



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do NOT use for expedited rule making

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DATE: August 23, 2022

TIME: 2:52 PM

WSR 22-17-145

Agency: Department of Health

Subject of possible rule making: Chapter 246-220 WAC, Radiation protection - General Provisions, chapter 246-221 WAC, Radiation protection standards, chapter 246-222 WAC, Radiation protection - Worker rights, chapter 246-224 WAC, Radiation protection - Radiation machine assembly and registration, chapter 246-225 WAC, Radiation protection - X-rays in the healing arts, and chapter 246-227 WAC, Radiation protection - Industrial x-ray. The Department of Health (department) will consider amending existing rules and may adopt a new chapter to establish radiation safety standards for the use of body scanners capable of detecting contraband contained under clothing and within body cavities, meeting applicable federal and state radiation and safety standards. The department will consider adopting these standards so that they may apply to all entities operating whole body scanners at any facility within the state.

Statutes authorizing the agency to adopt rules on this subject: Second Substitute Senate Bill 5695 (chapter 160, Laws of 2022) and RCW 70A.388.040

Reasons why rules on this subject may be needed and what they might accomplish: Second Substitute Senate Bill (2SSB) 5695, Chapter 160, Laws of 2022, requires the Washington State Department of Corrections (corrections) to establish a comprehensive body scanner program at the Washington corrections center for women and at a male state correctional facility as part of an expanded pilot program to create drug-free facilities. The pilot program is scheduled to expire June 30, 2024. Corrections must establish a comprehensive body scanner program to conduct security screenings for employees, contractors, visitors, volunteers, incarcerated individuals, and other persons entering the secure perimeter of the participating correctional facility; provide training on radiation safety, operation of the body scanner, and screening procedures; and develop a method to track and maintain records on the frequency of body scans conducted on any individual to comply with any maximum allowable monthly and annual radiation dosage limits set by the department. The department is designated as the state radiation control agency with sole responsibility for the administration of regulatory, licensing, and radiation control laws. Rulemaking may be needed to establish safeguards in rule to protect the public's health and safety from overexposure of radiation to implement the bill.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: United States Food and Drug Administration (FDA); United States Department of Labor Occupational Safety and Health Administration (OSHA); Washington State Department of Corrections (corrections); Washington State Department of Labor and Industries (L&I).

Rules may reference U.S. Code of Federal Regulations where necessary, and the department will collaborate with corrections and L&I throughout the rule-making process by forming a workgroup to develop rule requirements.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) The department will use a collaborative rule making approach. The department will keep stakeholders and interested parties informed of the rule development through email and posting information on the department's rule making websites. Stakeholders and interested parties will have the opportunity to provide comments throughout the rule making process, during the formal comment period, and at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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Other:

Other:

Additional comments:

Date: August 23, 2022

Signature:

Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH



Title: Chief of Policy for Secretary of Health