appraisal regulations.

Underwriting.

The SAFE Act (Title V of the Housing and Economic Reform Act of 2008 ("HERA")) Public Law No. 110-289.

Any subsequent act or regulation applying to mortgage brokers.

(e) Mortgage services and products.

Conventional.

Reverse mortgages.

FHA mortgages.

VA mortgages.

Nonprime mortgages.

Other products or services deemed relevant to continuing education by the department.

(24) May the department audit or review a course of education? Yes. The department may audit or review any continuing education course by registering for the course or attending the course of education unannounced by presenting the course provider with official identification prior to the start of the course. The department will not be charged any fee for official audit or review of the course of education.

WSR 08-21-167

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed October 22, 2008, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-072.

Title of Rule and Other Identifying Information: This proposal is the result of the department's ongoing commitment to review and revise its rules, when necessary, as mandated by Executive Order 97-02. The department proposes to amend chapter 16-439 WAC, Pears, summer and fall, by making amendments that are necessary to update the chapter

and increase its clarity. This rule-making proposal is only to make the rule language clear and readable; pear standards are not changing.

Hearing Location(s): Tree Fruit Research Center (park on Western), Conference Room (Large Conference Room), 1100 North Western Avenue, Wenatchee, WA 98801, on Thursday, December 4, 2008, at 1:00 p.m.; and at the WSDA Yakima Office, Conference Room 238 (Primary Conference Room), Suite 226, 21 North First Avenue, Yakima, WA 98902, on Friday, December 5, 2008, at 9:00 a.m.

Date of Intended Adoption: December 16, 2008.

Submit Written Comments to: Teresa Norman, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m. on December 8, 2008.

Assistance for Persons with Disabilities: Contact Rachel Lopez by November 26, 2008, (360) 902-1976, TTY 800-833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to amend chapter 16-439 WAC, Pears, summer and fall, by making amendments that are necessary to update the chapter and increase its clarity. All sections are amended or removed and new sections are added to accomplish this intent. This rule-making proposal is only to make the rule language clear and readable; pear standards are not changing.

Reasons Supporting Proposal: This proposal is the result of the department's ongoing commitment to review and revise its rules, when necessary, as mandated by Executive Order 97-02.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs, specifically RCW 15.17.030 Enforcement—Director's duties—Rules and chapter 34.05 RCW, Administrative Procedure Act.

Statute Being Implemented: Chapter 15.17 RCW, Standards of grades and packs.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Program Manager, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement for proposed rules that impose a more than minor cost on the business in an industry. The proposed change would not impose "more than minor impact" upon the regulated industry.

RCW 19.85.040(1) requires that an agency determine whether the proposed rule will have a disproportionate impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the 10% of businesses that are the largest businesses required to comply. The proposed change would not impose "more than minor impact" upon the regulated industry.

A cost-benefit analysis is not required under RCW 34.05.328. Washington state department of agriculture is not a named agency in RCW 34.05.328.

October 22, 2008
Dennis Hannapel
Assistant Director

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-001 ((Promulgation-)) Purpose. ~~((The Donald W. Moos, director of agriculture of the state of Washington, by virtue of the authority vested in me under chapter 15.17 RCW, after due notice and public hearing held at Olympia, Washington on September 30, 1966, (pursuant to chapters 42.32 and 34.04 RCW), do hereby establish the Washington))~~ This chapter establishes standards for Bartlett and other summer and fall pears~~((, container minimum size and marking requirements))~~ that are packed and marketed within the state of Washington.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-200 Definitions ((of terms)). ~~((The following regulations and))~~ In addition to the definitions found in RCW 15.17.020, the following definitions ((shall)) apply to all varieties and grades under this ~~((order.~~

~~(1) "Mature" means having reached the stage of maturity which will insure a proper completion of the ripening process. Firmness of the flesh shall be considered only in connection with other factors to determine the degree of maturity.~~

~~(2) "Hand-picked" means that pears do not show evidence of rough handling or of having been on the ground.~~

~~(3)) chapter:~~

"Aggregate area" means areas under consideration on a pear's surface that may be combined into an area with a diameter equal to the maximum diameter specified.

"Carefully picked" means pears do not show evidence of either rough handling or having been on the ground.

"Clean" means reasonably free from dust, dirt, or honey dew.

~~((4) "Sound" means that pears at time of packing are free from visible defects such as decay, breakdown, seal, bitter pit, or physical injury affecting keeping quality.~~

~~(5) "Aggregate area" means that all the areas of the blemish under consideration may be assembled into one circular area of the maximum diameter specified.)~~ "Department" means the Washington state department of agriculture.

"Director" means the director of the department or the director's representative.

"Free from damage" means the fruit is free from any blemish that materially affects the appearance of the fruit.

"Free from serious damage" means the fruit is not seriously deformed or disfigured or the edible or culinary value is not seriously affected by defects. Healed insect depressions or other surface blemishes that do not prevent the cutting of one good half are not considered serious damage.

"Hard end pear" means a pear that shows an abnormally yellow or green color at the blossom end, or an abnormally smooth, rounded base with little or no depression at the calyx, or a pear with an abnormally dry and tough or woody flesh near the calyx. Hard end pears are considered defects of all grades.

"Mature" means pears that have reached a stage of maturity that will ensure proper completion of the ripening process.

"Not seriously misshapen" means the pear must have a shape that permits the cutting of three fairly uniform quarters, is not excessively flattened or elongated for the variety, and is free from excessive creases or folds.

"Rat tail pear" means any rat tail shaped or second bloom pear that is tough or ridged. Rat tail pears are considered defects of all grades.

"Sound" means pears, at the time of packing, are free from visible defects such as decay, breakdown, scald, bitter pit, or from physical injury that affects keeping quality.

"Well formed" means having the shape characteristic of the variety.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-210 Grades. (~~Washington extra fancy~~ shall consist of pears of one variety which are mature, hand picked, clean, well formed, sound, and free from drought spot, cork spot, and visible black end, and from damage caused by broken skin, bruises, limbrubs, sunburn, sprayburn, hail marks, russeting, disease, insects, mechanical or other means:

(1) "Well formed" means having the shape characteristic of the variety; and is further defined by variety as follows:

(a) Bartletts shall have a characteristic pyriform shape of a length not less than 1 1/4 times the diameter of the pear, except that the shape may be slightly irregular provided it does not detract from the general appearance of the pear.

(b) In other varieties slight irregularities of shape from type which do not materially detract from the general appearance of the fruit shall be considered well formed.

(2) "Free from damage" means that no blemish shall be allowed which materially affects the appearance of the fruit. The following blemishes shall not be considered as damage:

(a) Slight handling bruises and box bruises such as are incident to good commercial handling in the preparation of a tight pack.

(b) Sunburn, if the normal color of the fruit has not been materially changed, without any softening of the flesh or blistering or cracking of the skin.

(c) Spray burn, same as sunburn.

(d) Russeting, characteristic of the variety as follows:

(i) On Bartlett, characteristic russeting shall be permitted at the calyx end provided such russeting is not visible for more than 1/2 inch when the pear is placed calyx end down on a flat surface.

(e) Light russeting not characteristic of the variety, when the affected area does not exceed an aggregate of 15% of the surface.

(f) Slight pebbling on Bartletts which does not materially detract from the appearance.

In addition to the above, a pear may show any one or a combination of the following, the aggregate of which does not exceed 3/4 inch in diameter:

(g) Limbrubs which are light and not soft and which affect an aggregate area not to exceed 3/4 inch in diameter.

(h) Hail marks when the injury is superficial and which affect an aggregate area not to exceed 1/4 inch in diameter.

(i) Heavy russeting, such as is characteristic of frost injury when the aggregate area does not exceed 1/2 inch in diameter.

(j) Two slight, healed depressions which do not materially affect the general appearance of the fruit.

(k) Sooty blotch when affecting an aggregate area of more than 10% slight or thin, or 1/2 inch moderate, or 3/8 inch heavy.

(3) **Washington fancy** shall consist of pears of one variety which are mature, hand picked, clean, not seriously misshapen, sound, and free from cork spot, and visible black end, and from damage caused by broken skin, and from serious damage caused by bruises, limbrub, sunburn, spray burn, hail marks, drought spot, russeting, disease, insects, mechanical or other means.

(4) "Not seriously misshapen" means in Bartletts and other varieties, the pear shall have a shape which will permit the cutting of three fairly uniform quarters, and which is neither excessively flattened or elongated for the variety, and which shall be free from excessive creases or folds.

(5) "Free from serious damage" means that the defects taken singly or collectively shall not seriously deform or disfigure the fruit, or seriously affect the edible or culinary value. The following blemishes shall not be considered as serious damage:

(a) Slight handling bruises and box bruises, such as are incident to good commercial handling in the preparation of a tight pack.

(b) Sunburn, if the normal color of the fruit has been but slightly changed without any softening of the flesh or blistering or cracking of the skin.

(c) Spray burn, same as sunburn.

(d) Russeting characteristic of the variety.

(i) On Bartlett, characteristic russeting shall be permitted at the calyx end provided such russeting is not visible for more than 1/2 inch when the pear is placed calyx end down on a flat surface and in addition smooth russeting shall be permitted on the entire surface.

(ii) On other varieties, smooth russeting not characteristic of the variety will be permitted on the entire surface of the fruit.

(e) Pebbling on Bartletts which does not seriously affect the culinary or edible value of the fruit.

(f) Limbrubs on Bartletts and other varieties which are light and which are not soft and which do not affect an aggregate area to exceed 10% of the surface of the fruit.

(g) Drought spots which do not affect an aggregate area exceeding 1/4 inch.

In addition to the above, a pear may show any one or a combination of the following, the aggregate of which does

not exceed the maximum area specified on each variety mentioned below:

(h) Heavy or dark heavy limbrubs on Bartletts and other varieties which are not soft and which do not affect an aggregate area to exceed 3/4 of an inch.

(i) Hail marks when the injury does not affect an aggregate area to exceed 3/4 inch in diameter on Bartlett pears, and 1/2 inch in diameter on other varieties of pears.

(j) Frost rings.

(i) Bartletts: Frost rings which do not completely encircle the pear and when the surface is only slightly grooved; and frost damage, such as occurs at the calyx end and which does not materially detract from the appearance of the pear.

(ii) On other varieties frost injury of the nature of heavy russet shall be considered under heavy limbrubs.

(k) Scab spot affecting an aggregate area not to exceed 1/2 inch in diameter.

(l) Shallow healed depressions which do not seriously affect the general appearance of the fruit and which do not affect an aggregate area to exceed 3/4 of an inch in diameter.

(m) Sooty blotch when affecting an aggregate area of not more than 50% of the surface area of thin, widely scattered spots, or not more than 1 1/4 inches of moderate, or not more than 3/4 inch of heavy.

(6) Washington C grade shall consist of pears of one variety which are mature, hand picked, clean, sound and free from hard end; and free from serious damage caused by (a) broken skin, (b) insects, disease, hail marks, limbrubs, heavy russet, or other means; and shall not be so excessively elongated or flattened as to preclude the cutting of one good half.

(a) Broken skin exceeding 1/4 inch in diameter.

(b) "Free from serious damage" means defects when taken singly or collectively shall not seriously affect the edible or culinary value of the fruit. The following conditions shall not be considered serious damage: Healed insect depressions or other surface blemishes which do not prevent the cutting of one good half.

(c) Hard end is defined as those pears which show an abnormally yellow or green color at the blossom end or an abnormally smooth rounded bases with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody.

(d) Pears affected by hard end shall be considered defects of all grades.

(e) Rat-tail shaped pears, or second bloom pears that are tough or ridged shall be considered defects of all grades.

(7) Combination grades.

A. When extra fancy and fancy pears are packed together, the packages may be marked "combination extra fancy and fancy." In this grade at least 50%, by count, of the fruit must meet the requirements of extra fancy.

B. When extra fancy, fancy, and C grade pears are packed together, the packages may be marked "combination extra fancy, fancy and C grade" but must contain at least 50%, by count, of pears meeting the requirements of extra fancy grade.

C. When extra fancy and C grade pears are packed together, the packages may be marked "combination extra fancy, and C grade," but must contain at least 50%, by count, of pears meeting the requirements of extra fancy grade.

D. When fancy and C grade pears are packed together, the packages may be marked "combination fancy and C grade," but must contain at least 50%, by count, of pears meeting the requirements of fancy grade.) (1) The following grades apply to summer and fall pears packed and marketed in Washington state:

(a) Washington extra fancy;

(b) Washington fancy;

(c) Washington combination; and

(d) Washington C grade.

(2) All pears packed and marketed in Washington state that are graded to U.S. grade standards must also meet the requirements of the lowest Washington state grade or better.

NEW SECTION

WAC 16-439-212 Washington extra fancy. (1) Washington extra fancy pears are mature, carefully picked, clean, well formed, sound; free from drought spot, cork spot, visible black end, hard end, and rat tail pears; and free from damage caused by broken skin, bruises, limb rubs, sunburn, sprayburn, hail marks, russetting, disease, insects, and damage caused by mechanical or other means.

(2) Bartlett pears must have a characteristic pyriform shape of a length not less than one and one-fourth times the diameter of the pear. Bartlett pears may be slightly irregular as long as the shape does not detract from the general appearance of the pear.

(3) Other varieties shall have shapes characteristic of the varieties or slightly irregular shapes as long as they do not detract from the general appearance of the fruit.

NEW SECTION

WAC 16-439-213 Washington fancy. Washington fancy pears are mature, carefully picked, clean, not seriously misshapen, sound, and free from cork spot, visible black end, hard end, and rat tail pears; free from damage caused by broken skin; and free from serious damage caused by bruises, limb rubs, sunburn, sprayburn, hail marks, drought spot, russetting, disease, insects, and caused by mechanical or other means.

NEW SECTION

WAC 16-439-214 Washington C grade. Washington C grade pears are mature, carefully picked, clean, sound and free from hard end or rat tail pears; and free from serious damage caused by broken skin exceeding one-fourth inch in diameter; free from serious damage caused by insects, disease, hail marks, limb rubs, heavy russet, or other means, and are not excessively elongated or flattened as to preclude the cutting of one good half.

NEW SECTION

WAC 16-439-215 Washington combination grade. Washington combination grade pears consist of more than one grade packed together.

(1) When extra fancy and fancy pears are packed together, the packages may be marked "Washington combi-

nation extra fancy and fancy." At least fifty percent of the pears, by count, shall be extra fancy.

(2) When extra fancy, fancy, and C grade pears are packed together, the packages may be marked "Washington combination extra fancy, fancy, and C grade." At least fifty percent of the pears, by count, must be extra fancy.

(3) When extra fancy and C grade pears are packed together, the packages may be marked "Washington combination extra fancy and C grade." At least fifty percent of the pears, by count, must be extra fancy.

(4) When fancy and C grade pears are packed together, the packages may be marked "Washington combination fancy and C grade." At least fifty percent of the pears, by count, must be fancy.

NEW SECTION

WAC 16-439-217 Damage defects. (1) More than the following shall be considered damage:

(a) Slight handling bruises and carton bruises that are incident to proper handling.

(b) Sunburn or sprayburn, if there is no change in the normal color of the fruit, softening of the flesh, or blistering or cracking of the skin.

(c) Russeting at the calyx end of Bartlett pears, as long as the russeting is not visible for more than one-half inch when the pear is placed calyx end down on a flat surface.

(d) Light russeting that is not characteristic of the variety, when the affected area does not exceed an aggregate of fifteen percent of the surface.

(e) Slight pebbling on Bartlett pears that does not materially detract from the appearance.

(2) In addition, a pear may show one or a combination of the following as long as the aggregate area does not exceed three-fourths inch in diameter:

(a) Limb rubs that are light, not soft, and affect an aggregate area not to exceed three-fourths inch in diameter.

(b) Hail marks when the injury is superficial and affects an aggregate area not to exceed one-fourth inch in diameter.

(c) Heavy russeting, such as is characteristic of frost injury, as long as the aggregate area does not exceed one-half inch in diameter.

(d) Two slight, healed depressions that do not materially affect the general appearance of the fruit.

(e) Sooty blotch that affects an aggregate area of ten percent when the blotch is slight or thin, or one-half inch when the blotch is moderate, or three-eighths inch when the blotch is heavy.

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

NEW SECTION

WAC 16-439-218 Serious damage defects. (1) More than the following shall be considered serious damage:

(a) Slight handling bruises and carton bruises that are incident to proper handling.

(b) Sunburn or sprayburn, if there is only a slight change to the normal color of the fruit and no softening of the flesh or blistering or cracking of the skin.

(c) Russeting that is characteristic of the variety.

(d) Pebbling on Bartlett pears that does not seriously affect the culinary or edible value of the fruit.

(e) Limb rubs that are light, not soft, and do not affect an aggregate area to exceed ten percent of the surface of the fruit.

(f) Drought spots that affect an aggregate area not to exceed one-fourth inch in diameter.

(2) In addition, a pear may show any one or a combination of the following as long as the aggregate area does not exceed the maximum area specified for each variety mentioned below:

(a) Heavy or dark heavy limb rubs that are not soft and do not affect an aggregate area exceeding three-fourths of an inch in diameter.

(b) Hail marks when they affect an aggregate area exceeding three-fourths inch in diameter.

(c) Frost damage.

(i) Frost rings on Bartlett pears that do not completely encircle the pear and when the surface is only slightly grooved.

(ii) Frost damage on Bartlett pears such as occurs at the calyx end and does not materially detract from the appearance of the pear.

(iii) On other varieties other than Bartlett, heavy russeting by frost that is not soft and affects an aggregate area not to exceed three-fourths inch in diameter.

(d) Scab spot affecting an aggregate area not to exceed one-half inch in diameter.

(e) Shallow healed depressions not seriously affecting the general appearance of the fruit and affecting an aggregate area not to exceed three-fourths of an inch in diameter.

(f) Sooty blotch that affects an aggregate area of not more than fifty percent of the surface when the spots are thin and widely scattered, or not more than one and one-fourth inch in diameter when the blotch is moderate, or not more than three-fourths inch in diameter when the blotch is heavy.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-220 Tolerances. (1) Tolerances (~~which~~) that apply at time of packing:

(a) In order to allow for variations incident to commercial grading and handling, (~~in each of the foregoing grades~~) not more than (~~10%~~) ten percent, by count, of the pears in any lot may be below the requirements of the grade, and not more than (~~one-tenth~~) one percent, by count, of (~~this~~) that amount (~~shall be~~) is allowed for decay (~~and~~) or internal breakdown. Slight imperfections (~~which~~) that are not discernible in good commercial sorting practice (~~shall not be~~) are not considered (~~as~~) defects of grade.

(b) (~~In addition to the above, a 10% tolerance for a total of all defects from the standards defined for uniformity of size, wrapping, and tightness of pack shall be permitted, and shall be computed by counting, weighing, or measuring the specimens judged to be below the standard.~~

(~~e~~) In order to allow for variations incident to proper sizing, not more than five percent, by count, of the pears in any lot may be below any specified minimum size and not

more than ten percent, by count, of the pears in any lot may be above any specified maximum size.

~~((d))~~ (c) For a tolerance of ten percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified. For tolerances less than ten percent, individual packages in any lot may contain not more than double the tolerance specified. At least one specimen that does not meet the requirements is allowed in any one package.

(2) Additional tolerance: No more than fifteen percent of the pears in any container may have more than one skin break measuring one-eighth inch to three-sixteenths inch, inclusive, in diameter or depth. Small inconspicuous skin breaks less than one-eighth inch in diameter or depth are not considered damage. (In addition, not more than 15 percent of the pears in any container may have not more than one skin break from one-eighth inch to three-sixteenths inch, inclusive, in diameter or depth.

(2) Tolerances which apply after pears have been placed in storage or in transit in Washington state: After pears have been placed in storage or in transit, scald, breakdown, decay, bitter pit, or physical injury affecting keeping quality which may have developed or may only have become evident after pears are packed are defined as applying to condition rather than to grade.

NEW SECTION

WAC 16-439-225 Condition after storage or transit.

After pears have been placed in storage or in transit, defects that develop or become evident and affect a pear's keeping quality, such as scald, breakdown, decay, bitter pit, or physical injury are defined as applying to condition rather than to grade.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-230 Culls. (1) ~~((Pears which are not graded in conformity with foregoing grades and standards and which contain not more than 5% serious insect damage shall be designated as "culls."))~~ Culls are pears that do not conform to the grades and standards of pears in this chapter or contain serious insect damage of not more than five percent.

(2) ~~Infested culls ((Pears which are not graded in conformity with the foregoing grades and which contain 5% or more)) are pears that do not conform to the grades and standards of pears in this chapter and contain at least five percent infestation from codling moth, San Jose scale, ((and)) or other horticultural pests ((shall be designated as "infested culls."))~~

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-240 ((Size-)) Containers, pack, and size requirements. ~~((1))~~ The following packs shall be recognized as standard for determining range in sizes: 70, 80, 90, 100, 110, 120, 135, 165, 180, 193, 210, 228, 245.

(2) ~~The following terms will be used for description of degrees of uniformity of sizing of pears in packed containers:~~

~~((a))~~ The following lists the terms and describes the degrees of uniform sizing required of pears packed in containers. Packing shall conform to industry practices.

(1) A ten percent tolerance for all defects from the standards for uniformity of size, wrapping, and tightness of pack is allowed. To compute the tolerance, the pears considered below standard must be counted, weighed, or measured.

(2) Uniform ~~((when the container contains not more than two sizes, the majority of which must be of the size with which the container is marked;~~

~~(b) Fairly uniform when the container actually contains a range of not more than three sizes, one size larger and one size smaller than the size with which the container is marked;~~

~~(c) Slightly irregular when not more than 10% of the pears in the container exceed the range of three sizes mentioned above;~~

~~(d) Irregular when more than 10% of the pears in the container exceed the range of three sizes mentioned above. (Note: Packages in which the size must be described as "irregular" do not comply with the state grading and packing regulations and cannot legally be shipped.));~~ The container must not contain more than two sizes of pears, and the majority of the pears must be the size that is marked on the container.

(3) Fairly uniform: The container contains a range of three sizes or less, and pears are one size larger and/or one size smaller than the size marked on the container.

(4) Slightly irregular: No more than ten percent of the pears in the container can exceed the three-size range "fairly uniform" requirement in subsection (3) of this section.

(5) Irregular:

(a) More than ten percent of the pears in the container exceed the three-size range mentioned in the fairly uniform requirement.

(b) Packages describing the content size as "irregular" do not comply with Washington state grading and packing regulations and cannot be legally shipped in Washington state.

(6) Standard carton packs:

(a) Except when jumbled, all packed pears must be arranged in clean cartons according to industry approved and recognized methods.

(b) Pears in standard carton packs must be tightly packed and all packages must be well filled.

(c) Each wrapped pear must be well wrapped.

(7) Tray packs:

(a) All pears packed in tray pack containers must be uniformly sized and arranged according to the approved method for the tray pack.

(b) Pears packed in trays must be properly sized to minimize movement.

(c) Tray packs must be packed with the same size and count of fruit as listed on the container.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-260 Minimum weight for Bartlett pears. ~~((The smallest container for shipment of fresh Bartlett~~

~~pears shall contain at least 14 lbs. net weight of pears. (Except for overwrap trays or other consumer type packages packed in master containers.))~~ (1) The minimum carton weight for fresh Bartlett pears shall be at least fourteen pounds net weight, except for overwrap trays or other consumer type packages packed in master containers.

~~(2) Upon request, the director may, after receiving application, grant~~ approve the use of experimental (packages) shipping containers.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-270 Container marking requirements. ~~((Packed or loose in containers.))~~ (1) When shipped, the container shall bear the following information must be printed on the container label or stamped on the end of the container:

(1) Correct name of the variety or marked "variety unknown," ((the) or when more than one variety and/or commodity is in the container, the name of each variety and/or commodity;

(2) Name and address of the grower, packer, or shipper(; ~~and his address, the);~~

(3) Grade(; ~~and the);~~

(4) Correct number of pears ((~~or~~) and the net contents in terms of dry measure or weight. ((Any of these marks may be printed on the label but in case they are not, they must be stamped on the end of the container. The grower's, packer's, or shipper's name and address, if not included on the label, must be placed either in line with the grade marks above the label or on the opposite end of the container.

~~(2) When pears are packed in other than standard boxes or tray cartons, the container shall be marked with the correct number of pears and the net weight.))~~ (5) Consumer packages and jumbled packs must be marked with minimum diameter. Count may be used if pears can be readily counted.

AMENDATORY SECTION (Amending Order 1033, filed 10/10/66, effective 11/10/66)

WAC 16-439-280 Adoption of United States standards for summer and fall pears. (1) ((The following U.S. grades may be used for Bartlett and other summer and fall pears: U.S. No. 1, U.S. No. 2, and U.S. combination, as promulgated in the U.S.)) In addition to the standards contained in this chapter for summer and fall pears, the Washington state department of agriculture adopts the United States Department of Agriculture United States Standards for Summer and Fall Pears ((and adopted)), 7 CFR § 51.1260 et seq., effective August 20, 1955.

(2) ((When U.S. grades are used, pears must meet the requirements of the lowest Washington state grade or better.)) The department maintains a copy of this document for public inspection. The information may be found on the internet at: <http://www.ams.usda.gov/standards/pearsmer.pdf>.

NEW SECTION

The following sections of the Washington Administrative Code are decodified as follows:

Old WAC Number	New WAC Number
16-439-230	16-439-216
16-439-280	16-439-205

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-439-250 Containers.

WSR 08-21-168

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed October 22, 2008, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-071.

Title of Rule and Other Identifying Information: This proposal is the result of the department's ongoing commitment to review and revise its rules, when necessary, as mandated by Executive Order 97-02. The department proposes to amend chapter 16-442 WAC, Winter pears, by making amendments that are necessary to update the chapter and increase its clarity. This rule-making proposal is only to make the rule language clear and readable; pear standards are not changing.

Hearing Location(s): Tree Fruit Research Center (park on Western), Conference Room (Large Conference Room), 1100 North Western Avenue, Wenatchee, WA 98801, on Thursday, December 4, 2008, at 1:30 p.m.; and at the WSDA Yakima Office, Conference Room 238 (Primary Conference Room), Suite 226, 21 North First Avenue, Yakima, WA 98902, on Friday, December 5, 2008, at 9:30 a.m.

Date of Intended Adoption: December 16, 2008.

Submit Written Comments to: Teresa Norman, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m. on December 8, 2008.

Assistance for Persons with Disabilities: Contact Rachel Lopez by November 26, 2008, (360) 902-1976, TTY 800-833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to amend chapter 16-442 WAC, Winter pears, by making amendments that are necessary to update the chapter and increase its clarity. All sections are amended or removed and new sections are added to accomplish this intent. This rule-making proposal is only to make the rule language clear and readable; pear standards are not changing.

Reasons Supporting Proposal: This proposal is the result of the department's ongoing commitment to review and

revise its rules, when necessary, as mandated by Executive Order 97-02.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs, specifically RCW 15.17.030 Enforcement—Director's duties—Rules and chapter 34.05 RCW, Administrative Procedure Act.

Statute Being Implemented: Chapter 15.17 RCW, Standards of grades and packs.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Program Manager, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement for proposed rules that impose a more than minor cost on the business in an industry. The proposed change would not impose "more than minor impact" upon the regulated industry.

RCW 19.85.040(1) requires that an agency determine whether the proposed rule will have a disproportionate impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the 10% of businesses that are the largest businesses required to comply. The proposed change would not impose "more than minor impact" upon the regulated industry.

A cost-benefit analysis is not required under RCW 34.05.328. Washington state department of agriculture is not a named agency in RCW 34.05.328.

October 22, 2008
Dennis Hannapel
Assistant Director

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-005 ~~((Application and when mandatory))~~ **Purpose.** ~~((1))~~ This ~~((order is applicable to))~~ chapter establishes standards for D'Anjou, Bosc, Winter ~~((Nellis))~~ Nellis and all other varieties of winter pears ~~((and (2) Effective and mandatory when))~~ that are packed or marketed within the state of Washington.

NEW SECTION

WAC 16-442-008 Adoption of United States standards for winter pears. (1) In addition to the standards contained in this chapter, the Washington state department of agriculture adopts the United States Department of Agriculture United States Standards for Grades of Winter Pears, 7 CFR § 51.1300 et seq., effective September 10, 1955.

(2) The department maintains a copy of this document for public inspection. The standards may be found on the internet at: <http://www.ams.usda.gov/standards/pearswin.pdf>.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-020 Washington extra fancy or U.S. extra No. 1. Washington extra fancy or U.S. extra No. 1 ~~((shall consist of))~~ are pears ~~((of one variety which))~~ that are mature ~~((1))~~, but not overripe ~~((2))~~, carefully ~~((hand-picked (3)))~~ picked, clean ~~((4))~~, well formed ~~((5))~~, free from decay, internal breakdown, scald, freezing injury, worm holes, black end ~~((6))~~, hard end, and drought spot ~~((7))~~; and free from injury ~~((7))~~ caused by russetting ~~((7a))~~, limb rubs ~~((7b))~~, hail ~~((7c))~~, scars ~~((7e))~~, cork spot ~~((7d))~~, sunburn ~~((7e))~~, sprayburn ~~((7e))~~, stings or other insect injury ~~((7f))~~, or injury from mechanical or other means ~~((7))~~, except that they shall Washington extra fancy or U.S. extra No. 1 pears must be free from damage ~~((9))~~ caused by bruises ~~((9b))~~, broken skins ~~((9e))~~, or disease ~~((9k))~~. ~~((See tolerances and condition after storage or transit.))~~

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-030 U.S. No. 1. U.S. No. 1 ~~((shall consist of))~~ are pears ~~((of one variety which))~~ that are mature ~~((1))~~ but not overripe ~~((2))~~, carefully ~~((hand-picked (3)))~~ picked, clean ~~((4))~~, fairly well formed ~~((8))~~, free from decay, internal breakdown, scald, freezing injury, worm holes, black end ~~((6))~~; and free from damage ~~((9))~~ caused by hard end ~~((9a))~~, bruises ~~((9b))~~, broken skins ~~((9e))~~, russetting ~~((9d))~~, ~~((limbrubs (9e)))~~ limb rubs, hail ~~((9f))~~, scars ~~((9f))~~, cork spot ~~((9g))~~, drought spot ~~((9h))~~, sunburn ~~((9i))~~, sprayburn ~~((9i))~~, stings or other insect injury ~~((9j))~~, disease ~~((9k))~~, or damage from mechanical or other means ~~((9))~~. ~~((See tolerances and condition after storage or transit.))~~

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-040 Washington fancy or U.S. No. 2. Washington fancy or U.S. No. 2 ~~((shall consist of))~~ are pears ~~((of one variety which))~~ that are mature ~~((1))~~ but not overripe ~~((2))~~, carefully ~~((hand-picked (3)))~~ picked, clean ~~((4))~~, not seriously misshapen ~~((10))~~, free from decay, internal breakdown, scald, freezing injury, worm holes, black end ~~((6))~~; and free from damage ~~((9))~~ caused by hard end ~~((9a))~~, or broken skins ~~((9e))~~. The pears ~~((shall))~~ must also be free from serious damage ~~((11))~~, caused by bruises, russetting ~~((11a))~~, ~~((limbrubs (11b)))~~ limb rubs, hail ~~((11c))~~, scars ~~((11e))~~, cork spot ~~((11d))~~, drought spot ~~((11e))~~, sunburn ~~((11f))~~, sprayburn ~~((11f))~~, stings or other insect injury ~~((11g))~~, disease ~~((11h))~~, or serious damage caused by mechanical or other means ~~((11))~~. ~~((See tolerances and condition after storage or transit.))~~

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-050 Washington combination or U.S. combination grade. A combination of U.S. No. 1 and U.S. No. 2 may be packed. When such a combination is packed, at

least ~~((50))~~ fifty percent of the pears in any container ~~((shall))~~ must meet the requirements of U.S. No. 1. ~~((See tolerances and condition after storage or transit.))~~

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-060 Washington commercial. A combination of extra fancy and fancy may be packed together as "Washington commercial grade" when at least ~~((50))~~ fifty percent of the pears in any container meet the requirements of Washington extra fancy ~~((;-))~~ and the remainder meet the requirements of Washington fancy ~~((except that))~~. Broken skins or skin punctures not to exceed three-sixteenths of an inch in diameter ~~((shall not be))~~ are not considered a defect for this grade ~~((;))~~.

AMENDATORY SECTION (Amending Order 610, effective 8/21/51)

WAC 16-442-070 Washington third grade. Washington third grade shall consist of pears ~~((of one variety which))~~ that are mature, ~~((hand))~~ carefully picked, clean, sound, not very seriously misshapen ~~((+2))~~, free from black end, free from damage caused by hard end, broken skins, and from serious damage caused by cork spot or bruises.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-080 Culls. Pears, which are not graded in conformity with the foregoing grades, must be designated as culls.

NEW SECTION

WAC 16-442-082 Injury defects. The following specific defects, or any combination of them when the combined seriousness exceeds the maximum allowed for any one defect, are considered injury to winter pears.

(1) **Russetting:** On any winter pear varieties, any amount of characteristic russetting is permitted, whether caused by natural or by artificial means. Leaf whips or light limb rubs that resemble and blend into russet areas are considered russet.

(a) **Slightly rough russetting or thick russetting** characteristic of frost injury is considered injury when the aggregate area exceeds one-half inch in diameter on Comice, Anjou, and other smooth-skinned varieties.

(b) **Smooth solid russetting** is considered injury when the aggregate area exceeds one-half inch in diameter on Anjou or other smooth-skinned varieties or when smooth netlike russetting exceeds fifteen percent of the pear's surface.

(c) **Smooth solid or smooth netlike russetting** is considered injury when the aggregate area exceeds one-third of the surface on Comice pears. On Anjou, Comice, and other smooth-skinned varieties, any amount of characteristic smooth russetting is permitted on the portion of the calyx end that is invisible for more than one-half inch along the contour of the pear when the pear is placed calyx end down on a flat surface.

(d) **Rough or thick russetting**, none allowed, except russetting characteristic of frost injury is considered damage when the aggregate area exceeds one-half inch in diameter for Bosc, Seckel, and other similar varieties.

(2) **Limb rubs** are considered injury when they are cracked or softened or more than very slightly depressed or not light in color or exceed an aggregate area of three-fourths inch in diameter.

(3) **Hail marks** or other similar depressions or scars are considered injury when they are not very shallow or superficial or when they affect an aggregate area of more than one-fourth inch in diameter.

(4) **Cork spots** are considered injury when a pear shows depressions or other external evidence of the disease.

(5) **Sunburn or sprayburn** is considered injury when the normal color of the pear has been materially changed or the skin is blistered or cracked or the flesh is softened or discolored.

(6) **Insect stings** are considered injury when there are more than two healed slight stings or depressions or the stings materially affect the general appearance of a pear.

(7) **Blister mite or canker worm injury** is considered injury when it is not shallow and superficial or when it affects an aggregate area of more than one-fourth inch in diameter.

NEW SECTION

WAC 16-442-085 Damage defects. The following specific defects or any combination of them, when the combined seriousness exceeds the maximum allowed for any one defect, are considered damage to winter pears:

(1) **Russetting:**

(a) **Excessively rough russetting** that shows "frogging" or slight cracking on all pear varieties when the russetting exceeds one-half inch in diameter and is excessively rough.

(b) **Slightly rough or thick russetting** that is characteristic of frost injury on Anjou and other smooth-skinned varieties when it exceeds three-fourths inch in diameter.

(c)(i) **Smooth solid or smooth netlike russetting** that exceeds one-third of the surface on Anjou pears or covers more than fifteen percent of the surface on other smooth-skinned varieties.

(ii) On Anjou and other smooth-skinned varieties, any amount of characteristic smooth russetting is permitted on the portion of the calyx end that is invisible for more than one-half inch along the contour of the pear when the pear is placed calyx end down on a flat surface.

(d)(i) **Rough or thick russetting** that is characteristic of frost injury when it exceeds three-fourths inch in diameter on Bosc, Seckel, and other similar varieties.

(ii) On Bosc, Seckel, and similar varieties, any amount of characteristic russetting is permitted, whether caused by natural or artificial means.

(iii) Light limb rubs that resemble and blend into russet areas are considered russet.

(2) **Hard end** pears are considered defects of all grades.

(3) **Skin breaks** when the pear has one skin break that is more than three-sixteenths inch in diameter or deeper than three-sixteenths inch or has more than one skin break that is

at least one-eighth inch in diameter or at least one-eighth inch deep.

(a) Small inconspicuous skin breaks that are less than one-eighth inch in diameter or less than one-eighth inch deep are not considered damage.

(b) At a maximum, fifteen percent of the pears in any container may have no more than one skin break per pear ranging in size from one-eighth inch to three-sixteenths inch in diameter or depth.

(4) **Limb rubs** when they cause:

(a) Cracks, softening, or more than slight depressions; or

(b) Black discoloration that exceeds an aggregate area of three-eighths inch in diameter; or

(c) Dark brown discoloration or excessive roughness that exceeds an aggregate area of one-half inch in diameter; or

(d) A slightly rough, light colored discoloration that exceeds an aggregate area of three-fourths inch in diameter; or

(e) Smooth, light colored discoloration that exceeds an aggregate area of one inch in diameter.

(5) **Hail marks** or other similar depressions or scars that are not shallow or superficial or when they affect an aggregate area of more than three-eighths inch in diameter.

(6) **Cork spot** when more than one spot is externally visible or when the externally visible injury affects an aggregate area of more than three-eighths inch in diameter.

(7) **Drought spot** when there is more than one spot or the external injury exceeds an aggregate area of three-eighths inch in diameter or the appearance of the flesh is materially affected by corky tissue or brownish discoloration.

(8)(a) **Sunburn or sprayburn** when the skin is blistered, cracked, or shows any light tan or brownish color or the shape is appreciably flattened or the flesh is appreciably softened or changed in color.

(b) Sprayburn of a russet character must be considered under the definition of russetting in subsection (1) of this section.

(9) **Insect stings** when there are more than two healed codling moth stings or a sting is over three thirty-seconds of an inch in diameter or when other insect stings affect the pear's appearance.

(10) **Blister mite or canker worm injury** that is not shallow or superficial or when it affects an aggregate area of more than three-eighths inch in diameter.

(11)(a) **Scab spots** when they are black and cover an aggregate area of more than one-eighth inch in diameter.

(b) Scab spots of a russet character must be considered under the definition of russetting in subsection (1) of this section.

(12) **Sooty blotch** when it is thinly scattered over more than five percent of the pear's surface or when it appears as dark, heavily concentrated spots affecting an aggregate area of more than three-eighths inch in diameter.

AMENDATORY SECTION (Amending Order 610, effective 8/21/51)

WAC 16-442-090 Definitions ((of terms)). ((As used in these standards:

(H)) In addition to the definitions found in RCW 15.17.020, the following definitions apply to this chapter:

"Aggregate area" means areas under consideration on a pear's surface that may be combined into one circular area with a diameter equal to the maximum diameter specified for the particular blemish.

"Black end" means a blemish that is evidenced by an abnormally deep green color around the calyx; or black spots usually occurring on one-third of the surface nearest to the calyx; or by an abnormally shallow calyx cavity.

"Carefully picked" means the pears do not show evidence of rough handling or of having been on the ground.

"Clean" means a pear free from excessive dirt, dust, spray residue or other foreign material.

"Department" means the Washington state department of agriculture.

"Director" means the director of the department or the director's representative.

"Ground color" means green, light green, yellowish green, and yellow.

"Hard end" means the pear shows an abnormally yellow color at the blossom end; or has a smooth, rounded base with little or no depression at the calyx; or there is dry, tough or woody flesh near the calyx. Hard end pears are defects of all grades.

"Lot" means any number of containers of fresh winter pears offered as a unit for inspection, sale, or shipment.

"Mature" means ((that)) the pear has reached the stage of maturity which will ((insure)) ensure the proper completion of the ripening process.

Before a mature pear becomes overripe, it will show varying degrees of firmness depending upon the stage of the ripening process. Therefore, a statement of firmness should be given in order to indicate the state of the ripening process. A description of the ground color should also be given.

((The following terms should be used for describing the ground colors "green," "light green," "yellowish green," and "yellow."))

The following terms should be used for describing the firmness of pears:

"Hard" means ((that)) the flesh of the pear is solid and does not yield appreciably even to considerable pressure. ((Such)) Hard pears are in suitable condition for long storage periods for the variety((;)).

"Firm" means ((that)) the flesh of the pear is fairly solid but yields somewhat to moderate pressure. The ripening process in firm pears is further advanced than in hard pears and they cannot be held in storage as long. Winter varieties at the firm stage may be held longer than the early varieties((;)).

"Firm ripe" means ((that)) the flesh of the pear yields readily to moderate pressure. ((Such)) A firm ripe pear is approaching the stage at which it is in prime eating condition but may be held for a brief period, although winter varieties can be held longer than the early varieties((;)).

"Ripe" means ((that)) the pear is at the stage where it is in its most desirable condition for eating.

((;)) "Overripe" means the pear is dead ripe, very mealy ((or)), soft, ((past)) and has no commercial ((utility;)) value.

~~((3)) "Carefully handpicked" means that the pears do not show evidence of rough handling or of having been on the ground;~~

~~(4) "Clean" means free from excessive dirt, dust, spray residue or other foreign material;~~

~~(5) "Well formed" means having the shape characteristic of the variety. Slight irregularities of shape from type which do not appreciably detract from the general appearance of the fruit shall be considered well formed;~~

~~(6) "Black end" is evidenced by an abnormally deep green color around the calyx, or black spots usually occurring on the one third of the surface nearest to the calyx, or by an abnormally shallow calyx cavity;~~

~~(7) "Injury" means any blemish or defect that more than slightly affects the appearance, edible or shipping quality. The following shall be considered as injury:~~

~~(7a) Russeting which exceeds the following shall be considered as injury:~~

~~On all varieties any excessively rough russeting (russeting which shows "frogging" or slight cracking):~~

~~On Comice, and on Anjou and other smooth-skinned varieties, slightly rough russeting, or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds 1/2 inch in diameter;~~

~~On Anjou and other smooth-skinned varieties, smooth solid russeting when the aggregate area exceeds 1/2 inch in diameter and smooth netlike russeting when the aggregate area exceeds 15 percent of the surface, and on Comice, smooth solid or smooth netlike russeting when the aggregate area exceeds one third of the surface, except that, in addition, on these and similar varieties, any amount of characteristic smooth russeting shall be permitted on that portion of the calyx and not visible for more than 1/2 inch along the contour of the pear, when it is placed calyx end down on a flat surface;~~

~~On any of the following and other similar varieties, rough or thick russeting such as is characteristic of frost injury when the aggregate area exceeds 1/2 inch in diameter. On any of these varieties any amount of characteristic russeting is permitted whether due to natural causes such as weather or stimulated by artificial means; leaf whips or light limb rubs which resemble and blend into russeted areas shall be considered as russet:~~

Bosc	Pound
Clairgeau	Seekel
Easter Beurre	Sheldon
Kieffer	Winter Nelis, and other similar
P. Barry	varieties;

~~Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as injury:~~

~~(7b) Limbrubs which are cracked, softened, more than very slightly depressed, not light in color, or exceeding an aggregate area of 3/4 inch in diameter;~~

~~(7c) Hail marks or other similar depressions or sears which are not very shallow or superficial, or which affect an aggregate area of more than 1/4 inch in diameter;~~

~~(7d) Cork spot when a pear shows depressions or other external evidence of the disease;~~

~~(7e) Sunburn or sprayburn if the normal color of the fruit has been materially changed, or if the skin is blistered or cracked, or the flesh softened or discolored;~~

~~(7f) More than two healed slight stings or depressions, or any stings which materially affect the general appearance of the fruit.~~

~~Blister mite or canker worm injury which is not very shallow and superficial or where the injury affects an aggregate area or more than 1/4 inch;~~

~~(8) "Fairly well formed" means that the pear may be slightly abnormal in shape but not to an extent which detracts materially from the appearance of the fruit. Winter Nelis pears with characteristic slight sutures or with slight flattening on one side and/or other slight irregularities which do not materially detract from the general appearance of the pear shall be considered fairly well formed;~~

~~(9) "Damage" means any injury or defect which materially affects the appearance, edible or shipping quality;~~

~~(9a) Hard end, if the pear shows an abnormally yellow color at the blossom end, or an abnormally smooth rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody;~~

~~(9b) Slight handling bruises and package bruises such as are incident to good commercial handling in the preparation of a tight pack shall not be considered damage;~~

~~(9c) Any pear with one skin break larger than 3/16 inch in diameter or depth, or with more than one skin break 1/8 inch or larger in diameter or depth, shall be considered damaged, and scored against the grade tolerance.~~

~~Small inconspicuous skin breaks, less than 1/8 inch in diameter or depth, shall not be considered damage. In addition, not more than 15 percent of the pears in any container may have not more than one skin break from 1/8 inch to 3/16 inch inclusive in diameter or depth;~~

~~(9d) Russeting which exceeds the following shall be considered as damage:~~

~~On all varieties excessively rough russeting (russeting which shows "frogging" or slight cracking) when the aggregate area exceeds 1/2 inch in diameter;~~

~~On Anjou and other smooth-skinned varieties, slightly rough russeting, or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds 3/4 inch in diameter;~~

~~On Anjou, smooth solid or smooth netlike russeting when the aggregate area exceeds one third of the surface, and on other smooth-skinned varieties, 15 percent of the surface, except that, in addition, on Anjou and other smooth-skinned varieties, any amount of characteristic smooth russeting shall be permitted on that portion of the calyx end not visible for more than 1/2 inch along the contour of the pear, when it is placed calyx end down on the flat surface;~~

~~On any of the following and other similar varieties, rough or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds 3/4 inch in diameter; on any of these varieties any amount of characteristic russeting is permitted, whether due to natural causes such as weather or stimulated by artificial means; leaf whips or light~~

limb rubs which resemble and blend into russeted areas shall be considered as russet:

Bose	Pound
Clairgeau	Seekel
Comice	Sheldon
Easter Beurre	Winter Nelis, and other similar
Kieffer	varieties;
P. Barry	

Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(9e) Any limb rubs which are cracked, softened, or more than slightly depressed:

Black discoloration caused by limb rubs which exceeds an aggregate area of 3/8 inch in diameter.

Dark brown discoloration or excessive roughness caused by limb rubs which exceeds an aggregate area of 1/2 inch in diameter.

Slightly rough, light colored discoloration caused by limb rubs which exceeds an aggregate area of 3/4 inch in diameter.

Smooth, light colored discoloration caused by limb rubs which exceeds an aggregate area of 1 inch in diameter;

(9f) Hail marks or other similar depressions or scars which are not shallow or superficial, or where the injury affects an aggregate area of more than 3/8 inch in diameter;

(9g) Cork spot, when more than one in number visible externally, or when the visible external injury affects an area of more than 3/8 inch in diameter;

(9h) Drought spot when more than one in number, or when the external injury exceeds an aggregate area of 3/8 inch in diameter, or when the appearance of the flesh is materially affected by corky tissue or brownish discoloration;

(9i) Sunburn or sprayburn where the skin is blistered, cracked, or shows any light tan or brownish color, or the shape of the pear is appreciably flattened, or the flesh is appreciably softened or changed in color, except that sprayburn of a russet character shall be considered under the definition of russetting (9d);

(9j) Insects:

More than two healed codling moth stings, or any insect sting which is over 3/32 of an inch in diameter, or other insect stings affecting the appearance to an equal extent.

Blister mite or canker worm injury which is not shallow or superficial, or where the injury affects an aggregate area of more than 3/8 inch in diameter;

(9k) Disease:

Scab spots which are black and which cover an aggregate area of more than 1/8 inch in diameter, except that scab spots of a russet character shall be considered under the definition of russetting (9d).

Sooty blotch which is thinly scattered over more than 5 percent of the surface, or dark, heavily concentrated spots which affect an area of more than 3/8 inch in diameter;

(10) "Seriously misshapen" means that the pear is excessively flattened or elongated for the variety, or is constricted or deformed so it will not cut three fairly uniform good quar-

ters, or is so badly misshapen that the appearance is seriously affected;

(11) " ~~Serious damage~~" means any injury or defect which seriously affects the appearance, edible or shipping quality:

(11a) Russetting which in the aggregate exceeds the following shall be considered as serious damage:

On all varieties, excessively rough russetting (russetting which shows "frogging" or slight cracking) when the aggregate area exceeds 3/4 inch in diameter;

On all varieties, thick russetting such as is characteristic of frost injury, 15 percent of the surface;

On Anjou, smooth solid or smooth netlike russetting when the aggregate area exceeds two thirds of the surface, except that, in addition, any amount of characteristic smooth russetting shall be permitted on that portion of the calyx end not visible for more than 1/2 inch along the contour of the pear, when it is placed calyx end down on a flat surface;

Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

(11b) Limb rubs which are more than slightly cracked, or excessively rough limb rubs or dark brown or black discoloration caused by limb rubs which exceeds an aggregate area of 3/4 inch in diameter;

Other limb rubs which affect an aggregate area of more than one tenth of the surface;

(11c) Hail marks or other similar depressions or scars which affect an aggregate area of more than 3/4 inch in diameter, or which materially deform or disfigure the fruit;

(11d) Cork spot, when more than two in number visible externally, or when the visible external injury affects an aggregate area of more than 1/2 inch in diameter;

(11e) Drought spot when more than two in number, or where the external injury affects an aggregate area of more than 3/4 inch in diameter, or when the appearance of the flesh is seriously affected by corky tissue or brownish discoloration;

(11f) Sunburn or sprayburn where the skin is blistered, cracked or shows any brownish color, or where the shape of the pear is materially flattened, or the flesh is softened or materially changed in color, except that sprayburn of a russet character shall be considered under the definition of russetting (11a);

(11g) Insects:

Worm holes:

More than three healed codling moth stings, of which not more than two may be over 3/32 inch in diameter, or other insect stings affecting the appearance to an equal extent.

Blister mite or canker worm injury which affects an aggregate area of more than 3/4 inch in diameter or which materially deforms or disfigures the fruit;

(11h) Disease:

Scab spots which are black, and which cover an aggregate area of more than 1/4 inch in diameter, except that scab spots of a russet character shall be considered under the definition of russetting (11a);

Sooty blotch which is thinly scattered over more than 15 percent of the surface, or dark heavily concentrated spots which affect an area of more than 3/4 inch in diameter;

(12) ~~Very seriously misshapen means that the pear is excessively flattened, elongated for variety, or is constricted or deformed so it will not cut one good half or two fairly uniform quarters.)~~ **"Shape."** The following terms define the shapes of winter pears:

"Well formed" means pear is considered well formed when its shape is characteristic of the variety. Pears with slight irregularities of shape that do not appreciably detract from the general appearance of the fruit are considered well formed.

"Fairly well formed" means a pear is considered fairly well formed when its shape is slightly abnormal, but not to an extent that it materially detracts from the appearance of the fruit. Winter Nellis pears with characteristic slight sutures or with slight flattening on one side and/or slight irregularities that do not materially detract from the general appearance of the pear are considered fairly well formed.

"Seriously misshapen" means the pear is excessively flattened or elongated for the variety or constricted or deformed so that it cannot be cut into three fairly uniform good quarters or is so badly misshapen that the appearance is seriously affected.

"Very seriously misshapen" means the pear is excessively flattened or elongated for the variety or is constricted or deformed so that it cannot be cut into one good half or two fairly uniform quarters.

"Size" means the greatest transverse diameter of the pear taken at right angles to a line running from the stem to the blossom end.

"Sound" means pears, at the time of packing, are free from visible defects such as decay, breakdown, scald, bitter pit, or free from physical injury affecting keeping quality.

NEW SECTION

WAC 16-442-095 Serious damage. The following defects, or any combination of them when the combined seriousness exceeds the maximum allowed for any one defect, are considered serious damage to winter pears:

(1) **Russetting:**

(a) **Excessively rough russetting** that shows "frogging" or slight cracking and exceeds three-fourths inch in diameter on all winter pear varieties.

(b) **Thick russetting** characteristic of frost injury that covers fifteen percent of the pear's surface on all varieties.

(c)(i) **Smooth solid or smooth netlike russetting** that exceeds two-thirds of the surface of Anjou pears.

(ii) On Anjou, any amount of characteristic smooth russetting is permitted on the portion of the calyx end that is invisible for more than one-half inch along the contour of the pear when the pear is placed calyx end down on a flat surface.

(2) **Limb rubs** when they are:

(a) More than slightly cracked or excessively rough; or

(b) Dark brown or black in color and exceed an aggregate area of three-fourths inch in diameter.

(c) Other limb rubs when they exceed an aggregate area of one-tenth of the surface of the pear.

(3) **Hail marks** or other similar depressions or scars when they affect an aggregate area of more than three-fourths inch in diameter or materially deform or disfigure the pear.

(4) **Cork spot** when more than two spots are externally visible or the externally visible injury affects an aggregate area of more than one-half inch in diameter.

(5) **Drought spot** when:

(a) There are more than two or the external injury affects an aggregate area of more than three-fourths inch in diameter; or

(b) The appearance of the flesh is seriously affected by corky tissue or brownish discoloration.

(6)(a) **Sunburn or sprayburn** when the skin is blistered, cracked, or shows any brownish color or the shape is materially flattened or the flesh is softened or materially changed in color.

(b) Sprayburn of a russet character must be considered under the definition of russetting in subsection (1) of this section.

(7) **Worm holes** when any worm holes are evident.

(8) **Insect stings** when there are more than three healed codling moth stings, of which not more than two may be over three thirty-seconds inch in diameter or when other insect stings affect the pear's appearance.

(9) **Blister mite or canker worm injury** when it affects an aggregate area of more than three-fourths inch in diameter or materially deforms or disfigures the pear.

(10)(a) **Scab spots** when they are black and cover an aggregate area of more than one-fourth inch in diameter.

(b) Scab spots of a russet character must be considered under the definition of russetting in subsection (1) of this section.

(11) **Sooty blotch** when it is thinly scattered over more than fifteen percent of the surface of the pear or appears as dark, heavily concentrated spots affecting an aggregate area of more than three-fourths inch in diameter.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-100 Tolerances (~~for preceding grades~~) for winter pears. (1) ~~(In order to allow for variations incident to proper grading and handling, not)~~ (a) For all grades, no more than ((a total of 10)) ten percent of the pears in any container may be below the grade requirements ((of grade, provided that not)) of this chapter, including no more than ((5)) five percent ((shall)) may be seriously damaged by insects, and not more than ((1)) one percent ((shall)) may be allowed for decay or internal breakdown.

(b) No more than five percent of the pears in any container may be out of compliance with the size requirements of this chapter, except when both maximum and minimum sizes are stated on the container.

(c) When both maximum and minimum sizes are stated on the container, an additional ten percent tolerance is allowed for pears that are larger than the maximum stated size.

(d) No more than ten percent of the containers in any lot may be out of compliance with the packing requirements of this chapter.

(2) When applying the ~~((foregoing))~~ tolerances in subsection (1) of this section to the U.S. combination grade ((no part of any)), tolerances ((shall)) may not be used to reduce

the percentage of U.S. No. 1 pears required in the combination ~~((-but))~~. However, if the entire lot averages within the specified percentage, individual containers may ~~((have not more than 10))~~ contain up to ten percent less than the percentage of U.S. No. 1 pears required ~~((-provided that the entire lot averages within the percentage specified))~~.

(3) The tolerances for the standards are on a container basis. However, individual packages in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspection, are within the tolerances specified.

(a) For a tolerance of ten percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified. When the package contains fifteen specimens or less, individual packages may contain not more than double the tolerance specified.

(b) For a tolerance of less than ten percent, individual packages in any lot may contain not more than double the tolerance specified. At least one specimen that does not meet the requirements is allowed in any one package.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-110 Condition after storage or transit. Decay, scald or other deterioration, which may have developed on pears after they have been in storage or transit, shall be considered as affecting condition and not the grade.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-120 Standard pack. (1) ~~((Sizing. The numerical count, or the minimum size of the pears packed in closed containers shall be indicated on the package. The number of pears in the box shall not vary more than 3 from the number indicated on the box.~~

~~(2) When the numerical count is marked on western standard or special pear boxes the pears shall not vary more than 3/8 inch in their transverse diameter for counts 120 or less; 1/4 inch for counts 135 to 180 inclusive; and 3/16 inch for counts 193 or more.~~

~~(3) When the numerical count is marked on western standard half boxes or special half boxes packed three tiers deep, the pears shall not vary more than 1/4 inch for counts 90 or less, and 3/16 inch for counts 100 or more.~~

~~(4) When the numerical count is marked on western standard half boxes or special half boxes packed two tiers deep, the pears shall not vary more than 3/8 inch for counts 50 or less; 1/4 inch for counts 55 to 60 inclusive; and 3/16 inch for counts 65 or more.~~

~~(5) When the numerical count is not shown, the minimum size shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, as 2-1/2 inches minimum, 2-1/4 inches minimum, or 2-5/8 inches minimum, in accordance with the facts. It is suggested that both minimum and maximum sizes be marked on the container, as 2-1/4 to 2-3/4 inches, 2-1/2 to 2-3/4 inches, as such marking is especially desirable for pears marketed in the export trade.~~

~~(6) "Size" means the greatest transverse diameter of the pear taken at right angles to a line running from the stem to the blossom end.~~

~~(7) Packing. Each package shall be packed so that the pears in the shown face shall be reasonably representative in size and quality of the contents of the package.~~

~~(8) Pears packed in any container shall be tightly packed. All packages shall be well filled but the contents shall not show excessive or unnecessary bruising because of overfilled packages.~~

~~(9) Pears packed in boxes shall be arranged in containers according to the approved and recognized methods with the pears packed lengthwise. A bridge shall not be allowed in any standard pack. When wrapped each pear shall be fairly well enclosed by its individual wrapper.~~

~~(10) Pears packed in round stave bushel baskets, tubs or in barrels shall be ring faced.)~~ Except when jumbled, all packed pears must be arranged in clean cartons according to industry approved and recognized methods.

(2) When packed, pears in any container must be tightly packed and all packages must be well filled. The pears must not show excessive or unnecessary bruising because of overfilling. Any wrapped pear must be well wrapped.

(3) The pears in the top layer of each package must be reasonably representative of the size and quality of the pears in the package.

(4) When the numerical count is marked on the container, percentages must be calculated on the basis of count.

(5) When the minimum diameter or minimum and maximum diameters are marked on the container, percentages must be calculated on the basis of weight or an equivalent basis.

(6) When the pears are in bulk, percentages must be calculated on the basis of weight or an equivalent basis.

(7) The numerical count or the minimum size of the pears packed in closed containers must be indicated on the container. The number of pears in a carton must not vary more than three from the number indicated on the carton.

(8) When the numerical count is not shown, the minimum size must be plainly stamped, stenciled or otherwise marked on the container in terms of:

- (a) Whole inches (such as 2 inches);
- (b) Whole and half inches (2 1/2 inches);
- (c) Whole and quarter inches (2 1/4 inches); or
- (d) Whole and eighth inches (2 3/8 inches).

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-150 Container marking ((boxes)) requirements. (1) When pears are shipped, the ~~((box shall))~~ container must bear the:

(a) Correct name of the variety((:)) or marked "variety unknown," or, when more than one variety and/or commodity is in the container, the name of each variety and/or commodity;

(b) The name and address of the grower, packer, or shipper((- and his address:)); and

(c) The grade and the number of pears or the net contents either in terms of dry measure or weight. ((Any of these

marks may be printed on the label but in case they are not, they must be stamped on the end of the box. The grower's, packer's or shipper's name and address, if not included on the label, must be placed either in line with the grade marks above the label or on the opposite end of the box.)

(2) ~~((When boxes are marked as to number, they shall comply with the specifications mentioned under size.))~~ Consumer packages and jumbled packs must be marked with minimum diameter. Count may be used if pears can be readily counted.

(3) Any marking requirements of subsections (1) and (2) of this section may be printed on the container label, but if they are not, they must be shown on the principal display panel.

AMENDATORY SECTION (Amending Order 322, effective 7/29/40)

WAC 16-442-160 Other grades and brands. (1) Any person, firm, or organization wishing to pack pears under ~~((any other))~~ a grade or brand ~~((than those described in the foregoing rules shall))~~ not covered by this chapter, must file with the director a certified copy of the description of ~~((such))~~ the private grade or brand ~~((with the director of agriculture at Olympia, Washington,))~~ before the first day of August of the year in which the pears ~~((so to be packed))~~ are grown.

(2) If ~~((such))~~ the director approves the private grade or brand ~~((is approved by the director of agriculture))~~, pears may be packed under ~~((such))~~ the private grade or brand instead of the official state grading rules~~((, and))~~. All boxes of pears ~~((so))~~ packed ~~((shall))~~ under the private grade or brand must be marked with that grade or brand.

NEW SECTION

The following section of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
16-442-090	16-442-006

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-442-010	Introduction.
WAC 16-442-130	Tolerances for standard pack.
WAC 16-442-140	Box packs.