WASHINGTON STATE DEPARTMENT OF HEALTH

Chapter 246-230 WAC

Rules establishing radiation safety standards for the use of security screening systems using ionizing radiation.

Significant Legislative Rule Analysis



August 2024

## 

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# SECTION 1

**A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed.**

The proposed rules create a new chapter that establishes radiation safety standards for the use of ionizing radiation for security purposes. In 2022, Second Substitute Senate Bill (2SSB) 5695 was passed, requiring the Washington State Department of Corrections (corrections) to establish a comprehensive security screening pilot program, using ionizing radiation, at two of its facilities. The program aimed to protect human dignity by reducing or eliminating strip searches and to increase public health by reducing access to drugs and alcohol within these two facilities.

Prior to the passage of 2SSB 5695, security screening systems using ionizing radiation were not authorized in Washington state. The practice of intentionally exposing a person to ionizing radiation was reserved for healing arts purposes. It was later learned that local and county jails and state-run juvenile detention facilities are using ionizing radiation for security purposes. While 2SSB 5695, and subsequently the pilot program itself, expired on June 30, 2024, corrections and these other entities continue to operate security screening systems using ionizing radiation.

The intent of the authorizing statute, title 70A.388 RCW, is to effectively regulate sources of ionizing radiation for the protection of occupational and public health and safety. RCW 70A.388.040 identifies the department of health (department) as the state radiation control agency with sole responsibility for the administration of regulatory, licensing, and radiation control laws. It gives the department the authority to adopt rules relating to the control of sources of ionizing radiation. Therefore, the department must adopt rules establishing radiation safety standards for the use of security screening systems using ionizing radiation to protect public health and safety. Without these rules, security screening systems using ionizing radiation will continue to operate unregulated.

# SECTION 2

**Significant Analysis Requirement**

The Health Physics Society N43.17 (ANSI/HPS N43.17- 2009) standards[[1]](#footnote-2) outline radiation safety for personnel security screening systems using X-ray or gamma radiation. ANSI/HPS N43.17- 2009 represents national consensus codes that generally establish industry standards for security screening systems in which people are intentionally exposed to ionizing radiation. Proposed rules consistent with ANSI/HPS N43.17- 2009 are exempt from significant analysis.

Portions of this new chapter require significant analysis, as defined in RCW 34.05.328, because they deviate from national consensus codes. SA Table 1 identifies rule sections that have been determined exempt from significant analysis based on the exemptions provided in RCW 34.05.328 (5) (b) and (c).

SA Table 1. Summary of Sections Exempt from Significant Analysis

|  |  |  |
| --- | --- | --- |
| **WAC Section and Title** | **Description of Proposed Changes** | **Rationale for Exemption Determination** |
| **WAC 246-230-001**  **Authority, purpose, and scope.** | New section.  Establishes radiation safety standards for the use of ionizing radiation for security purposes, such as detecting contraband under clothing and within body cavities of incarcerated individuals. | Section is consistent with chapter [70A.388](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.388) RCW and is exempt from analysis under [RCW 34.05.328 (5)(b)(iii)](https://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328) because it incorporates by reference without material change. |
| **WAC 246-230-005**  **Relationship to other regulations.** | New section.  Outlines other chapters registrants must follow:   * Chapter 246-220 WAC- Radiation protection- General provisions, * Chapter 246-221 WAC- Radiation protection standards, * Chapter 246-222 WAC- Radiation protection- Worker rights, and * Chapter 246-224 WAC- Radiation protection- Radiation machine assembly and registration. | Section is consistent with chapter [70A.388](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.388) RCW and is exempt from analysis under [RCW 34.05.328 (5)(b)(iii)](https://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328) because it incorporates by reference without material change. |
| **WAC 246-230-010**  **Definitions, abbreviations, and acronyms.** | New section.  Defines terms used throughout chapter. | Section is exempt under [RCW 34.05.328(5)(b)(iv)](https://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328) because the definitions provide clarification. They are not considered requirements and are not enforceable yet are consistently used throughout the chapter. |
| **WAC 246-230-015**  **Registration** | New section.  Requires registration of the security screening system in accordance with chapter 246-224 WAC. | Section is consistent with RCW 70A.388.050 and is exempt under RCW 34.05.328(5)(b)(iii) because it incorporates by reference without material change. |
| **WAC 246-230-040**  **Dose limits.** | New section.  Sets radiation dose limits to protect incarcerated individuals subject to screening and operators. | Section is consistent with ANSI/HPS N43.17- 2009 and is exempt from analysis under [RCW 34.05.328(5)(b)(iii)](https://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328) because it incorporates by reference without material change a national consensus code. |

**SECTION 3**

**Goals and objectives of the statute that the rule implements.**

Title 70A.388 RCW aims to effectively regulate sources of ionizing radiation for the protection of occupational and public health and safety. RCW 70A.388.040 identifies the department as the state radiation control agency with sole responsibility for the administration of regulatory, licensing, and radiation control laws. It gives the department the authority to adopt rules relating to control of sources of ionizing radiation to protect occupational and public health and safety. This includes adopting rules for security screening systems using ionizing radiation with the goal of protecting occupational and public health and safety.

# SECTION 4

**Explanation of why the rule is needed to achieve the goals and objectives of the statute, including alternatives to rulemaking and consequences of not adopting the proposed rule.**

The intent of the authorizing statute, chapter 70A.388 RCW, is to effectively regulate sources of ionizing radiation for the protection of occupational and public health and safety. RCW 70A.388.040 identifies the department of health (department) as the state radiation control agency with sole responsibility for the administration of regulatory, licensing, and radiation control laws. It gives the department the authority to adopt rules relating to the control of sources of ionizing radiation. Therefore, the department must adopt rules establishing radiation safety standards for the use of security screening systems using ionizing radiation to protect public health and safety. Without these rules, security screening systems using ionizing radiation will continue to operate unregulated.

# SECTION 5

**Analysis of the probable costs and benefits (both qualitative and quantitative) of the proposed rule being implemented, including the determination that the probable benefits are greater than the probable costs.**

***Exempted from Analysis***

Cost of Security Screening Systems

The proposed rules establish radiation safety standards for the use of security screening systems that use ionizing radiation to detect contraband under clothing and within body cavities. Several facilities across the state have purchased and are operating these systems. The costs of these systems are exempt from this analysis because nothing in the proposed rules requires screening of this nature. The proposed rules limit the use of these systems to screening individuals who have been committed to a correctional facility or who have been presented for confinement in a jail or detention facility.

NEW SECTION

***WAC 246-230-020 Security screening system requirements.***

Subsection (1) Analysis

**Description:** The proposed rule only allows for the use of a general-use security screening system unless a variance for a limited-use security screening system is obtained from the department. This is a deviation from ANSI/HPS N43.17- 2009, which allows for the use of either.

Limited-use security screening systems deliver more ionizing radiation than general-use security screening systems, and therefore require additional controls and documentation to ensure that annual individual dose limits are not exceeded. If a security screening system has the capability to operate as both a general-use and a limited-use security screening system, then the system must be operated as a general-use security screening system with the limited-use function disabled unless a variance has been obtained.

**Costs:** The department does not anticipate any additional costs associated with disabling the limited-use function as the maximum dose per scan is software-driven and controlled by the operator via a password-controlled screen. Maximum dose will be set at 0.25 μSv radiation or less per screening unless a variance has been obtained.[[2]](#footnote-3)

The costs of requiring a variance to operate a limited-use security screening is analyzed under WAC 246-230-090- Variance request.

**Benefits:** Only allowing general-use systems will ensure security screening systems using ionizing radiation are operated making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety. General-use security screening systems deliver 0.25 μSv radiation or less per screening, while limited-use security screening systems deliver a dose greater than 0.25 μSv. The department has determined that general-use security screening systems should be used to maintain exposures to radiation as low as reasonably achievable while still being able to detect contraband under clothing and within body cavities.

The benefits of requiring a variance to operate a limited-use security screening is analyzed under WAC 246-230-090- Variance request.

Subsections (2) – (5) Analysis

The proposed requirements in subsections (2) through (5) outline security screening system requirements. These requirements are consistent with ANSI/HPS N43.17- 2009 and therefore are not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates, by reference without material change, national consensus codes.

NEW SECTION

***WAC 246-230-025 Authorized use.***

Subsection (1) Analysis

**Description:** The proposed rule authorizes the use of security screening system using ionizing radiation to screen individuals who have been committed to a correctional facility or who have been presented for confinement in a jail or detention facility. Individuals who are minors, pregnant or suspected of being pregnant, health compromised as determined by a licensed health care practitioner, or who have met the annual dosage limits set forth in this chapter may not be screened using security screening systems using ionizing radiation.

**Costs:** The department does not anticipate any additional costs associated with the proposed rule. Correctional facilities, jails, and detention facilities all have existing methods in place to screen individuals without using ionizing radiation.

**Benefits:** Individuals who have been committed to a correctional facility or who have been presented for confinement in a jail or detention facility may be screened by a security screening system using ionizing radiation which will protect human dignity by reducing or eliminating strip searches as well as reduce access to drugs and alcohol which will increase public health and safety. Individuals who are minors, pregnant or suspected to be pregnant, health compromised or who have met the annual dosage limit will not be screened by a security screening system using ionizing radiation and therefore will not be at risk of overexposure.

Subsection (2) Analysis

The proposed rule in subsection (2) prohibits the use of a security screening system for medical purposes. This requirement is consistent with ANSI/HPS N43.17- 2009 and therefore is not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates, by reference without material change, national consensus codes.

NEW SECTION

***WAC 246-230-030 Operating requirements of security screening system.***

Subsection (1) Analysis

**Description:** The proposed rule requires radiation safety training prior to performing any security screening system operations. The proposed rule is consistent with ANSI/HPS N43.17- 2009 standards except for the requirement that the registrant must develop a training program in consultation with a qualified expert.

ANSI/HPS N43.17- 2009 states that “all operators shall receive appropriate training sufficient to operate the system in conformance with this standard.”

**Costs:** The department estimates a one-time cost to develop a training program in consultation with a qualified expert at $2,000.[[3]](#footnote-4)

**Benefits:** The department has determined that a training program shall be developed in consultation with a qualified expert[[4]](#footnote-5) to provide appropriate radiation safety and operation training to corrections staff. This requirement ensures security screening systems are operated safely and appropriately, making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety.

Subsections (2) and (3) Analysis

The proposed rules in subsections (2) and (3) require an operator to complete an annual refresher training, and that written operating and emergency procedures be immediately available to each operator. These requirements are consistent with ANSI/HPS N43.17- 2009 and therefore are not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates, by reference without material change, national consensus codes.

Subsection (4) Analysis

**Description:** The proposed rule requires that operating procedures must include a description of when and how each mode of operation should be used. A “mode of operation” is a selectable set of technique factors or machine settings that is predetermined by the manufacturer for a specific purpose.

**Costs:** The department estimates that the cost to add modes to operations manual will be negligible because modes are already outlined in the operations manual and included in training provided by the manufacturer.[[5]](#footnote-6)

**Benefits:** This will ensure operators know when to use each mode and the technique factors associated with each mode, which in turn will provide for safe operation of the security screening system, reducing the risk of overexposure to radiation.

Subsection (5) Analysis

**Description:** The proposed rule establishes screening procedures and is consistent with ANSI/HPS N43.17- 2009 standards except for subdivision (a) which requires operating procedures to be followed and a portion of subdivision (e) which requires a written repeat screening policy be developed in consultation with a qualified expert. ANSI/HPS N43.17- 2009 states that a registrant shall “document its procedures for operating the system” however, it does not specifically state that operating procedures must be followed. ANSI/HPS N43.17- 2009 recognizes the need for additional screening, however, does not specify how additional screening should occur.

**Costs:** The department estimates no additional cost for operators to follow security screening system procedures as this is currently the standard operating procedure.

The department estimates that the cost to develop a repeat screening policy with a qualified expert is a one-time cost of $1,500.[[6]](#footnote-7)

**Benefits:** Requiring operators to follow operating procedures ensures that security screening systems are operated correctly, making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety. A written repeat screening policy, developed in consultation with a qualified expert, ensures registrants are making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety.

NEW SECTION

***WAC 246-230-050 Requirements for tracking dosage.***

Subsection (1) Analysis

**Description:** The proposed rule requires record maintenance of radiation dosage records for a lifetime for each individual subject to screening. This was a recommendation from the Washington State Department of Labor & Industries.

**Costs:** The department estimates that the cost to maintain a record for one individual (including time and materials to print and file one report) to be included in an individual’s medical file at $2.03.[[7]](#footnote-8) The department does not know how many records this may apply to in a given year.

**Benefits:** Maintaining dose records as such is necessary to make every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety. Maintaining dosage records for a lifetime ensures that records will exist if needed in the future.

Subsection (2) Analysis

**Description:** The proposed rule requires dosage records be transferred with an individual between facilities.

**Costs:** The department estimates that the cost to transfer dosage records with an incarcerated individual (including time and materials to print and file one report) to be included in individual’s medical file at $2.03 per individual transfer.[[8]](#footnote-9) The department does not know how many transfers this may apply to in a given year.

**Benefits:** This measure ensures dosage does not exceed the dosage limits set forth in WAC 246-230-040 and reduces the risk of overexposure to radiation.

Subsection (3) Analysis

The proposed rule in subsection (3) requires dosage records be provided to an individual upon request. This is consistent with [RCW 42.56.565](https://app.leg.wa.gov/RCW/default.aspx?cite=42.56.565) and therefore is not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates, by reference, state statute without material change.

Subsection (4) Analysis

**Description:** The proposed rule requires dosage records to be maintained for the lifetime of each individual. This is a recommendation from the Washington State Department of Labor & Industries and is consistent with Corrections Records Retention Schedule Disposition Authority Number (DAN) 13-09-68466 Rev. 1- Offender Incarceration Records – Summary Information (All Offenders)[[9]](#footnote-10).

**Costs:** The department does not anticipate any additional costs as this is already a requirement due to the nature of the record.

**Benefits:** Maintaining dose records as such is necessary to make every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety. Maintaining dosage records for a lifetime ensures that records will exist if needed in the future.

NEW SECTION

***WAC 246-230-060 Information to be provided to scanned individuals.***

Subsection (1) and (2) Analysis

The proposed requirements in subsections (1) and (2) outline security screening system requirements. These requirements are consistent with ANSI/HPS N43.17- 2009 and therefore are not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates, by reference without material change, national consensus codes.

Subsection (3) Analysis

**Description:** The proposed rule requires the registrant to notify an individual if alternative screening options are available.

**Costs:** The department does not anticipate any additional costs associated with the proposed rule. Correctional facilities, jails, and detention facilities all have existing methods in place to screen individuals without using ionizing radiation.

**Benefits:** Individuals can choose whether they wish to be screened by a security screening system using ionizing radiation or another alternative method.

NEW SECTION

***WAC 246-230-070 Radiation surveys.***

Subsection (1) Analysis

**Description:** The proposed rule requires radiation surveys be conducted by a qualified expert and is consistent with ANSI/HPS N43.17-2009 standards except for a portion of subdivision (b) which requires a dosimetry badge be worn if deemed necessary and subdivisions (d) and (e) which requires a qualified expert verify the operation and emergency procedures and the training program and training log.

**Cost:** Dosimetry badges are only required if a radiation survey conducted by a qualified expert indicates operators could receive ten percent of the occupational workers annual dose limit of 5 rem. If a radiation survey result indicates operators need to wear a dosimetry badge, the department estimates the cost per operator at $108 to $260 per badge per year.[[10]](#footnote-11) The department estimates that if all persons trained on operating the security screening system were required to wear a dosimetry badge, this cost would be between $62,640 and $150,800. However, as this cost is only incurred if the survey results indicate the necessity, the department is unable to reliably estimate the total annual cost but estimates that reasonably the cost could also be $0.

The department estimates that the recurrent cost to verify operation and emergency procedures is $200/year.[[11]](#footnote-12)

The department estimates that the recurrent cost to verify a training program and training log is $200/year.[[12]](#footnote-13)

**Benefits:** This requirement protects operators from potential overexposure to radiation if a radiation survey determines the need to wear a dosimetry badge. Having a qualified expert verify operation and emergency logs and training program and training logs ensures registrants are making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety.

*Subsection (2) Analysis*

**Description:** The proposed rule is consistent with ANSI/HPS N43.17- 2009 except for the timeframe of thirty days specified in subdivisions (c) and (d). ANSI/HPS N43.17- 2009 standards require radiation surveys following any maintenance that affects radiation shielding, shutter mechanism, or radiation production components, and following any alteration or incident that may have damaged the system in a way that unintended radiation emission occurs, however it does not specify a timeframe in which a survey must be conducted.

**Costs:** The department does not anticipate any costs associated with this as ANSI/HPS N43.17- 2009 standards require a radiation survey following any maintenance.

**Benefits:** Requiring a radiation survey be conducted within thirty days following any maintenance or alteration or incident that may have damaged the system ensures security screening systems are operated to maintain exposures to radiation as low as reasonably achievable.

*Subsection (3) Analysis*

**Description:** ANSI/HPS N43.17- 2009 requires radiation surveys however it doesn’t specify how to present the findings. The proposed rule outlines how to communicate survey results and recommendations to the registrant and identifies a timeline to resolve issues.

**Costs:** The department estimates the cost for a summary of results and recommendations following a radiation survey is $1,800- $4,000.[[13]](#footnote-14) The range is dependent upon location. Radiation surveys must be conducted prior to first use or upon replacement of a security screening system, every 10-14 months, within 30 days following maintenance, and within 30 days following any alteration or incident. Therefore, at a minimum, this will be an annual cost.

The cost of making corrections within 30 days will be dependent upon the issue and technician availability.[[14]](#footnote-15) The department is unable to provide an estimate to repair or service the security screening system as this cost is dependent upon the issue.

**Benefits:** This ensures the registrant is making every reasonable effort to ensure systems are functioning safely and properly to reduce exposures to radiation.

NEW SECTION

***WAC 246-230-080 Records.***

Subsections (1) - (3) Analysis

The proposed rules, which outline records maintenance requirements for training logs, radiation surveys, and maintenance logs, are consistent with ANSI/HPS N43.17- 2009 and therefore are not subject to analysis in this section under RCW 34.05.328(5)(b)(iii) because it incorporates by reference, without material change, national consensus codes.

Subsection (4) Analysis

**Description:** The proposed rule outlines how a registrant should document and maintain records on repeat screenings.

**Cost:** The department estimates it will cost $0.26 per repeat screen[[15]](#footnote-16) to document the information required by the proposed rule. This estimate is based on the estimated time of 30 seconds to enter required data for one individual. The department is unable to determine how many repeat screenings will be completed, however it believes the number will be few due to the requirement that a repeat screening procedure be developed in consultation with a qualified expert.

**Benefits:** This information ensures the registrant is making every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety and identifies where additional training may be necessary.

NEW SECTION

***WAC 246-230-090 Variance request.***

**Description:** The proposed rule outlines the process to request a variance to use a limited-use security screening system.

ANSI/HPS N43.17- 2009 allows registrants to use both general-use and limited-use security screening systems. The proposed rule restricts the use of limited-use security systems unless a variance is obtained from the department. This section is necessary as it outlines the process for a registrant to request a variance.

**Costs:** The department estimates a one-time cost of $45.25 to request a variance. This estimate was produced by assuming that it took one hour to draft the letter, using the current cost of postage of $0.66,[[16]](#footnote-17) and using the highest hourly wage of a correctional officer, at $44.59.[[17]](#footnote-18) Not included in the estimate was office supplies (paper, envelope, ink). This cost is only incurred if the registrant chooses to apply for a variance to operate a limited-use security screening system.

**Benefits:** The department may impose conditions with a variance approval to reduce the risk of overexposure to radiation.

## Summary of all Cost(s) and Benefit(s)

SA Table 3 summarizes the probable costs and probable benefits of adopting the proposed rules.

***SA Table 3. Summary of probable costs & probable benefits.***

|  |  |  |
| --- | --- | --- |
| **WAC Section and Title** | **Estimated Probable Cost(s)** | **Probable Benefit(s)** |
| WAC 246-230-020 Security screening system requirements. | No anticipated cost of disabling limited-use function from security screening system that can function as both.  Variance costs analyzed under WAC 246-230-090. | Using a general-use security screening system reduces the risk of overexposure to radiation.  The benefits of obtaining a variance analyzed under WAC 246-230-090. |
| WAC 246-230-025  Authorized use. | No anticipated cost of authorizing the use of security screening systems to screen individuals who have been committed to a correctional facility or who have been presented for confinement in a jail or detention facility. | Human dignity is protected.  Reduced access to drugs and alcohol.  Individuals who are minors, pregnant or suspected to be pregnant, health compromised, or who have met their annual dose limit will not be at risk of overexposure to radiation. |
| WAC 246-230-030 Operating requirements of security screening system. | One-time cost to develop a training program in consultation with a qualified expert: $2,000.  One-time cost to add modes to operations manual will be negligible.  No additional cost to operate security screening system per procedures.  One-time cost to develop repeat screening policy with qualified expert: $1,500. | Reduce exposure to radiation and reduce the risk of operator error.  Adding modes to the operations manual provides clear direction for operators.  Employees, contractors, visitors, volunteers, and other persons entering the secure perimeter are not exposed to radiation.  Preserves dignity of incarcerated individuals and operators.  Reduces the risk of overexposure to radiation. |
| WAC 246-230-050 Requirements for tracking dosage. | Maintaining a record: $2.03/individual screening (multiplier unknown)  Transferring a record: $2.03/transfer (multiplier unknown) | Ensures dosage does not exceed limits established in WAC 246-230-040 and reduces the risk of overexposure to radiation.  Records exist if needed in the future. |
| WAC 246-230-060  Information | No anticipated cost of notifying individuals of existing alternative screening methods. | Individual can choose whether to be screened by a security screening system using ionizing radiation or another existing alternative method. |
| WAC 246-230-070 Radiation surveys. | Individual cost of a dosimetry badge: $108 to 260 per badge per year. Cost dependent on radiation survey results. Requiring every operator to wear a badge: $62,640- 150,800. A reasonable annual cost could be as low as $0.  Qualified expert to verify operation and emergency procedures: $200/year.  Qualified expert to verify training program and training log: $200/year.  Providing results and recommendations to registrants: $1,800 to $4,000.  No additional cost for the registrant to make corrections within 30 days. Cost of corrections will be dependent upon the issue. | Prevents overexposure to radiation.  Ensures operators are following procedures to reduce the risk of overexposure to radiation.  Ensures operators are trained to reduce risk of overexposure to radiation.  Ensures security screening systems are functioning safely and properly to reduce risk of overexposure to radiation. |
| WAC 246-230-080 Records. | Cost to log one repeat screening: $0.26 per screening. Number of repeat screenings anticipated to be low due to requirement of developing screening policy in consultation with a qualified expert. | Reduces risk of overexposure to radiation and identifies where additional training may be necessary. |
| WAC 246-230-090 Variance request. | One-time cost to request a variance: $45.22. | Department may impose conditions on variance approval to reduce the risk of overexposure to radiation. |

## Determination

**Probable Benefits greater than Probable Costs**

The proposed rules will ensure the dose of ionizing radiation an incarcerated individual is exposed to will be as low as reasonably achievable to protect their health and safety. It was determined that the probable benefits of the proposed rules are greater than the probable costs.

# SECTION 6

**List of alternative versions of the rule that were considered including the reason why the proposed rule is the least burdensome alternative for those that are required to comply and that will achieve the goals and objectives of the proposed rule.**

Alternate versions of the proposed rules included the following:

* Definition of “security screening system”. The department considered security screening systems could use backscatter technology or transmission X-ray. The proposed rule limits use to transmission X-ray to ensure the dose of ionizing radiation an incarcerated individual is exposed to will be as low as reasonably achievable to protect their health and safety.
* Definition of “minor”. The department considered defining minor as a person under the age of 17 to help reduce additional avenues that contraband can be brought into juvenile detention facilities, however this would conflict with ANSI/HPS N43.17- 2009, and at this time the department believes that defining minor as a person less than 18 years of age, consistent with existing definition listed in WAC 246-220-010, provides the greatest level of safety.
* Requirements for tracking dosage. The department considered not including requirements to maintain dosage records for a lifetime. The proposed rule includes this provision as a recommendation from the Washington State Department of Labor & Industries. Maintaining dose records as such is necessary to make every reasonable effort to maintain exposures to radiation as low as reasonably achievable to protect public health and safety.
* Repeat screenings. The department considered whether repeat screenings were necessary. This chapter includes requirements for repeat screenings including requirements for developing a policy in consultation with a qualified expert and maintenance of records.

The proposed rules are the least burdensome as most of the sections are consistent with national consensus codes (ANSI/HPS N43.17- 2009) and those sections/subsections that are not consistent are necessary to protect public health and safety.

# SECTION 7

**Determination that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.**

Compliance with the proposed rules will not result in a violation of another federal or state law.

# SECTION 8

**Determination that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.**

The proposed rules do not apply to private entities at this time.

# SECTION 9

**Determination if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.**

The proposed rules are consistent with national consensus codes that generally establish industry standards for security screening systems in which people are intentionally exposed to ionizing radiation. No federal regulations apply to this activity.

# SECTION 10

**Demonstration that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.**

The following federal guidance documents informed the development of the proposed rules:

* Health Physics Society N43.17 standards, approved by the American National Standards Institute, Inc. in February 2009 (ANSI/HPS N43.17- 2009)
* United States Interagency Steering Committee on Radiation Standards, Guidance for Security Screening of Humans Utilizing Ionizing Radiation (July 2008)
* United States Department of Justice, Federal Bureau of Prisons, Program Statement on Whole Body Imaging (IPA/OST, 5522.03, dated June 15, 2017)

The following state regulations informed the development of the proposed rules:

* Oregon Administrative Rules, Oregon Health Authority, Public Health Division- Chapter 333, Division 122 Radiation Safety Requirements for Industrial X-Ray Machine Operations, 333-122-0380, Whole Body Imagers: Appropriate Uses.
* Minnesota Rules, Minnesota Department of Health, Chapter 4732 X-Ray Revision, Security Screening X-Ray System Definitions (proposed) and Security Screening X-Ray Systems (proposed).
* Michigan Department of Licensing and Regulatory Affairs, Radiation Safety Section, Registration Conditions for Personnel Security Screening Systems Using X-Rays (MIOSHA-RSS-117, rev 5/16).
* Ohio Administrative Code, Rule 3701:1-66-16, Security Screening Systems.

1. See American National Standards Institute, Inc., American National Standard Radiation Safety for Personnel Security Screening Systems Using X-Ray or Gamma Radiation (August 2009). [↑](#footnote-ref-2)
2. Information obtained from consultation with: Luke Ricards, Lukas Richert, and Paul Rivello, [LINEV Systems US](https://linevsystems.us/); Stephen Smith, CEO, [Tek 84, Inc.](https://www.tek84.com/); and Eduardo Parodi, Director, [Leidos](https://www.leidos.com/). [↑](#footnote-ref-3)
3. Estimate was given by Blake Rasmussen, Business Manager, [Corwin Health Physics](https://www.corwinhp.com/). [↑](#footnote-ref-4)
4. A qualified expert is an individual who has demonstrated to the satisfaction of the department the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. [↑](#footnote-ref-5)
5. Information obtained from consultation with: Stephen Smith, CEO, [Tek 84, Inc.](https://www.tek84.com/); and Eduardo Parodi, Director, [Leidos](https://www.leidos.com/). [↑](#footnote-ref-6)
6. From Blake Rasmussen, Business Manager, [Corwin Health Physics](https://www.corwinhp.com/). [↑](#footnote-ref-7)
7. From Washington State Department of Corrections. [↑](#footnote-ref-8)
8. From Washington State Department of Corrections. [↑](#footnote-ref-9)
9. See Washington Secretary of State, Washington State Archives, [Department of Corrections Records Retention Schedule](https://www2.sos.wa.gov/_assets/archives/recordsmanagement/department-of-corrections-records-retention-schedule-v.1.6-(april-2023).pdf), Version 1.6 (April 2023). [↑](#footnote-ref-10)
10. <https://www.dosimetrybadge.com/>. [↑](#footnote-ref-11)
11. From Business Manager at [Corwin Health Physics](https://www.corwinhp.com/). [↑](#footnote-ref-12)
12. From Business Manager at [Corwin Health Physics](https://www.corwinhp.com/). [↑](#footnote-ref-13)
13. From Business Manager at [Corwin Health Physics](https://www.corwinhp.com/). [↑](#footnote-ref-14)
14. ANSI/HPS N43.17 states that in the event of system malfunction, procedures for removing the system from service until appropriate maintenance or repair personnel have corrected the problem should be in place. [↑](#footnote-ref-15)
15. From Washington State Department of Corrections. [↑](#footnote-ref-16)
16. [Postage Rates & Prices | USPS](https://www.usps.com/business/prices.htm) [↑](#footnote-ref-17)
17. [State of Washington Class Salary Range | Office of Financial Management](https://ofm.wa.gov/state-human-resources/compensation-job-classes/ClassifiedJobListing/SalaryRange/4965) [↑](#footnote-ref-18)