PROPOSED RULE MAKING

CR-102 (June 2012)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Department of Health

☐ **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).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR**
☐ **Continuance of WSR**

Title of rule and other identifying information: (Describe Subject)
WAC 246-254-070, Fees for specialized radioactive material licenses; WAC 246-254-080, Fees for medical and veterinary radioactive licenses; WAC 246-254-090, Fees for industrial radioactive materials licenses; WAC 246-254-100, Fees for laboratory radioactive material licenses; and WAC 246-254-120; Fees for licensing and compliance actions. To increase fees in order to meet the increased costs of operating the Radioactive Materials Program.

Hearing location(s):
Town Center 2 Room 145
111 Israel Road SE
Tumwater, WA 98501

Date: 12/6/2016 Time: 1:00 pm

Date of intended adoption: 12/09/2016
(Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Peter Beaton
Address: Division of Environmental Public Health
Post Office Box 47820
Olympia, WA 98504-7820

e-mail: https://fortress.wa.gov/doh/policyreview
fax NA by (date) 12/06/2016

Assistance for persons with disabilities: Contact
Nerissa Lancendorfer by 11/29/2016
TTY (800) 833-6388 or () 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The Radioactive Materials Program (program) is a fee-supported program that licenses and inspects approximately 384 facilities in Washington State. This proposed rule change increases fees for those facilities by 17% to offset the increased cost of administering the program.

Reasons supporting proposal:
The Department of Health (department) is authorized under RCWs 43.20B.020, 43.70.250, and 70.98.080 to charge fees that are sufficient to cover the cost of administering the program. The department is also required under RCW 43.70.110 to charge licensing fees to businesses based on the cost of regulating the licensed activity. The fee increase is necessary because the program is currently not generating sufficient revenue to offset the increased cost of administer the program.

Statutory authority for adoption:
RCW 70.98.080, 43.20B.020, 43.70.110, 43.70.250

Statute being implemented:
RCW 70.98.080, 43.20B.020, 43.70.110, 43.70.250

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE 10/13/2016

NAME (type or print)
Clark Halvorson

SIGNATURE

TITLE
Assistant Secretary, Division of Environmental Public Health

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 13, 2016
TIME: 2:14 PM

WSR 16-21-054

(COMPLETE REVERSE SIDE)

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

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Peter Beaton	111 Israel Rd SE Tumwater WA 98501	360 236-4031
Implementation....	Craig Lawrence	111 Israel Rd SE Tumwater WA 98501	360 236-3221
Enforcement.....	Craig Lawrence	111 Israel Rd SE Tumwater WA 98501	360 236-3221

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone
fax
e-mail

☒ No. Explain why no statement was prepared.
A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310(4)(f), a SBEIS is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

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
e-mail

☒ No: Please explain:
The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

AMENDATORY SECTION (Amending WSR 08-14-075, filed 6/26/08, effective 7/27/08)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) $((~~9,164~~)) 10,721 for operation of a single nuclear pharmacy.

(b) $((~~15,628~~)) 18,284 for operation of a single nuclear laundry.

(c) $((~~15,628~~)) 18,284 for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) $((~~5,476~~)) 6,406 for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) $((~~1,408~~)) 1,647 for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) $((~~10,484~~)) 12,266 for a license authorizing decontamination services operating from a single facility.

(g) $((~~4,956~~)) 5,798 for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) $((~~2,208~~)) 2,583 for a license authorizing health physics services, leak testing, calibration services, equipment servicing, or possession of sealed sources for purpose of sales demonstration only.

(i) $((~~2,592~~)) 3,032 for a civil defense license.

(j) $((~~780~~)) 912 for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) $((~~31,016~~)) 36,288 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) $((~~14,336~~)) 16,773 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) $((~~11,520~~)) 13,478 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of ((~~one thousand dollars~~)) $1,170;

(b) Billing at the rate of $((~~162~~)) 189 for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise nonrefundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of ((~~sixteen thousand dollars~~)) $18,720 which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 08-14-075, filed 6/26/08, effective 7/27/08)

WAC 246-254-080 Fees for medical and veterinary radioactive material use. (1) Licensees authorized possession or use of radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) $((~~7,748~~)) 9,065 for operation of a mobile nuclear medicine program from a single base of operation;

(b) $((~~5,648~~)) 6,608 for the use of unsealed radioactive material for imaging and localization studies for which a written directive is not required as defined in WAC 246-240-157, at a single facility (diagnostic imaging and localization nuclear medicine);

(c) $((~~4,892~~)) 5,723 for the use of unsealed radioactive material for which a written directive is required as defined in WAC 246-240-201 at a single facility (radiopharmaceutical therapy);

(d) $((~~7,800~~)) 9,126 for the use of unsealed radioactive material for imaging and localization studies for which a written directive is not required as defined in WAC 246-240-157, the use of unsealed radioactive material for which a written directive is required as defined in WAC 246-240-201, and/or the use of sealed sources for manual brachytherapy as defined in WAC 246-240-251 at a single facility (combination diagnostic nuclear medicine and/or radiopharmaceutical therapy), and/or sealed source (manual or machine) therapy;

(e) $((~~4,192~~)) 4,904 for the use of sealed sources for manual brachytherapy as defined in WAC 246-240-251 at a single facility (manual brachytherapy);

(f) $((~~2,592~~)) 3,032 for the use of sealed sources in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit, as defined in WAC 246-240-351, at a single facility (machine brachytherapy);

(g) $((~~3,936~~)) 4,605 for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility;

(h) $((~~3,132~~)) 3,664 for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or

equal to two hundred millicuries total possession of radioactive material at a single facility;

(i) $((~~2,292~~)) 2,681 for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility;

(j) $((~~2,020~~)) 2,363 for the use of unsealed radioactive material for uptake, dilution and/or excretion studies for which a written directive is not required, as defined in WAC 246-240-151, at a single facility (diagnostic uptake, dilution, and excretion nuclear medicine);

(k) $((~~1,260~~)) 1,474 for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) The fee for a license authorizing multiple locations shall be increased by fifty percent of the annual fee for each additional location.

AMENDATORY SECTION (Amending WSR 08-14-075, filed 6/26/08, effective 7/27/08)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) $((~~9,124~~)) 10,675 for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) $((~~12,232~~)) 14,311 for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) $((~~5,992~~)) 7,010 for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) $((~~1,292~~)) 1,511 for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) $((~~1,408~~)) 1,647 for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) $((~~888~~)) 1,038 for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) $((~~2,460~~)) 2,878 for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) $((~~13,076~~)) 15,298 for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) $((~~11,388~~)) 13,323 for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) $((~~3,644~~)) 4,263 for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) $((~~576~~)) 673 for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of $((~~116~~)) 135 to the department.

(4) General licensees required to register in accordance with WAC 246-233-020 (3)(k) shall forward an annual fee of $((~~344~~)) 402 to the department.

AMENDATORY SECTION (Amending WSR 08-14-075, filed 6/26/08, effective 7/27/08)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) $((~~6,240~~)) 7,300 for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

(i) One millicurie of I-125 or I-131; or

(ii) One hundred millicuries of H-3 or C-14; or

(iii) Ten millicuries of any single isotope.

(b) $((~~3,080~~)) 3,603 for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or

(ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or

(iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) $((~~2,592~~)) 3,032 for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or

(ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or

(iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) $((~~888~~)) 1,038 for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

(i) Less than or equal to 0.01 millicurie of I-125 or I-131; or

(ii) Less than or equal to one millicurie of H-3 or C-14; or

(iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) $((~~1,196~~)) 1,399 for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of $((~~116~~)) 135 to the department.

AMENDATORY SECTION (Amending WSR 08-14-075, filed 6/26/08, effective 7/27/08)

WAC 246-254-120 Fees for licensing and compliance actions. (1) In addition to the fee for each radioactive material license as described under WAC 246-254-070, 246-254-080, 246-254-090, and 246-254-100, a licensee shall pay a service fee for each additional licensing and compliance action as follows:

(a) For a second follow-up inspection, and each follow-up inspection thereafter, a fee of $((~~162~~)) 189 per hour of direct staff time associated with the follow-up inspection, not to exceed $((~~1,625~~)) 1,901 per follow-up inspection. Hours are calculated in half-hour increments.

(b) For each environmental cleanup monitoring visit, a fee of $((~~162~~)) 189 per hour of direct staff time associated with the environmental cleanup monitoring visit, not to exceed $((~~4,063~~)) 4,753 per visit. Hours are calculated in half-hour increments.

(c) For each new license application, the fee of $((~~260~~)) 304 in addition to the required annual fee.

(d) For each sealed source and device evaluation, a fee of $((~~162~~)) 189 per hour of direct staff time associated with each sealed source and device evaluation, not to exceed $((~~4,875~~)) 5,703 per evaluation.

(e) For review of air emission and environmental programs and data collection and analysis of samples, and review of decommissioning activities by qualified staff in those work units, a fee of $((~~162~~)) 189 per hour of direct staff time associated with the review. The fee does not apply to reviews conducted by the radioactive materials section staff and does not apply unless the review time would result in a special service charge exceeding ten percent of the licensee's annual fee.

(f) For expedited licensing review, a fee of $((~~162~~)) 189 per hour of direct staff time associated with the review. This fee only applies when, by the mutual consent of licensee and affected staff, a licensing request is taken out of date order and processed by staff during nonwork hours and for which staff is paid overtime.

(2) The licensee or applicant shall pay any additional service fees at the time of application for a new license or within thirty days of the date of the billing for all other licensing and compliance actions.

(3) The department shall process an application only upon receipt of the new application fee and the annual fee.

(4) The department may take action to modify, suspend, or terminate the license or sealed source and device registration if the licensee fails to pay the fee for additional licensing and compliance actions billed by the department.