PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Department of Health

☒ **Preproposal Statement of Inquiry was filed as WSR 05-17-118 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR ; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

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

Title of rule and other identifying information: (Describe Subject)
Chapter 246-314 WAC, Facility Construction Review. This chapter sets out fees the department charges for reviewing health facility construction plans and providing technical assistance.

Hearing location(s):
Department of Health
310 Israel Road SE
Tumwater, WA 98501
Room 326

Date: 7/11/06 **Time:** 9:00 a.m.

Submit written comments to:
Name:Allen Spaulding
Address:
310 Israel Road SE
Tumwater, WA 98501

Web site: http://www3.doh.wa.gov/policyreview/
fax: 360-236-2901 **by (date)** 07/10/2006

Date of intended adoption: 07/17/2006
(Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact Allen Spaulding by 07/05/2006
TTY (800) 833-6388 or ( ) 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The department is proposing amendments to the current fee structure which, reduce fees and appropriately reflect refunds. Additionally, updates were necessary to clarify the facilities receiving construction review program services.

Reasons supporting proposal:
The proposed amendments clearly define the Construction Review Service program fees and refunds in rule.

Statutory authority for adoption:
RCW 43.70.110

Statute being implemented:
RCW 43.70.110

Is rule necessary because of a:

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

If yes, CITATION:

DATE 06-07-06

NAME (type or print)
Mary C. Selecky

SIGNATURE B White, for MC Selecky

TITLE
Secretary

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUN 7 2006

TIME 1000 AM PM
WSR 06-12-112

(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	Chad Beebe	310 Israel Rd SE	236-2944
Implementation	Chad Beebe	Same as above	Same as above
Enforcement	Gary Bennett	Same as above	236-2902

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ 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.
The proposed rule is exempt from a Small Business Economic Impact Statement. Under RCW 19.85.025 (3), the requirements for an SBEIS does not apply to rules described under RCW 34.05.310(4)-- this proposed rule adjusts fees pursuant to legislative standards, and corrects typographical errors, clarifying the rule without changing its effect.

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 department did not complete a cost benefit analysis under RCW 34.05.328(5)(b)(iv) and (vi). The proposed rules only correct typographical errors, clarify the language without changing its effect and set fees pursuant to legislative standards.

Chapter 246-314 WAC

((~~FACILITY~~)) CONSTRUCTION REVIEW SERVICES

AMENDATORY SECTION (Amending Order 185, filed 8/7/91, effective 9/7/91)

WAC 246-314-001 Purpose. The purpose of this chapter is to establish fees ((~~for reviewing and approving~~)) to support the department's predesign, subsequent review, approval activities, and to enable the department to provide technical assistance for health and residential care facility construction projects.

AMENDATORY SECTION (Amending Order 185, filed 8/7/91, effective 9/7/91)

WAC 246-314-010 Definitions. For the purpose of this chapter the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

(1) ((~~"Department"~~)) "Certified" means facilities that must be certified to participate in Medicare or Medicaid programs and meet physical environment minimum standards as required in the Code of Federal Regulations.

(2) "Change of approved use only" means a change in the function of a room that does not alter the physical elements.

(3) "Interior finishes" means products such as carpet, vinyl wall covering, wall paper, or paneling applied to an existing surface as the exposed surface.

(4) "Licensed" means facilities licensed from the state department of health (DOH) or state department of social and health services (DSHS) that must obtain approval from construction review services before licensure activity.

(5) "Permit" means a recommendation to the licensing or certifying authority from construction review services indicating that a facility meets the physical environment rules and the plan review process is complete.

(6) "Program" means the Washington state department of health, construction review services.

((~~(2)~~)) (7) "Project" means a ((~~construction endeavor~~)) change

to a facility including new construction, replacement, alterations, additions, expansions, conversions, change of approved use, improvements, remodeling, renovating, and upgrading of the following types of facilities:

(a) ((~~"Adult residential rehabilitation center" as defined under chapters 71.12 RCW and 246-325 WAC,~~)) "Ambulatory surgery center" defined as a facility that is required to be certified for participation in Medicare or Medicaid;

(b) "Boarding homes" ((~~as defined~~)) licensed under chapters 18.20 RCW and 246-316 WAC;

(c) "Correctional facilities" as defined under RCW 43.70.130(8);

(d) "Hospice care center" licensed under chapters 70.127 RCW and 246-321 WAC;

(e) "Hospitals" licensed under chapters 70.41 RCW and 246-320 WAC;

(f) "Maternity homes" and "childbirth centers" ((~~as defined~~)) licensed under chapters 18.46 RCW and 246-329 WAC;

((~~(d)~~)) (g) "Migrant worker housing" licensed under chapter 246-359 WAC. Plan review fees for migrant worker housing are set in chapter 246-359 WAC;

(h) "Nursing homes" ((~~as defined~~)) licensed under chapters 18.51 RCW and 248-14 WAC;

((~~(e)~~)) (i) "Private alcoholism hospitals" licensed under chapters 71.12 RCW and 246-324 WAC;

(j) "Private psychiatric hospitals" ((~~as defined~~)) licensed under chapters 71.12 RCW and 246-322 WAC; and

((~~(f) "Private alcoholism hospitals" as defined under chapters 71.12 RCW and 246-324 WAC,~~

~~(g) "Private alcoholism treatment facilities" as defined under chapters 71.12 RCW and 246-326 WAC,~~

~~(h) "Residential treatment facilities for psychiatrically impaired children and youth" as defined under chapters 71.12 RCW and 246-323 WAC,~~

~~(i) "Hospitals" as defined under chapters 70.41 RCW and 246-318 WAC, and~~

~~(j) "Hospice care center" as defined under chapters 70.126 RCW and 246-321 WAC.~~

~~(3) "Project sponsor" means the person, persons or organization, planning and contracting for the design and construction of facilities, generally the owner or the owner's representative.~~

~~(4) "Project cost" means all costs, except taxes, directly associated with the project, initially estimated and corrected by certification to the date of completion of the project and including:~~

~~(a) All architectural-engineering designs, plans, drawings, and specifications,~~

~~(b) All fixed and installed equipment in the project, and~~

~~(c) Contractor supervision, inspection, and overhead.~~)) (k) "Residential treatment facilities" licensed under chapters 71.12 RCW and 246-337 WAC.

(8) "Project cost" means all costs directly associated with

the project, initially estimated and corrected by certification to the date of completion of the project and including all fixed and installed clinical equipment in the project and contractor supervision, inspection, and overhead. This cost does not include:

(a) Taxes;

(b) Architectural or engineering fees; and

(c) Land acquisition fees.

(9) "Project sponsor" means the person, persons or organization, planning and contracting for the design and construction of facilities, generally the owner or the owner's representative.

(10) "Technical assistance" means assistance provided by the program to facilities either at the program offices or at the project location including:

(a) Information on the laws, rules and compliance methods and technologies applicable to the regulations;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits, licensure or certification;

(d) Information on the mission, goals, and objectives of the program; and

(e) Assistance to parties constructing projects not required to be licensed or certified and voluntarily wish to comply with rules or guidelines in the interest of safety or best practices.

(11) "Value of existing construction" means the value of an existing building or portion thereof at the time of project submission, based on the current market value of the structure as documented by the project sponsor, or, as determined by assigning a cost per square foot value.

NEW SECTION

WAC 246-314-015 Application requirements. The project sponsor shall submit to the program:

(1) An estimated permit value at the time of application. Permit valuations include the total value of work, including materials and labor, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If the program determines the valuation is underestimated, the program shall deny the application unless the applicant can show detailed estimates to meet the program's approval. Final building permit valuation is set by program;

(2) A completed project review application form with project documents for review;

(3) Documentation as required by the applicable licensing or certification rules; and

(4) The appropriate fee based upon the initial project construction cost as determined from the construction fee table in

WAC 246-314-990.

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-314-990 Construction review fees. (1) ((~~The project sponsor shall submit to the department:~~

~~(a) A completed project review application form along with project documents for review; and~~

~~(b) The appropriate fee based upon the initial project construction cost as determined from the following construction fee table.~~)) Upon prior approval by the program the project sponsor may exclude from the "project cost" the cost for fixed or installed technologically advanced diagnostic or treatment equipment such as but not limited to: Lithotripters, CT scans, linear accelerators, and MRIs.

(2) The program shall charge a flat fee for the review of the following projects:

(a) Installation of carpet only, one hundred twenty dollars;

(b) Conversion or change of approved use only, one hundred twenty dollars;

(c) The first submission for review and approval of the site installation of a mobile unit, four hundred seventy dollars. Each additional submission of the same project, two hundred eighty-five dollars;

(d) The first submission for review and approval of the equipment supplier of a mobile unit, four hundred seventy dollars. Each additional submission of the same project, two hundred eighty-five dollars;

(e) Each eight staff hours or fraction thereof for technical assistance, four hundred ten dollars. For technical assistance requiring travel, the program may increase the fee to include travel.

(3) Building conversion fees will be based on the value of existing construction and derived from the fee schedule. The existing construction value is based on the local area cost data. Current cost data will be made available and posted on the construction review services web site. Project sponsors may submit specific cost data that accurately describes the estimate good faith value for the program's consideration.

CONSTRUCTION FEE TABLE

Project Cost			Project Review Fee
$ 0	to	$ 999	$ 120
1,000	to	1,999	250
2,000	to	2,999	325

Project Cost			Project Review Fee
3,000	to	4,999	410
5,000	to	9,999	530
10,000	to	19,999	665
20,000	to	29,999	820
30,000	to	39,999	975
40,000	to	49,999	1,125
50,000	to	64,999	1,325
65,000	to	79,999	1,535
80,000	to	99,999	1,845
100,000	to	124,999	2,200
125,000	to	149,999	2,550
150,000	to	199,999	2,970
200,000	to	249,999	3,325
250,000	to	324,999	3,650
325,000	to	449,999	4,100
450,000	to	574,999	4,600
575,000	to	699,999	5,200
700,000	to	849,999	5,825
850,000	to	999,999	6,550
1,000,000	to	1,249,999	7,150
1,250,000	to	2,499,999	7,850
2,500,000	to	2,999,999	8,550
3,000,000	to	3,499,999	9,300
3,500,000	to	4,999,999	10,750
5,000,000	to	6,999,999	12,200
7,000,000	to	9,999,999	13,800
10,000,000	to	14,999,999	15,850
15,000,000	to	19,999,999	17,850
20,000,000	to	29,999,999	19,900
30,000,000	to	39,999,999	23,000
40,000,000	to	59,999,999	25,600
60,000,000	and over		28,700

((~~(2) The department shall charge a flat fee of eighty dollars for a project involving installation of carpet only.~~

~~(3) The project sponsor may request a reduction in the project review fee for fixed or installed technologically advanced diagnostic or treatment equipment projects including lithotripters, CT scans, linear accelerators, or MRI's.~~

~~(4) The department may adjust the project review fee if:~~

~~(a) The final project cost changes as evidenced on the certificate of project completion card, or~~

~~(b) The project sponsor requests a reduction in the fee according to subsection (3) of this section~~)) (4) **Fee reductions.** The program may decrease the project review fees, when:

(a) The final project cost as shown on the project completion card is less than the project cost shown on the application;

(b) The project sponsor requests a reduction in the fee according to subsection (1) of this section;

(c) The project is prepared by a state licensed architect or engineer when architectural or engineering services are not required by rule. In this case the project may qualify for a reduction of up to fifteen percent;

(d) A facility is converted from another occupancy as defined by the state building code; a facility is converted from one license to another; or, a facility that is currently unlicensed, but was previously licensed through the DOH or DSHS, wishes to be reviewed for licensure, then the construction review fee reduction of fifty percent from that shown on the construction review fee schedule shall be allowed. The amount of fee reduction will be determined by the estimated amount of systems review required to ensure that the rules have been met;

(e) Total fee reductions may not exceed seventy percent of the original estimated review fee.

(5) **Refunds.** The program shall refund fees paid when requested by the applicant as follows:

(a) If an application and fee has been received but no plan review or technical assistance has been performed by the program, three-fourths of the fees paid;

(b) If an application and fee has been received and plan review or technical assistance has been performed by the department, one-half of the fees paid;

(c) No fees paid by the applicant will be refunded if any of the following applies:

(i) More than two on-site visits, conferences, or plan reviews for any purpose have been performed by the program;

(ii) One year has elapsed since an application and fee is received by the program, but no permit is issued because applicant failed to complete requirements for permit; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is one hundred twenty dollars or less.

(iv) Approval or authorization to begin construction has been given and construction has commenced.

(v) A request has not been received to cancel the project.