



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 23, 2019

TIME: 1:16 PM

WSR 19-20-028

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR ; or

Expedited Rule Making--Proposed notice was filed as WSR ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) WAC 246-247-035, National standards adopted by reference for sources of radionuclide emissions.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 5, 2019	10:00 a.m.	Department of Health Town Center 2, Room 139 111 Israel Road SE Tumwater, Washington 98501	

Date of intended adoption: 11/12/2019 (Note: This is NOT the effective date)

Submit written comments to:

Name: Theresa Phillips

Address: Department of Health  
PO Box 47820  
Olympia, Washington 98504-7820

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: N/A

Other:

By (date) 11/05/2019

Assistance for persons with disabilities:

Contact Theresa Phillips

Phone: 360-236-3147

Fax: N/A

TTY: (360) 833-6388 or 711

Email: [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov)

Other:

By (date) 10/29/2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rule making is necessary to update the publication date of rules previously adopted by reference in WAC 246-247-035, National standards adopted by reference for sources of radionuclide emissions. The amendment makes no changes to any requirements previously adopted, but is required for the Department of Health (department) to receive full delegation of the Radionuclide Air Emissions Program from the U.S. Environmental Protection Agency (EPA.)

**Reasons supporting proposal:** The intent of RCW 70.98.050 is to safely regulate the possession and use of radioactive material within the state of Washington. The intent of RCW 70.98.080(5) is to reduce redundant licensing requirements. The rule meets the intent of the statutes by adopting requirements as stringent as the federal requirements in order for the department to have full delegation authority from EPA.

**Statutory authority for adoption:** RCW 70.98.050 and RCW 70.98.080 (5)

**Statute being implemented:** RCW 70.98.050 and RCW 70.98.080 (5)

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Department of Health

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Theresa Phillips	111 Israel Rd SE, Tumwater, WA 98501	360-236-3147
Implementation:	John Martell	309 Bradley Bvd Suite 201, Richland, WA 99352	509-946-3798
Enforcement:	John Martell	309 Bradley Bvd, Suite 201, Richland, WA 99352	509-946-3798

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or

regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards;

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description: The proposed changes are necessary for consistency between federal and state rules and as a primary condition for delegation of the National Emission Standard for Hazardous Air Pollutants (NESHAP) authority from EPA to the department. If Washington does not adopt the proposed changes, the department would not receive full delegation as required by EPA.

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.


**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
 Address:  
 Phone:  
 Fax:  
 TTY:  
 Email:  
 Other:

<b>Date:</b> 9/19/2019	<b>Signature:</b> 
<b>Name:</b> Clark Halvorson	
<b>Title:</b> Assistant Secretary	

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) In addition to other requirements of this chapter, the following federal standards, as in effect on July 1, ((2018)) 2019, are adopted by reference except as provided in subsection (2) of this section.

(a) For federal facilities:

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

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

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

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

(b) For nonfederal facilities:

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

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

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

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

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

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

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