

WSR 23-17-128

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 21, 2023, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-060.

Title of Rule and Other Identifying Information: WAC 246-254-053 Radiation machine facility fees. The department of health (department) is proposing to increase fees to cover the costs of operating the radiation machine facility program. The department is also proposing changes to machine categories within the fee schedule.

Hearing Location(s): On September 26, 2023, at 1:30 p.m. The department will hold a virtual only hearing. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_kWQxzwlAQUyyFOKe2i21log. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 3, 2023.

Submit Written Comments to: Peter Beaton, Division of Environmental Public Health, P.O. Box 47820, Olympia, WA 98504-7820, email peter.beaton@doh.wa.gov, <https://fortress.wa.gov/doh/policyreview>, by September 26, 2023.

Assistance for Persons with Disabilities: Contact Richard Montemarano, phone 360-522-3774, TTY 711, email richard.montemarano@doh.wa.gov, by September 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department completed an initial assessment of the radiation machine (X-ray) facilities program fiscal resources detailed in WAC 246-254-053 and determined the program is not generating sufficient revenue to cover the cost of the program and is therefore proposing a fee increase.

The department is also proposing changes to machine categories within the fee schedule which will allow the department to better track and manage X-ray machines across Washington. This also allows the department to be more efficient in regulatory and inspection processes.

Reasons Supporting Proposal: The department is authorized under RCW 43.20B.020, 43.70.250, and 70A.388.050 to administer the program and 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 meet the cost of the program.

Proposed changes to machine categories will allow the department to be more efficient in regulatory and inspection processes.

Statutory Authority for Adoption: RCW 70A.388.050, 43.20B.020, 43.70.110, 43.70.250.

Statute Being Implemented: RCW 70A.388.050, 43.20B.020, 43.70.110, 43.70.250.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Peter Beaton, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4031; Implementation and Enforcement: Richard Montemarano, 111 Israel Road S.E., Tumwater, WA 98501, 360-522-3774.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5) (b) (vi), a cost-benefit analysis is not required for proposed rules that set or adjust fees.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Explanation of exemptions: The proposed rule adjusts fees.

Scope of exemption for rule proposal:

Is fully exempt.

August 21, 2023
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4744 . 1

AMENDATORY SECTION (Amending WSR 19-05-074, filed 2/19/19, effective 3/22/19)

WAC 246-254-053 Radiation machine facility fees. (1) A registrant shall comply with chapter 246-224 WAC when registering radiation machine facilities. A registrant shall pay the following applicable radiation machine facility registration fees and radiation machine tube fees for each radiation machine facility and tube annually as identified in Table A and B of this section.

Table A

((Radiation Machine Facility Registration Fees		
Type of Radiation Machine Facility		Registration Fee per Facility
(a)	Dental, podiatric, veterinary uses	\$107
(b)	Hospital, medical, chiropractic uses	\$207
(c)	Industrial, research, educational, security, or other facilities	\$107
(d)	Mammography only	\$89
(e)	Bone densitometry only	\$89
(f)	Electron microscopes only	\$89
(g)	Bomb squad only	(\$89))
<u>Radiation Machine Facility Registration Fee</u>		<u>\$195</u>

Table B

((Radiation Machine Tube Fees		
Type of Tube		Fee per Tube
(a)	Dental (intraoral, panoramic, cephalometric, dental radiographic, and dental CT)	\$27
(b)	Veterinary (radiographic, fluoroscopic, portable, mobile)	\$46
(c)	Podiatric uses (radiographic, fluoroscopic)	\$46
(d)	Mammography	N/A
(e)	Bone densitometry	N/A
(f)	Electron microscope	N/A
(g)	Bomb squad	N/A
(h)	Medical radiographic (includes R/F combinations, fixed, portable, mobile)	\$131
(i)	Medical fluoroscopic (includes R/F combinations, C-arm, Simulator, fixed, portable, mobile)	\$131
(j)	Therapy (Grenz Ray, Orthovoltage, nonaccelerator)	\$131
(k)	Accelerators (therapy, other medical uses)	\$131
(l)	Computer tomography (CT, CAT scanner)	\$131
(m)	Stereotactic (mammography)	\$107
(n)	Industrial radiographic	\$46
(o)	Analytical, X-ray fluorescence	\$46
(p)	Industrial accelerators	\$46
(q)	Airport baggage	\$27
(r)	Cabinet (industrial, security, mail, other)	\$27
(s)	Other industrial uses (includes industrial fluoroscopic uses)	\$27))

Radiation Machine Tube Fees		
Category	Machine Type	Fee
Dental	<u>Intraoral</u>	<u>\$58</u>
	<u>Handheld</u>	<u>\$58</u>
	<u>Panoramic/Cephalometric</u>	<u>\$58</u>
	<u>Cone Beam CT</u>	<u>\$58</u>
	<u>Educational</u>	<u>\$58</u>
	<u>Radiographic/Other</u>	<u>\$58</u>
Veterinary	<u>Radiographic</u>	<u>\$77</u>
	<u>Portable</u>	<u>\$77</u>
	<u>Dental</u>	<u>\$77</u>
	<u>Cone Beam CT</u>	<u>\$77</u>
	<u>Fluoroscopic</u>	<u>\$112</u>
	<u>Computed Tomography</u>	<u>\$191</u>
Podiatry	<u>Radiographic</u>	<u>\$86</u>
	<u>Cone Beam CT</u>	<u>\$86</u>
	<u>Educational</u>	<u>\$86</u>
	<u>Handheld</u>	<u>\$86</u>
	<u>Fluoroscopic</u>	<u>\$231</u>

Radiation Machine Tube Fees		
Category	Machine Type	Fee
Medical Radiographic	<u>Fixed</u>	<u>\$246</u>
	<u>Mobile</u>	<u>\$246</u>
	<u>Portable</u>	<u>\$246</u>
	<u>Cone Beam CT</u>	<u>\$246</u>
	<u>Educational</u>	<u>\$246</u>
Fluoroscopic	<u>C-arm</u>	<u>\$231</u>
	<u>Micro Amperage (Mini) C-arm</u>	<u>\$231</u>
	<u>O-arm</u>	<u>\$231</u>
	<u>Specialty Rooms</u>	<u>\$231</u>
	<u>Under Table</u>	<u>\$231</u>
	<u>Educational</u>	<u>\$231</u>
Therapy	<u>Accelerator (Linear)</u>	<u>\$334</u>
	<u>Nonaccelerator</u>	<u>\$334</u>
	<u>Superficial Radiation Therapy (Dermatology)</u>	<u>\$334</u>
	<u>Educational</u>	<u>\$334</u>
	<u>Other</u>	<u>\$334</u>
Computed Tomography	<u>Diagnostic</u>	<u>\$783</u>
	<u>Simulation</u>	<u>\$490</u>
	<u>Attenuation Correction (PET/SPECT)</u>	<u>\$490</u>
	<u>Portable</u>	<u>\$783</u>
	<u>Mobile</u>	<u>\$783</u>
	<u>Educational</u>	<u>\$783</u>
Mammography	<u>Standard (including tomography)</u>	<u>\$0</u>
	<u>Stereotactic Mammography</u>	<u>\$55</u>
Bone Densitometer	<u>Standard</u>	<u>\$84</u>
	<u>Body Composition Scanner</u>	<u>\$84</u>
Industrial	<u>Cabinet X-Ray</u>	<u>\$133</u>
	<u>Blood Irradiator</u>	<u>\$133</u>
	<u>Specimen Analyzer</u>	<u>\$133</u>
	<u>Medical Examiner</u>	<u>\$133</u>
	<u>Vault (less than 1MeV)</u>	<u>\$167</u>
	<u>Vault (greater than 1MeV)</u>	<u>\$331</u>
	<u>Open Beam Radiography</u>	<u>\$133</u>
	<u>Particle Accelerator</u>	<u>\$331</u>
Security	<u>Body Scanner</u>	<u>\$133</u>
	<u>Baggage Scanner</u>	<u>\$133</u>
	<u>Bomb Squad</u>	<u>\$133</u>
	<u>Back Scatter</u>	<u>\$133</u>
Analytical	<u>Cabinet XRF</u>	<u>\$133</u>
	<u>Handheld XRF</u>	<u>\$133</u>
	<u>X-Ray Diffraction</u>	<u>\$133</u>

<u>Radiation Machine Tube Fees</u>		
<u>Category</u>	<u>Machine Type</u>	<u>Fee</u>
<u>Electron Microscopes</u>	<u>Electron Microscopes</u>	<u>\$0</u>

(2) Radiation shielding plan review fees. Radiation machine facilities regulated under the shielding plan requirements of WAC 246-225-030, 246-226-030, or 246-227-150 are subject to a (~~three hundred forty-four dollar~~) \$778 radiation shielding review fee for each X-ray room plan submitted:

(a) A registrant may request an expedited plan review for (~~one thousand dollars~~) \$2,339 for each X-ray room plan. An expedited plan means the department will complete the plan review within two business days of receiving all required information from the registrant.

(b) If a radiation machine facility regulated under WAC 246-225-030, 246-226-030, or 246-227-150 operates without submittal and departmental review of radiation shielding calculations and a floor plan it will be subject to a shielding design follow-up fee of (~~six hundred fifty-six dollars~~) \$1,561 in addition to the \$778 radiation shielding review fee.

(3) Inspection fees.

(a) The cost of routine, periodic inspections, including the initial inspection, are covered under fees as described in subsection (1) of this section.

(b) Radiation machine facilities requiring follow-up inspections due to uncorrected noncompliance events must pay an inspection follow-up fee of (~~one hundred eighteen dollars~~) \$1,281 for each reinspection required.

(4) The annual radiation machine facility registration fees and radiation machine tube fees are not transferable to another geographical location or registrant.