

Economic Impact Analysis Fee Adjustment Report
Sanitary Control of Shellfish
WAC 246-282-990
October 2023



Proposal: To update and increase fees for Commercial Shellfish program anticipated effective date February 1, 2024

Overview

The Department of Health (department) works to protect and improve the health of all people in Washington state. We accomplish this work, in part, through regulation of the Commercial Shellfish program ([RCW Chapter 69.30](#)).

State law, [RCW 43.70.250](#) (License fees for professions, occupations, and businesses) requires fees to fully fund the work of licensing and regulating the Commercial Shellfish program. Considering the program's financial forecast, the department recommends a fee increase. The department is also proposing changes to the fee categories and the fee schedule. This will allow the department to better allocate separate program costs to the appropriate fee payers. This increase will align fees with cost recovery for service costs we are confident that require full cost recovery. Other costs not included in this increase will undergo a program audit and could result in future fee increases.

The Commercial Shellfish program licenses and regulates all commercial shellfish operations in Washington state. The program regularly inspects facilities annually, performs complaint investigations, and tracks all harvest sites, issues, and monitors various permits. This work includes coordinating biotoxin sampling, monitoring results, and opening or closing beaches proactively based on biotoxin levels. The program also tracks all shellfish related foodborne illnesses, monitors outbreaks, and coordinates investigations. In addition, the program provides export certificates for operations exporting shellfish to counties that require a certificate from a governmental health authority.

The program ended fiscal year (FY) 2023 with a fee balance of \$232,049. The reserve balance only existed due to General Fund State (GFS) subsidy. The program has been subsidized by GFS funding until an in-depth fee analysis could be provided. The analysis determined GFS is currently providing 70% subsidy for this fee program. This fee analysis determined the recommended reserve amount is \$331,820. The fee balance is currently operating at a deficit of the recommended reserve amount in FY 2024. This document summarizes data on revenue, expenditures, fee reserve, cost drivers, financial forecast, and the proposed fees.

Revenue

The department currently licenses 329 Commercial Shellfish Operations in Washington state. Commercial Shellfish revenue comes from annual licenses, biotoxin testing, and export certificates fees. This revenue currently supports 30% of the Commercial Shellfish Program costs. Annually the program has averaged 1,914 biotoxin tests and 1,810 export certificates over the past four years.

General Fund State

GFS funding covers two portions of Commercial Shellfish costs. The first portion covers costs not eligible for fee recovery. These costs account for 49% of total program costs and funds *Vibrio parahaemolyticus* and *Vibrio vulnificus* monitoring, new or emerging policy work, consent decree costs, non-fee related travel, and staffing cost. This portion also includes other costs identified as requiring a program audit of the service being provided and associated costs. This includes harvest site and permit work as well as other miscellaneous staffing and related costs. This 49% also includes future subsidy of 50% of the cost increase from this fee adjustment. This subsidy is only applied to annual license and biotoxin fees. This subsidy will also be evaluated during the program audit and fees could increase because of that audit. The 2nd portion of GFS funding was subsidizing fee costs until in depth analysis could be provided to determine true cost and corresponding fee rates. This analysis was provided in 2023 and determined that 70% of Commercial Shellfish costs eligible for fee cost recovery are being subsidized by GFS funding.

Fees

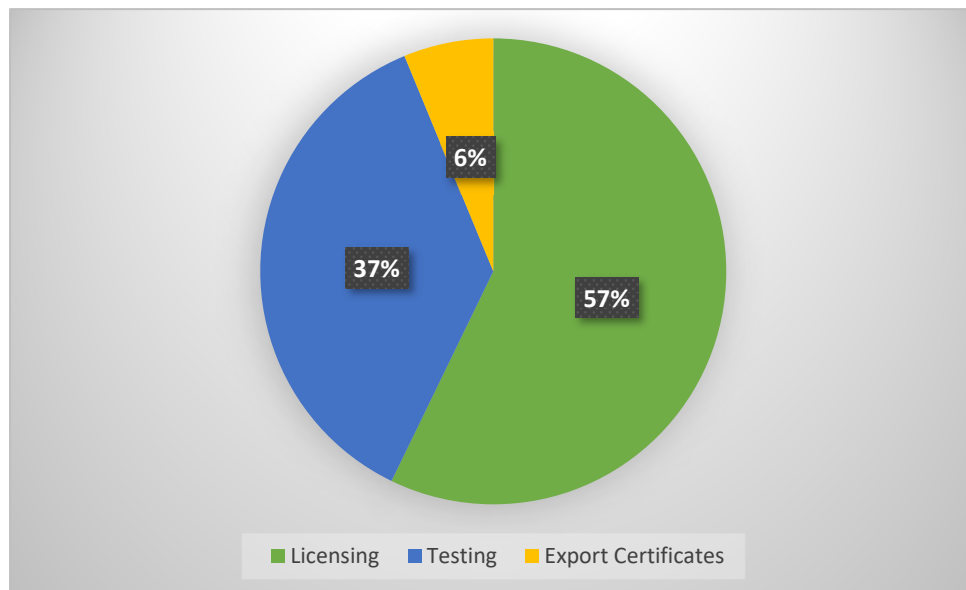
Annual license and biotoxin testing fees are billed each spring during the annual renewal period. PSP Geoduck fees are billed annually in January. Export Certificate fees are billed monthly based on certificates requested. Revenue has remained consistent over the past six years except for Export Certificate requests decreasing an average of 11% annually for the past six years. All fees are listed in [WAC 246-282-990](#). The last fee changes occurred in 2015 for Biotoxin Testing & Export Certificate fees and 2007 for License fees, changing fees according to the table below. PSP Geoduck testing fees have remained consistent since established in 2002.

Fees: Rate Change History			
Type	Title of Fee	Effective: 8/21/2004	Effective: 6/15/2015
Annual <u>Biotoxin</u> Testing	Harvester ≤ 2	\$173	\$353
Annual <u>Biotoxin</u> Testing	Harvester 3 or more	\$259	\$535
Annual <u>Biotoxin</u> Testing	<u>Shellstock Shipper Wholesale Company</u>		<u>\$198</u>
Annual <u>Biotoxin</u> Testing	Shellstock Shipper 0-49 acres ≤ 2	\$195	\$393
Annual <u>Biotoxin</u> Testing	Shellstock Shipper 0-49 acres 3 or more	\$292	\$610
Annual <u>Biotoxin</u> Testing	Shellstock Shipper 50 or greater acres N/A	\$468	\$961
Annual <u>Biotoxin</u> Testing	Shucker-Packer (plants < 2000 ft ²) ≤ 2	\$354	\$752
Annual <u>Biotoxin</u> Testing	Shucker-Packer (plants < 2000 ft ²) 3 or more	\$533	\$1,076
Annual <u>Biotoxin</u> Testing	Shucker-Packer (plants 2000 - 5000 ft ²) ≤ 2	\$429	\$882
Annual <u>Biotoxin</u> Testing	Shucker-Packer (plants 2000 - 5000 ft ²) 3 or more	\$644	\$1,297
Annual <u>Biotoxin</u> Testing	Shucker-Packer (plants > 5000 ft ²)	\$1,189	\$2,412
Type	Title of Fee	Effective: 10/10/2010	Effective: 6/15/2015
Export Certificate	Export Certificate	\$20	\$55

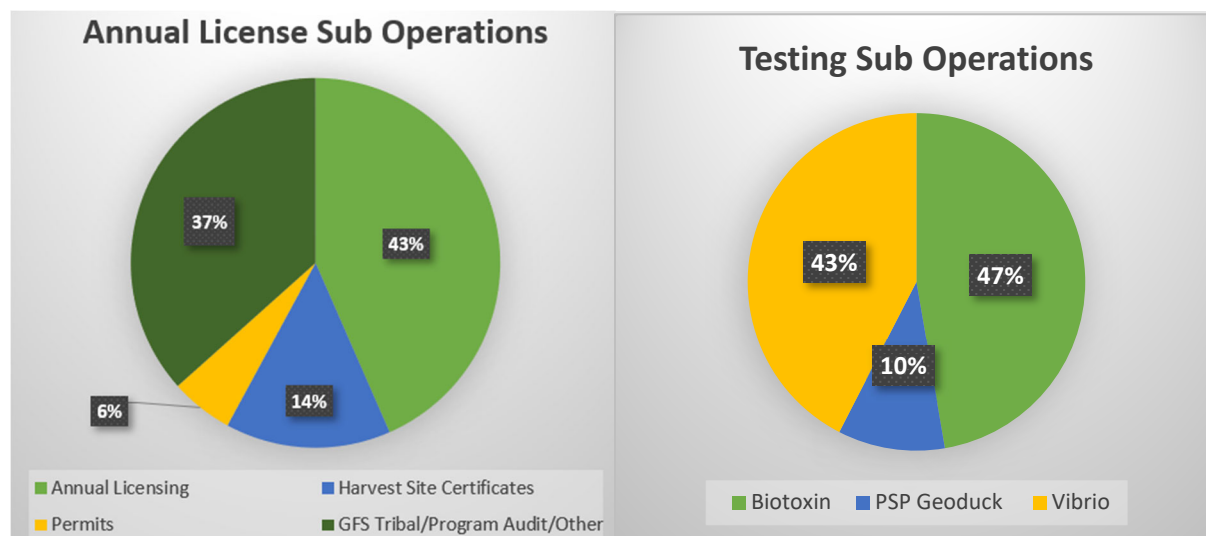
Type	Title of Fee	Effective: 07/11/2002	Effective: 9/1/2007
Annual Shellfish Operation License	Harvester	\$250	\$263
Annual Shellfish Operation License	Shellstock Shipper 0 – 49 Acres	\$282	\$297
Annual Shellfish Operation License	Shellstock Shipper 50 or greater Acres	\$452	\$476
Annual Shellfish Operation License	Scallop Shellstock Shipper	\$282	\$297
Annual Shellfish Operation License	Shucker-Packer Plants with floor space < 2000 sq. ft.	\$514	\$542
Annual Shellfish Operation License	Shucker-Packer Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$622	\$656
Annual Shellfish Operation License	Shucker-Packer Plants with floor space > 5000 sq. ft.	\$1,147	\$1,210

Expenditures

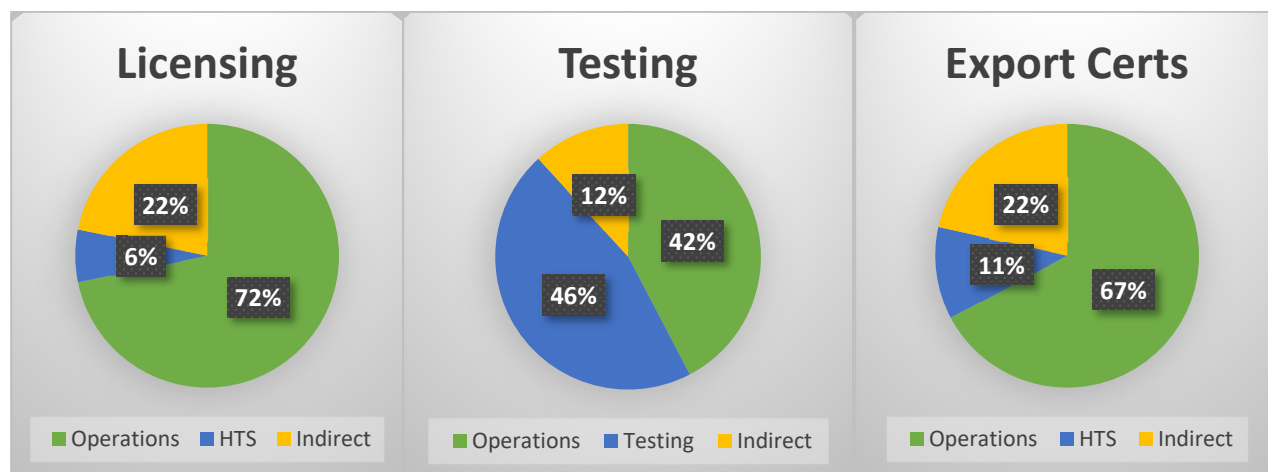
Costs for the program are classified into three primary operations: Licensing, Testing, and Export Certificates.



License and Testing operations can be further classified into sub program operations.

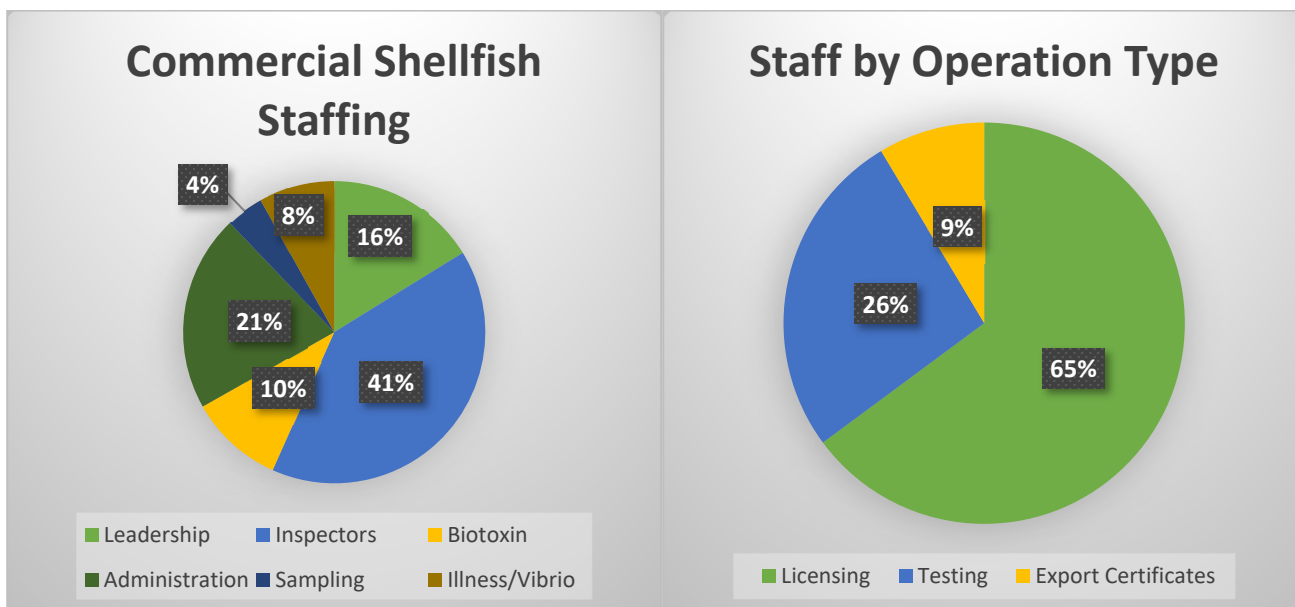


Cost from operations is further classified into three cost categories: Operations, Health Technology Solutions, and Indirect, and shown by operation type below.



Operations costs are typically the largest expense of the program and include personnel to manage the program. This includes administration, program management, inspections (licensing), environmental sampling, communication, outreach, technical assistance, training, emergency management preparation, development and implementation of legislation, and external relations.

The Commercial Shellfish Program has a total of 12.35 FTE providing operational support.



- 5 shellfish inspection staff: Inspect all commercial shellfish operations. Depending on the operation's license classification, this could be up to 4 inspections annually. Inspectors also conduct Vibrio checks, illness investigations, and complaint inspections. Inspectors also issue export certificates.
- 1 inspection supervisor: This position oversees the inspection staff. They ensure the inspection team is conducting inspections on time and consistently.
- 1.75 biotoxin specialists & sampling staff: They coordinate volunteers, local agency help, and other agency sampling efforts at over 110 sites around western WA. The biotoxin team opens and closes commercial and recreational beaches proactively based on biotoxin levels. They also look at historical and current biotoxin data and assist with research projects.
- 1 harvest site specialist: Tracks all harvest sites for the commercial shellfish operations licensed in WA state. They add new harvest sites for each operation who applies; send the tribal 30-day notices and updates, including lease changes/extensions, species, additions, and withdrawals; and conduct monthly audits to check for expired leases.
- 1 Vibrio/illness prevention coordinator: Tracks all shellfish related foodborne illness. They monitor for outbreaks and will coordinate investigations with the shellfish inspectors and local health inspectors. During Vibrio season, they set up the Vibrio sampling program and assist in hiring and training non-permanent summer sampling assistants.
- 0.5 licensing and permit specialist: Coordinates all licensing paperwork for new, renewed, and expired operations.
- 0.5 administrative assistant: This position assists in helping with Public Disclosure Requests, coordinating meetings, taking notes, setting up HACCP class, procurement requests, processing mail, and answering phone calls from the public.
- 1 section manager: This position ensures the entire Shellfish Licensing and Certification section is operating efficiently and effectively in alignment with rule, policy, and procedure. This position coordinates with other offices, agencies, and industries to identify gaps and fix issues that arise.
- 0.6 other office support: These positions assist in many ways, including IT systems management, financial management, contract management, administration assistance, and support by the Office Deputy Director.

Health Technology Solutions (HTS) activities include operations and maintenance costs for databases that maintain all program data. The program has three databases that perform the necessary functions for the program. Two data systems are maintained in-house, Shellfish PHD and EH Invoicing. EH Invoicing tracks billing and revenue information and Shellfish PHD houses all harvest site, biotoxin, and Vibrio data. Our third IT solution HealthSpace is for shellfish licensing and contains all inspection data for the program.

Indirect costs are agency-wide, general management costs necessary for any program to exist and consist of administrative activities for the general operation of the agency. Examples of indirect costs include financial services, human resources, and information resource management. The indirect rate is a standardized method of charging individual programs for their share of indirect costs and is reviewed and approved annually by the U.S. Department of Health and Human Services.

Expenditure fluctuation from year to year includes staffing variances and decreases in travel from COVID impacts. Operations expenditure reflects lower expenditure due to staffing turnover and 2-3 positions being vacant annually. The table below shows expenditures for each of these cost categories over the past six years. These expenditures reflect historical changes and therefore do not reflect any findings from the fee analysis. This means that expenditures from testing may be listed in the licensing category. This also means program expenditures may not be listed below. This is because they could have been covered by noncommercial shellfish fee accounts.

Program Spending by Operation						
Fiscal Year	2017	2018	2019	2020	2021	2022
Licensing	962,556	967,318	1,208,952	1,478,446	1,415,198	1,415,583
Testing	96,027	113,752	200,685	291,017	214,133	230,248
Export Certificates	296,481	299,707	169,159	191,410	47,812	58,227
Subtotal	1,355,064	1,380,777	1,578,796	1,960,872	1,677,143	1,704,057

Cost Drivers

The cost to license and regulate the Commercial Shellfish program is primarily driven by the number of shellfish operations and required inspections, the harvest site and growing area testing requirements, and the demand for export certificates. Currently the program regulates 329 operations with over 6,000 harvest sites and 115 growing areas. Staffing costs account for 70% of total program costs. Inspections are conducted annually, on a one-, two- or four-times per year cycle depending on operation type. Pre-Inspections and Non-Compliance inspections occur as required. The program has averaged 1,094 inspections over the prior two calendar years. Onsite inspection times average between 43 to 107 minutes depending on operation type. Staff also provide export certificates, technical assistance, and permit inspections. Program travel costs account for 3% of total program costs.

Testing services are provided by our Washington State Public Health Lab partners and on average have provided 1,914 tests annually over the past 4 years. Routine biotoxin testing is typically done by testing mussels, but other species can be requested when levels increase. Various tests are done to identify Diarrhetic

Shellfish Poisoning (DSP), Paralytic Shellfish Poisoning (PSP), Amnesic Shellfish Poisoning (ASP), and *Vibrio parahaemolyticus* and *Vibrio vulnificus*. DSP, PSP, and ASP are tested year-round while *Vibrio* is only during the summer months. Testing services account for 17% of total program costs.

Export Certificates are requested by operations and are processed daily. One staff member is available each day to respond to certificate requests. Export Certificates account for 8% of total program costs.

The program is also supported by several shellfish databases as described in the cost section. Database costs are dependent upon the size of the program that affects data collection and output needs. Costs can increase if data system changes are required by changes in policy and rulemaking. The current databases provide detail and data at a sufficient level to regulate the Commercial Shellfish Program. Costs to maintain these databases average 6% of total program costs.

Operations

Program staff and costs have remained consistent for the past six years. One change to staffing occurred and the program increased administrative support staffing by 0.5 FTE.

Fee Reserve

The Office of Financial Management (OFM) requires the agency to maintain a reasonable working capital reserve in state accounts to cover fluctuations in cash flow. The cash reserve should be enough to protect against financial volatility because of significant regulation activity or unforeseen changes in shellfish program trends.

Due to the size of this program, the fee balance is susceptible to expenditures resulting from system maintenance replacement costs, years of unusually high biotoxin levels, and the occurrence of other unforeseen events. Based on these factors, the department recommends the program build a reserve of 25 percent, currently around \$331,820 or approximately 3 months of annual expenditures.

The program ended FY 2023 with a fee balance of \$232,049. The Commercial Shellfish program is currently operating at a deficit of this reserve in FY 2024.

Financial Forecast

Revenue

The department does not anticipate any significant growth in operations over the next five years. Operations are projected to continue renewing at an average renewal rate of 100 percent. This rate assumes a decrease in current operations as well as the addition of a comparable number of new operations. The department anticipates a continued average number of tests to be performed as the previous reporting period and a steady average request for export certificates.

General Fund State (GFS) will continue to cover consent decree costs. GFS is also currently projected to cover costs for *Vibrio parahaemolyticus* and *Vibrio vulnificus* monitoring, new or emerging policy work, and non-fee

related travel and staffing costs. GFS will also cover program audit costs not included in this proposed fee increase. Program audit costs include harvest site and permit services as well as other miscellaneous services and costs. GFS will also cover 50% of calculated fee rates for annual license and biotoxin testing fees. This subsidy is already factored into the proposed fees showing what will be due annually. This subsidy will also be evaluated in the program audit and fees could change because of that audit. Due to the unpredictable nature of GFS funding, this portion of GFS funding is not guaranteed. Current GFS funding is projected to be provided for these non-fee eligible expenses at a rate of 49% of total Commercial Shellfish costs.

In FY 2026, the program intends to complete the program audit on all commercial shellfish services and costs. If any costs are found to be “fee eligible” costs, we will prepare a fee adjustment to ensure full compliance with RCW 43.70.250 requiring the cost of the service to be borne by the members of the business through fees.

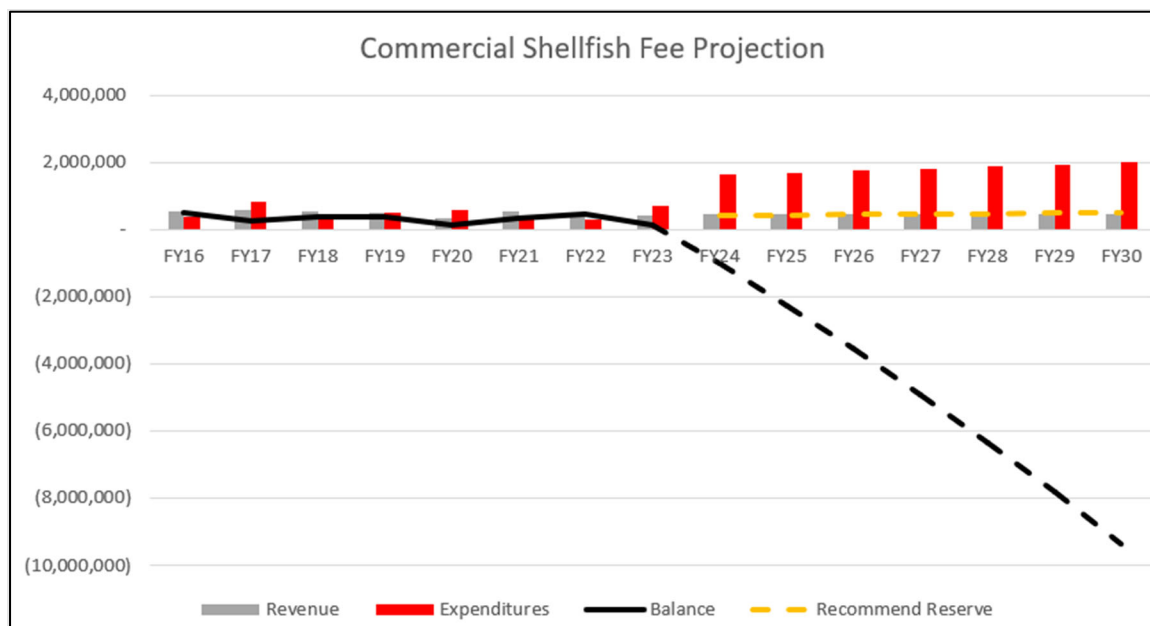
Expenditures

The department anticipates costs for the program to increase by two percent in biennium (BI) 2025 and then three percent each year thereafter. Cost increases are primarily due to inflation in personnel-related costs, testing supplies, and service contracts.

Fee Reserve

The program is not expected to generate enough revenue to cover costs over the next six years, which includes the necessary drawdown of the reserve fee balance.

The chart below shows actual revenue combined with GFS subsidy and supplement, and expenditures from FY 2017 through FY 2023.



Fee Proposal

To bring the Commercial Shellfish fee balance into alignment with requirements, the following fees are proposed:

Operation	Current Fee	Proposed Fee
Annual License Fees		
Harvester 2 or less	\$ 263	\$ 528
Harvester 3 or more	\$ 263	\$ 543
Shellstock Shipper 0-49 Acres 2 or less	\$ 297	\$ 1,096
Shellstock Shipper 0-49 Acres 3 or more	\$ 297	\$ 1,173
Shellstock Shipper 50 or greater Acres	\$ 476	\$ 1,262
Shellstock Shipper Wholesale Only	\$ 297	\$ 1,097
Shellstock Shipper Wholesale Only DNR Tracts	\$ 297	\$ 1,021
Shucker Packer Plants < 2000 sq ft 2 or less	\$ 542	\$ 2,437
Shucker Packer Plants < 2000 sq ft 3 or more	\$ 542	\$ 2,657
Shucker Packer (plants > 5000 sq ft) N/A	\$ 1,210	\$ 2,967
Shucker Packer(plants 2000-5000 sq ft) 2 or less	\$ 656	\$ 3,049
Shucker Packer (plants 2000-5000 sq ft) 3 or more	\$ 656	\$ 2,993

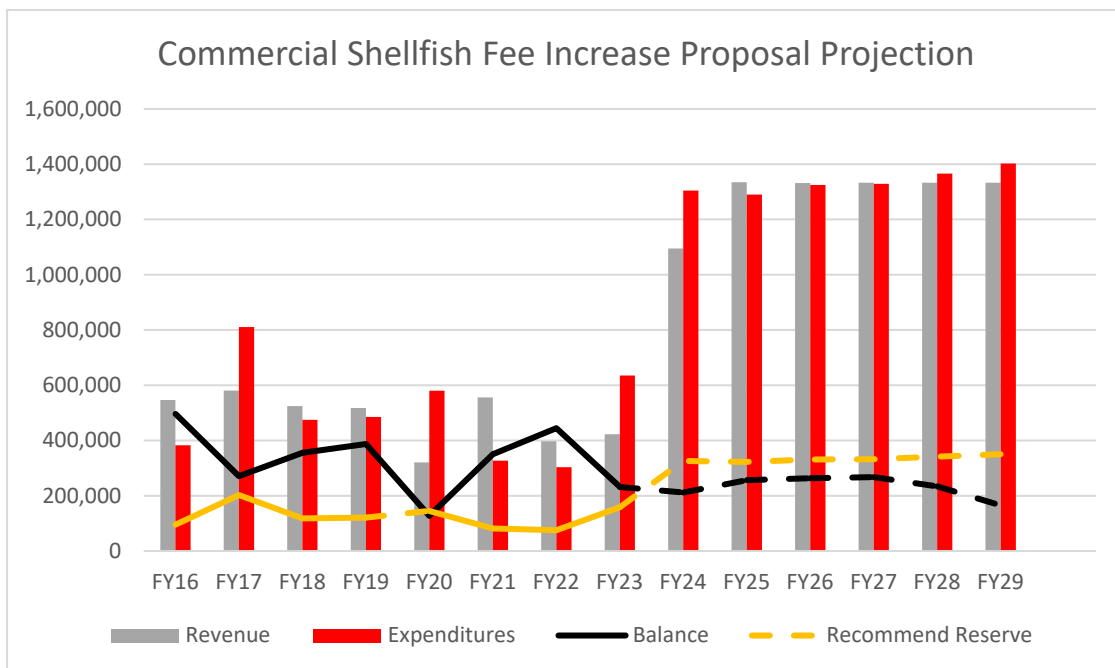
New per Action Fees		
Non-Compliance Inspection - Virtual	\$ -	\$ 56
Non-Compliance Inspection - Onsite	\$ -	\$ 252
New/Expired License Fee	\$ -	\$ 279

Biotoxin Testing Fees				
Operation	Acres	HS	Current Fee	Proposed Fee
Harvester		2 or less	\$ 353	\$ 665
		3 or more	\$ 535	\$ 1,009
Shell stock Shipper	WS	WS	\$ 198	\$ 373
	0-49 acres	2 or less	\$ 393	\$ 741
	0-49 acres	3 or more	\$ 610	\$ 1,150
	50 or greater	N/A	\$ 961	\$ 1,812
Shucker Packer	Plants < 2000 sq ft	2 or less	\$ 752	\$ 1,418
	Plants < 2000 sq ft	3 or more	\$ 1,076	\$ 2,029
	plants 2000-5000 ft	2 or less	\$ 882	\$ 1,663
	plants 2000-5000 ft	3 or more	\$ 1,297	\$ 2,445
	plants > 5000 ft	N/A	\$ 2,412	\$ 4,547

Fee Category	Current Fee	Full Cost Fee
Other Fees		
PSP Geoduck	\$58,000 / # of annual tests	\$305 per test
Export Certificates	\$ 55	\$ 75

This proposal is the department's first step to begin recovering program costs by fee payers as required by state law [RCW 43.70.250](#).

The chart below shows projected revenue and expenditures for current and proposed fees from FY 2016 through FY 2030.



The department will continue to monitor the financial health of the Commercial Shellfish program over a six-year outlook and propose fee adjustments as needed to comply with statutory requirements.