

Significant Legislative Rule Analysis

Chapter 246-100 WAC Communicable and Certain Other Diseases

August 31, 2021

SECTION 1:

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The purpose of chapter 246-100 WAC, Communicable and Certain Other Diseases, is to protect the health and well-being of the public by controlling infectious and noninfectious diseases.

The rules provide authority and structure for state and local health officers, health care providers, health care facilities, and laboratories to address zoonotic diseases (e.g., rabies, psittacosis), sexually transmitted infections (e.g., syphilis, HIV), and tuberculosis. The rules include provisions and requirements for local health officers regarding case investigations, issuance of health orders, isolation and quarantine, preventing human disease, and testing of persons following exposure of disease in occupational and jail settings.

During the 2020 Legislative Session, the Legislature passed Engrossed Substitute House Bill (ESHB) 1551, Modernizing the control of certain communicable diseases (Chapter 76, Laws of 2020). This legislation modernizes the state's control of communicable disease laws by ending statutory exceptionalism for human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS), reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The new law took effect June 11, 2020.

In ESHB 1551, the Legislature directed the State Board of Health (Board) to adopt rules to implement and enforce chapter 70.24 RCW, including but not limited to:

- Establishing reporting requirements for sexually transmitted infections¹
- Establishing procedures for investigations of sexually transmitted infections under RCW 70.24.024
- Specifying, for purposes of RCW 70.24.024, behavior that endangers the public health, based upon generally accepted standards of medical and public health sciences
- Defining, for the purposes of RCW 70.24.120, specimens that can be obtained and tests that can be administered for sexually transmitted infections, blood-borne pathogens, and other infections
- Determining, for the purposes of RCW 70.24.340, categories of employment that are at risk of substantial exposure to a blood-borne pathogen
- Defining, for purposes of RCW 70.24.340, 70.24.360, and 70.24.370 what constitutes an exposure that presents a possible risk of transmission of a blood-

¹ Note: ESHB 1551, chapter 70.24 RCW, and prior rules under chapter 246-100 WAC use the term "sexually transmitted diseases." The Board, in rulemaking and in this analysis, uses the term "sexually transmitted infections" for medical accuracy and to reduce stigma.² Based on publicly available from salary data for open job positions for enhanced service facility administrators. Salary information was unavailable for adult family home administrators.

borne pathogen in occupational settings, jail facilities, and Department of Corrections facilities

Sections of chapter 246-100 WAC pertaining to sexually transmitted infections, including HIV/AIDS, have been updated piecemeal over the last several years:

- In 2018, certain sections of rule were revised to repeal consent and opt-out options for HIV testing and updating references of “AIDS counseling” to “HIV counseling” to provide clarity and focus on the disease (HIV) rather than the most advance stage of the infection (AIDS).
- In 2009, several sections related to HIV were revised for consistency with the Centers for Disease Control and Prevention’s most current recommendations for HIV testing.
- In 2005, certain sections of the chapter were revised to expand access to HIV testing, increase efforts to notify exposed partners of their exposure to HIV infection, and encourage services to meet the HIV transmission prevention needs of persons living with HIV.

The Board filed a CR-101, Preproposal Statement of Inquiry, on July 16, 2020 (filed as WSR 20-15-112) for Chapter 246-100 WAC, Communicable and Certain Other Diseases, and Chapter 246-101 WAC, Notifiable Conditions. The CR-101 provided notice to the Board’s interested parties that the Board is considering amending these chapters to implement changes made by ESHB 1551 to assure consistency with the bill’s requirements and protect public health and safety. As identified in the CR-101, the Board also proposed other technical and editorial changes as necessary.

This analysis considers the impact of proposed changes to chapter 246-100 WAC only. Proposed changes related to ESHB 1551 for chapter 246-101 WAC, Notifiable Conditions, were adopted under a separate rulemaking process, as revisions to the Notifiable Conditions chapter were already underway at the time of filing the CR-101 to implement ESHB 1551. Amendments to chapter 246-101 WAC were adopted by the Board at its March 2021 public meeting and are limited to minor editorial revisions consistent with the changes in ESHB 1551. These changes can be found in WSR 21-11-040.

SECTION 2:

Is a Significant Analysis required for this rule?

The Board determined a significant analysis is required for the proposed chapter revisions and is subject to the requirements of RCW 34.05.328(5). The Board evaluated the proposed rules and determined several provisions of the proposed rules are exempt from further analysis under RCW 34.05.328(5)(b). Table 1 identifies rule sections or

portions of rule sections the Board has determined are exempt from analysis based on the exemptions provided in RCW 34.05.328(5)(b).

Table 1. Summary of sections not requiring analysis

WAC, Title	Description of Change	Exemption from Significant Analysis under RCW 34.05.328(5)(b)
Throughout the chapter	Made editorial changes to remove gendered language (e.g., he, his), and use people-first language (e.g., person living with HIV).	(iv) Revisions clarify language without changing its effect.
246-100-021, Responsibilities and duties – Health care providers.	Moved language related to anonymous HIV testing from the definitions section to this section for clarity.	(iv) Revisions to this section clarify language without changing its effect.
246-100-036, Responsibilities and duties – Local health officers.	<ul style="list-style-type: none"> • Removed references to AIDS counseling and pre/post-test counseling (required by ESHB 1551). • Added language to ensure the identity or identifying information of persons living with HIV is not disclosed outside of the local health jurisdiction. 	<p>(v) Revisions are explicitly and specifically dictated by statute.</p> <p>(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party; and</p>
246-100-070, Enforcement of local health officer orders.	<ul style="list-style-type: none"> • Updated statutory references (RCWs). • Clarified language related to persons refusing to obey lawful health orders being subject to a <i>gross misdemeanor</i> instead of a <i>misdemeanor</i> (required by ESHB 1551). 	<p>(iv) Revisions clarify language without changing its effect.</p> <p>(v) Revisions are explicitly and specifically dictated by statute.</p>
246-100-072, Rules for notification of partners at risk of human immunodeficiency virus (HIV) infection	<ul style="list-style-type: none"> • Removed references to AIDS counseling and pre/post-test counseling (required by ESHB 1551). • Removed language requiring local health officers to destroy documentation and identifying information of persons living with HIV and referral information. • 	(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party; and

<p>246-100-203, Sexually transmitted infections – Health officer orders</p>	<ul style="list-style-type: none"> • Revised title of section. • Made editorial revisions for clarity and consistency with authorizing statute (ESHB 1551). • Updated WAC and RCW references. • Changed the effective length of written health orders requiring a person to cease and desist certain behaviors from 3 to 12 months (required by ESHB 1551). 	<p>(iv) Revisions to this section clarify language without changing its effect; and</p> <p>(v) Revisions are explicitly and specifically dictated by statute.</p>
<p>NEW SECTION 246-100-2031, Sexually transmitted infections – Orders and standards for detainment</p>	<ul style="list-style-type: none"> • Created new section and moved language from section -203 for clarity. • Made editorial revisions for clarity and consistency with authorizing statute. • Updated WAC and RCW references. • Removed references to pre/post-test counseling (required by ESHB 1551). • Removed references to training as approved by the Office on AIDS (required by ESHB 1551). 	<p>(iv) Revisions to this section clarify language without changing its effect; and</p> <p>(v) Revisions are explicitly and specifically dictated by statute.</p>
<p>246-100-204, Absence of HIV or hepatitis C as an occupational qualification</p>	<ul style="list-style-type: none"> • Revised title of section. • Added reference to hepatitis C infection, aligned with statute. 	<p>(v) Revisions are explicitly and specifically dictated by statute; and</p> <p>(iv) Revisions to this section clarify language without changing its effect.</p>
<p>246-100-206, Blood-borne pathogen exposure – Local jail facilities</p>	<ul style="list-style-type: none"> • Revised title of section. • Replaced references to HIV with blood-borne pathogens (required by ESHB 1551). • Removed references to pre/post-test counseling (required by ESHB 1551). • Re-ordered subsections for clarity. • Updated RCW references. 	<p>(iv) Revisions to this section clarify language without changing its effect; and</p> <p>(v) Revisions are explicitly and specifically dictated by statute.</p>
<p>246-100-207, Blood-borne pathogen testing – Ordering – Laboratory</p>	<ul style="list-style-type: none"> • Revised title of section. • Removed references to seroprevalence studies. 	<p>(iv) Revisions to this section clarify language without</p>

screening – Interpretation – Reporting	<ul style="list-style-type: none"> Replaced references to HIV with blood-borne pathogens (required by ESHB 1551). Removed redundant language and references to sections of the chapter that have been stricken. Removed language related to health care providers obtaining sample CDC brochures for HIV testing. Removed references to pre/post-test counseling (required by ESHB 1551). Removed requirements related to sending test results to a designated health care provider or local health jurisdiction for interpretation and post-test counseling (consistent with statute). 	changing its effect; and (v) Revisions are explicitly and specifically dictated by statute.
REPEAL SECTION 246-100-208, Counseling standard – HIV counseling	Removed this section of rule (required by ESHB 1551).	(v) Revisions are explicitly and specifically dictated by statute.
REPEAL SECTION 246-100-209, Counseling standards – Human immunodeficiency virus (HIV) pretest counseling – HIV post-test counseling.	Removed this section of rule (required by ESHB 1551).	(v) Revisions are explicitly and specifically dictated by statute.
246-100-22, Tuberculosis.	<ul style="list-style-type: none"> Revised title of section. Revised references of local health jurisdiction consistent with the definitions section. 	(iv) Revisions to this section clarify language without changing its effect.

SECTION 3:

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The intent of the underlying statute (chapter 70.24 RCW) is to protect the public's health through the control and treatment of sexually transmitted infections and blood-borne pathogens. It was the intent of the legislature to provide a program that is sufficiently flexible to meet emerging needs, deals efficiently and effectively with reducing the incidence of sexually transmitted infections and blood-borne pathogens, and provides patients with a secure knowledge that information they provide will remain private and confidential.

SECTION 4:

Explain how the Board determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

Through ESHB 1551, the Legislature directed the Board to adopt rules to implement and enforce chapter 70.24 RCW. The Board also assessed alternatives to rulemaking. If the Board opted not to engage with updates to chapter 246-100 WAC, a discontinuity would exist between statute and rule, therefore causing confusion among the regulated community and general public, both whom of are impacted by this chapter of rule. Additionally, for requirements to be enforceable they must be articulated in the rule and could not be simply described in guidance documentation.

SECTION 5:

Explain how the Board determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

WAC 246-100-011, Definitions

This subsection defines “health care facilities” for the purposes of the chapter. The proposed rule amends the existing definition to include adult family homes licensed under chapter 70.128 RCW and enhanced service facilities licensed under chapter 70.97 RCW. The inclusion of these two facility types in the proposed definition creates new requirements for those licensees. WAC 246-100-186 requires health care facilities, which would require enhanced service facilities and adult family homes, to “(1) Adopt written policy and procedures restricting work of employees, staff, students, and volunteers diagnosed to have a communicable disease from direct contact with patients, residents, and recipients of care during the period of communicability...”

Chapter 388-107 WAC outlines requirements that must be met in order for enhanced service facilities to be licensed in the State of Washington. WAC 388-107-1580 requires enhanced service facilities to develop, implement, and train staff on written policies and procedures for all treatment, care, and services provided in the facility. These policies and procedures include but are not limited to “preventing and limiting the spread of infections, including tuberculosis, consistent with WAC 388-107-0440”. Furthermore, WAC 388-107-0440 requires enhanced service facilities to “establish and maintain an effective infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.”

Similarly, chapter 388-76 WAC outlines requirements that adult family homes must meet in order to be licensed in the State of Washington. WAC 388-76-10255 requires adult family homes to develop and implement an infection control system that uses nationally recognized infection control standards, and WAC 388-76-10260 requires adult family homes to implement nationally recognized infection control measures if the adult family home suspects anyone working or living in the facility has or may have a communicable disease.

While these facilities must develop and implement policies, procedures, and/or infection control standards as a requirement of licensure, it is unclear whether these policies and procedures fulfill the specific requirements of WAC 246-100-186. Therefore, this analysis analyzes the impact of this potential change for adult family homes and enhanced service facilities.

Board staff circulated a cost survey to understand the one-time costs, if any, to update existing policies and procedures to comply with WAC 246-100-186. One-time costs are defined as costs that occur only once. There are 3,186 adult family homes and six enhanced service facilities licensed in the State of Washington. Cost surveys were sent to representatives of these facilities and advocacy organizations. The cost survey returned zero responses.

Due to receiving zero cost survey responses and existing licensing requirements for adult family homes and enhanced service facilities, Board and Department of Health staff believe it likely that many of these licensees already have policy and procedures in place that comply with proposed changes to WAC 246-100-186. Still, the Board and Department of Health have considered what it may cost a facility to comply with the rule should they not currently have policy and procedures in place that comply with the proposed changes (estimated below).

Cost

The Board and Department of Health assume that administrators of adult family homes or enhanced service facilities would develop updates to existing facility policy and procedures. The assumed hourly rate of these administrators is \$30². To develop or update existing policies and procedures the Board and Department of Health assumed that the number of hours range from zero to ten. Therefore, the assumed one-time cost to develop or update existing policies and procedures to comply with WAC 246-100-186 would range between \$0 and \$300.

Benefit

There are several benefits of all long-term care and residential facilities having policy and procedures in place to restrict contact with residents by staff diagnosed with a communicable disease. Infection control standards for all health care facilities, including long-term care facilities, include the fundamental components of surveillance, policy

² Based on publicly available from salary data for open job positions for enhanced service facility administrators. Salary information was unavailable for adult family home administrators.

development, employee health, and education³. The Agency for Healthcare Research and Quality (AHRQ) indicates that there are over 380,000 resident deaths annually in long-term care settings related to facility associated infections. Policy and procedures to restrict staff with infections from contacting residents would contribute to the greater aim of reducing potential illness and death in these settings. Consistency across all settings benefits residents and employees who may move across various settings. For example, an individual experiencing a fall may recover at an assisted living facility, with a policy, then return to their adult family home that does not have such a policy. Discontinuity also may impact staff, many of whom may work across multiple setting types and be restricted from interacting with residents at one, but not have the same restrictions at another.

A 2016 study indicates that health care associated infections in nursing home settings in the United States, cost between \$637 million and \$2 billion for hospitalizations and \$38 to \$137 million for pharmaceutical interventions annually (2013 USD)⁴. The study goes further to say that reducing infections should be a priority as most of these infections can be prevented.

While we are unable to discern the number of health care associated infections occurring in enhanced service facilities and adult family homes specifically from transmission from an infected staff member, it is clear a benefit exists.

WAC 246-100-202, Sexually transmitted infections – Duties and authorities

This section outlines requirements for health care providers to report each case of a notifiable sexually transmitted infection, provide education to patients, and provide specific care to pregnant persons. This section also authorizes state and local health officers to conduct case investigations for newly diagnosed sexually transmitted infections. The proposed rules update references to treatment of prenatal syphilis for health care providers and adds references to CDC guidelines for sexually transmitted infections treatment.

Cost

The Board determined there is no probable cost to comply with these changes to the rule. These changes align with current practice and do not result in a cost for health care insurers.

Benefit

Updating the rule to be in alignment with current medical practice ensures that Washington infants are provided care in alignment with best practice and that health care providers are empowered to provide that care.

WAC 246-100-205, Blood-borne pathogens exposure – Occupation settings.

This section describes occupations that are at increased risk of exposure to blood-borne pathogens in the course of their employment. Currently, the rule includes a list of six

³ <https://academic.oup.com/cid/article/31/3/752/297815>

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4915220/>

categories of employment that may make a request of the local health officer to test the person who was the source of the body fluid. The proposed rule adds a new category of employment, persons licensed to perform body art, body piercing and tattooing that is at increased risk of exposure to body fluids. Adding a new employment category has the potential to increase the workload for local health officers who may receive requests for testing of the person who is the source of the body fluid. Additionally, the proposed rule newly includes in the definition of “health care facility” enhanced service facilities and adult family homes, which would newly expand the provisions of WAC 246-100-205 to the staff of those facilities. This expands the potential population able to make a request for testing of a person who is the source of an exposure in an occupational setting.

Cost

As this proposed rule is adding a new occupation, the Board collected information on existing requests from Local Health Jurisdictions (LHJs) and used these data to understand the probable costs of the revision. The Board contacted three LHJs to inquire about the existing process of requesting a test for a blood-borne pathogen exposure, two of whom represent larger LHJs⁵. Larger LHJs were included aiming to understand the ceiling of probable costs. The information received was caveated with the information that both larger jurisdictions include a large trauma center and the majority of requests stem from providers and staff at those facilities.

These three LHJs each reported receiving approximately fifteen to thirty requests annually across the six categories of employment currently included in the rule. Requests are likely to be fewer in smaller jurisdictions and those without large trauma centers. Based on this information, Board staff assumed one additional request per year per LHJ by adding a new category of employment and expanding the definition of health care facility employees.

The requirement to field requests and make a determination is included in the duties and authorities of the local health officer. Therefore, staff assumed for purposes of this analysis that the local health officer would be conducting activities associated with such a request. The Board assumes local health officer salaries range from \$27 - \$108 an hour^{6, 7}. We assume that local health officers would spend the same amount of time on the requests from a new occupation that they would on the occupations that the rule currently includes. Board staff assumes an estimate of one-business day (eight hours) to process each request. Using these assumptions, the cost for compliance would be between \$216 - \$864 per request, assuming additional request annually, dependent on the negotiated salary of the local health officer.

In addition to the cost of personnel time, there are costs associated with the tests for blood-borne pathogens a local health officer may order. The cost of an HIV antigen test

⁵ Internal discussion with Asotin County Health District, Snohomish Health District, and Public Health - Seattle & King County.

⁶<https://agency.governmentjobs.com/snohd/default.cfm?action=specbulletin&ClassSpecID=1207904&headerfooter=0>

⁷ <https://www.masoncountywa.gov/human-resources/jobs/20job29.pdf>

is estimated at \$22 (2010 US)⁸ and the cost of a Hepatitis B test is estimated at \$10 to \$43 (2021 US)⁹.

Benefit

The new employment category added is consistent with those identified by the Centers for Disease Control and Prevention as at high risk of exposure to a blood-borne pathogen. Body artists are at risk of exposure “*during the set-up, procedure, break down, and clean-up stages. These exposures can occur through needlesticks, contact with dried blood on equipment or surfaces, or blood splashes in the eyes, nose, or mouth*”¹⁰. One study assessing the harms and benefits of testing source patients following occupational exposure in a health care setting identified numerous benefits to such practices. Benefits included reduced anxiety in the exposed person, proactive protection of partners for both source and exposed persons, ability to make decisions related to post-exposure prophylaxis, and possible improved health outcomes for the source person if connected to care¹¹.

WAC 246-100-206, Blood-borne pathogen exposure – Local jail facilities

This section describes the procedures for when the local health officer may order testing of a detainee, who is the source of an exposure in a local jail facility. To align with changes in statute, the proposed rule removes instances of *threatened* behavior from the list of allowable scenarios to retain only *actual* behavior. Additionally, the proposed rule clarifies what constitutes an “exposure presenting a possible risk” to be clear that there must be visible blood following a physical assault for the scenario to meet the criteria.

Cost

The proposed rule eliminates certain instances when persons may request a local health officer to order testing for blood-borne pathogens, therefore no costs are expected from this rule change.

Benefit

Similar to changes in WAC 246-100-205, the benefits of the proposed rule change in this section include reduced anxiety in the exposed person, proactive protection of partners for both source and exposed persons, ability to make decisions related to post-exposure prophylaxis, and possible improved health outcomes for the source person if connected to care¹².

⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4373404/>

⁹ <https://www.mdsave.com/procedures/hepatitis-b-surface-antibody/d582facb#:~:text=How%20Much%20Does%20a%20Hepatitis,their%20procedure%20upfront%20through%20Mdsave.>

¹⁰ https://www.cdc.gov/niosh/topics/body_art/

¹¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3473147/>

¹² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3473147/>

WAC 246-100-2061, Blood-borne pathogen exposure – Department of corrections facilities

This new section outlines procedures for and defines what constitutes an exposure presenting a possible risk of transmission of a blood-borne pathogen when the source of the body fluid is an inmate in the care of the Department of Corrections. The Board was provided authority in RCW 70.24.130 to define what constitutes an exposure presenting possible risk in corrections facilities. Previously, the Department of Corrections established policy in consultation with the Board regarding possible exposure to blood-borne pathogens. In accordance with that policy, the Department of Corrections indicated that in 2020 they received twenty-five requests for testing based on an occupational exposure.

Cost

Therefore, while newly included in chapter 246-100 WAC, this section was previously developed in consultation with the Department of Corrections and due to lack of changes in policy is not expected to result in new costs.

Benefit

Similar to changes in WAC 246-100-205 and WAC 246-100-206, the benefits of the proposed rule change in this section include reduced anxiety in the exposed person, proactive protection of partners for both source and exposed persons, ability to make decisions related to post-exposure prophylaxis, and possible improved health outcomes for the source person if connected to care¹³.

WAC 246-100-207 Blood-borne pathogen testing – Ordering – Laboratory screening – Interpretation – Reporting

This section outlines requirements and exemptions for reporting HIV test results to state and local health authorities under chapter 246-101 WAC, Notifiable Conditions. It also outlines information that must be provided to the patient with test results. The proposed rules remove requirements for the Laboratory Quality Assurance section at the Department of Health to accept substitutes for enzyme immunoassay screening. The Department of Health currently accepts, and does not limit the use of, substitutes for enzyme immunoassay screening for HIV as approved by the Federal Drug Administration (FDA).

Cost

There are no anticipated costs associated with removal of these requirements.

Benefit

Removing these requirements reduce redundancy and improve usability of the chapter.

¹³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3473147/>

Cost-benefit summary:

The probable benefits described in this analysis are important to protect the health and well-being of the public by controlling infectious and noninfectious diseases. The proposed rules incorporate additional long-term residential care settings into those required to have a policy and procedure for excluding staff diagnosed with a communicable disease from direct patient contact; align employment categories at risk of a substantial exposure to a blood-borne pathogen with national standards; clarify standards for local jail and Department of Corrections facilities; and clarify the types of information the Department of Health must accept. These proposed changes provide benefit to the public as it relates to the prevention of communicable disease and streamlines the underlying processes for local health and the Departments of Health and Corrections.

While the Board believes that adult family homes and enhanced service facilities already have such policies and procedures in place that comply with the changes, the Board estimates that for a facility that needs to develop or revise policy and procedures to restrict staff diagnosed with a communicable disease from direct resident contact the cost is estimated to range between \$0 - \$300.

Proposed changes to the rule add additional occupations that can request investigation to a blood-borne pathogen exposure in an occupational setting. The estimated cost to LHJs of implementing the rule changes ranges from \$216 - \$889 (personnel time only)¹⁴.

The Board determined that the probable public health benefits of the rule outweigh the probable costs to regulated entities.

SECTION 6:

Identify alternative versions of the rule that were considered, and explain how the Board determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The Board considered alternate versions of the rule that would have resulted in an expansion of certain provisions to be applicable to all blood-borne pathogens, resulting in more persons being subjected to stringent requirements without documented public health benefit.

The Board also considered a version of the rule that did not include enhanced service facilities and adult family homes in the definition of health care facility. This would have resulted in the definition of health care facility being out of alignment with the definition in chapter 246-101 WAC, Notifiable Conditions. Additionally, this inclusion ensures staff of these facilities are included in the provisions of WAC 246-100-205 and covered as categories of employment at risk for substantial exposure to a blood-borne pathogen.

¹⁴ <https://www.cdc.gov/hiv/programresources/guidance/costeffectiveness/index.html>

The Board also considered a version of the rule that would have included “other potentially infectious material” in the definition of blood-borne pathogens. This expansion would have resulted in more persons being subjected to stringent requirements without documented public health benefit.

SECTION 7:

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

The rule does not require those to whom it applies to take an action violating state or federal law.

SECTION 8:

Determine 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 rule does not impose more stringent performance requirements on private entities than on public entities.

SECTION 9:

Determine 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 rule does not differ from any federal regulation or statute applicable to the same subject matter.

SECTION 10:

Demonstrate 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.

There are no other applicable laws.