

Concise Explanatory Statement

Office of Environmental Health and Safety Fees



General Comments and Questions

Comment Received	Department of Health Determination
How were the new fees established and who was responsible for establishing them?	No change to proposed rule. The Department of Health (Department) is required by law to set fees at a level that covers the cost of administering each licensing and regulation of professions, occupations, or businesses. Fiscal specialists, leadership and program management regularly monitor the fiscal health of programs. When a fee program is identified as being fiscally unstable, and/or due for a routine review, the Department conducts a complete financial fee analysis of the fee program to determine any necessary fee adjustments to bring the program into compliance with law. The entire Department is experiencing funding reductions and increased expenditures associated with the 2025-2027 state budget (ESSB 5167), necessitating the fee adjustments and, in many cases, fees have not been adjusted for a long time.

WAC 246-205-990 for Decontamination of Illegal Drug Manufacturing or Storage Sites

Comment Received	Department of Health Determination
Multiple commenters expressed strong opposition to the fees and urged the Department to reconsider the fee increase. Believes the fee increase will: - Severely limit the number of qualified professionals able to afford licensure, leading to a shortage of available contractors. - Delay urgent cleanup efforts, increasing the risk of exposure to toxic substances for residents and emergency personnel.	No change to proposed rule. The Department thanks you for taking the time to submit comments. The Department acknowledges the commenters' concerns and appreciates the work drug lab clean up contractors and businesses do to keep Washingtonians safe. The Department's Drug Lab Cleanup program has struggled for many years to provide support for all our contractors and community members. With the current and prolonged operational deficit, rising costs, and significantly reduced state budget, the program can no longer be sustained without the fee increase. The current fee structure has remained unchanged for nearly 16 years. When

• Place an undue financial burden on small businesses and independent contractors who are already operating on tight margins. • Undermine the state's commitment to public safety by making it harder to maintain a skilled and responsive workforce.	adjustments were made last in November 2009, most fees were reduced. As a result, the program is now out of compliance with RCW 43.70.250, which specifies that the Department set fees at a level sufficient to cover the full cost of administering each licensing and regulatory program. The fee increases are essential to address a longstanding operational deficit, rising administrative costs, and significant reductions in state funding. These adjustments will enable the program to continue supporting CDL contractors. Moving forward, the Department remains committed to evaluating program efficiencies and implementing cost-containment strategies.
Multiple commenters recommended the Department consider a phased or more modest increase implemented with interested parties' input and advance notice.	No change to proposed rule. The Department appreciates the recommendation. With the current and prolonged operational deficit, rising costs and significantly reduced state budget, the program can no longer be sustained without the fee increase. To better synchronize existing billing schedules and the contractor certification cycle established by the Department of Labor and Industries, the Department is transitioning the contractor fee from an annual to a two-year cycle. This change aims to streamline processes and enhance efficiency for all contractors involved.
Multiple commenters stated that the economic impact statement did not provide sufficient information about the costs and justify the increases.	No change to proposed rule. The Department values the feedback received and is committed to ensuring that the economic impact statement effectively details the costs and rationale behind the proposed fee increases. It is important to note that the fee structure has remained unchanged for nearly 16 years, with the last adjustment in November 2009 resulting in a reduction of most fees. The program has been relying on General Fund State funding to cover approximately 90% of its direct expenditure due to insufficient fee revenue. Financial projections indicate that direct fee-related costs will account for 74.1% of total program expenses, which include salaries, benefits, and essential goods and services for all staff members. In addition, indirect costs are estimated at 25.9%, which cover vital support functions necessary for the program's operation. The fee increases are necessary to address the current and prolonged operational deficit, rising costs, and significantly reduced state budget.

Multiple commenters stated there is lack of training and regulatory oversight, limited resources, and a need for program improvements at the local and state levels.

No change to proposed rule. The fee revenue will allow for continued support. We are committed to continue to look for efficiencies within the program.

WAC 246-260-9901 for Water Recreation Facilities

Comment Received	Department of Health Determination
Commenter expressed opposition to the proposed fee increase. Noting that the fee increases were significant for public utility districts that operate small community pools, wading pools, or splash pads as part of local parks and recreation systems. The fee increase could force them to either pass the added expense to residents through higher fees or to limit operations and maintenance, shortening facility hours, or delaying needed upgrades. Recommendations: • Phase in increases over multiple years, limiting annual adjustments to a minimal increase. • Offer multi-year permits at a reduced rate to lower administrative costs. • Consolidate inspections by allowing combined visits for co-located facilities (for example, pool and nearby wastewater systems inspected on the same day).	No change to proposed rule. The Department appreciates the commenter's input and recommendations and acknowledges the concerns about the fee increases. Unfortunately, the fees for the Department's Water Recreation Program have never fully covered the cost of our inspection program or construction plan reviews. We have relied on General Fund State funding to supplement. These funds have been reduced, and we can no longer supplement inspection or construction plan review costs in the same manner. Increasing the fees to fully cover our costs allows us to continue our valuable water recreation safety work to protect public health. To clarify, the inspection fee changes would apply only for inspections conducted by the Department in Lewis County. The 34 other local health jurisdictions inspect water recreation facilities in their jurisdictions. These costs reflect the cost for the Department to implement an inspection program with staff who are not stationed directly in the local jurisdiction where the program/facilities exist. Alternative fee structures may be considered for future fee analysis.

WAC 246-262-990 for Recreational Water Contact Facilities

Comment Received	Department of Health Determination
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Commenter expressed concern that the fee increases for recreational water contact facilities mirror those for pools and spas despite often being low-revenue or free public amenities supported by local utility or park budgets. Concerned the increase in base permit and review fees could triple operational costs for small seasonal splash features, disproportionately affecting small and rural communities with limited recreation budgets.

Recommendations:

- Establish a “limited-use recreation facility” category to reflect the short operating season of many contact facilities.
- Allow co-location discounts when these features are part of existing park or pool systems already inspected under WAC 246-260.
- Explore regional inspection and permitting partnerships among counties and PUDs to reduce travel and overhead costs.
- Encourage virtual or photo compliance reviews for small or unchanged facilities, to lower cost.

No change to proposed rule. The Department appreciates the commenter’s input and recommendations, and acknowledges the concerns about the fee increases.

Unfortunately, the fees for the Department’s Water Recreation Program have never fully covered the cost of our inspection program or construction plan reviews. We have relied on General Fund State funding to supplement the gap. These funds have been reduced, and we can no longer supplement inspection or construction plan review costs in the same manner. Increasing the fees to fully cover our costs allows us to continue our valuable water recreation safety work to protect public health.

To clarify, the inspection fee changes are only for inspections provided by the Department in Lewis County. The 34 other local health jurisdictions inspect water recreation facilities in their jurisdictions. These costs reflect the cost for the Department to implement an inspection program with staff who are not stationed directly in the local jurisdiction where the program/facilities exist.

Alternative fee structures may be considered for future fee analysis.

WACs 246-272-2000 through 6000 for Onsite Sewage Systems (OSS) and Large Onsite Sewage Systems (LOSS)

Comment Received

Commenter expresses opposition to the proposed OSS fee increases, stating that onsite sewage systems return the majority of water used by rural landowners back into aquifers, providing natural groundwater recharge at no cost to taxpayers. Notes that this recharge is essential for maintaining water supply and that policies should encourage, rather than discourage,

Department of Health Determination

No change to proposed rule. There is strong scientific consensus that well-maintained onsite sewage systems (OSS) provide several environmental benefits to rural communities.

The Department expects that the impacts to individual OSS owners will be marginal. The fee changes are to product registration fees that are paid by manufacturers of sewage tanks, proprietary sewage treatment and distribution

the use of OSS. Urges the Department to reconsider the fee increases in support of environmental and public benefits.	products, and septic additives and to owners of large on-site sewage systems (LOSS), which serve several individual homes. The cost to purchase the impacted registered products may increase to cover the increase in the registration fee, but this increase is expected to be minimal, since the registration allows the manufacturer to sell the product for a year or longer, depending on the product. Fees charged to users of LOSS by LOSS owners may also increase to cover the increase in the LOSS permit. These increases are expected to be marginal because this cost is spread across several LOSS users.
Commenter expresses opposition to the proposed 265% fee increases for onsite sewage system (OSS) additives and tanks, citing concern about the significant financial burden on individual OSS owners. Urges the Department to reconsider the proposed increases. States that most homeowners properly maintain their systems and argues that higher fees unfairly penalize responsible owners rather than addressing issues caused by a small percentage of noncompliant homeowners.	No change to proposed rule. The Department expects that the impacts to individual OSS owners will be minimal. The fee changes are to product registration fees that are paid by manufacturers of septic additives and sewage tanks. Manufacturers may increase the price of their products to cover the increased registration fee. This one-time registration fee allows the manufacturer to sell the registered product in Washington. Septic additives are not necessary for the proper function or maintenance of OSS.
Commenter expresses concern about the proposed fee increase citing minimal public notification and a lack of justification for the proposal. States that rural residents with lower incomes would be disproportionately affected and asks whether alternatives to large fee hikes were considered, including graduated fees based on income. Questions the basis for the 4-hour review threshold and requests disclosure of factors that affect review time, suggests exploring technology or process changes to reduce review time and fees, and requests a longer public comment period given the magnitude of the increase. States that citizens are already contending with greater tax burdens and urges the department to reconsider the fee increase.	No change to proposed rule. Thank you for your thoughtful comments and questions. To clarify, the fee changes are to product registration fees that are paid by manufacturers of sewage tanks, proprietary sewage treatment and distribution products, and septic additives and to owners of large on-site sewage systems (LOSS), which serve several individual homes. The Department expects that the impacts to individual OSS owners and LOSS users will be marginal. While we understand your concerns regarding the fee adjustment, the Department is required by law to set fees at a level that covers the costs of administering each program or license (RCW 43.70.110 and RCW 43.70.250) and the fee adjustment brings the program into compliance with this. A standard review takes 4 hours, if all needed information is provided and accurate. Technical experts review the registration application to ensure all requirements in WAC 246-272A-0120(1)(a-o) are satisfied. The requirements outlined in WAC 246-272A-0120(1)(e-l) specifically require an in-depth review that consumes most of the estimated time it takes to review a complete registration application. If the review is atypical, more complex, or the application is incomplete, the review is likely to take more than 4 hours. The contingency to charge hourly for hours needed beyond the base of 4 hours allows the base fee to be as low as possible.

Commenter concerned that the proposed fee schedule represents a sharp cost escalation, with plan review, inspection, and annual operation fees increasing two to three times above current levels. Notes that for small or rural public utility districts, these costs compound quickly, potentially leading to deferred maintenance or delayed replacement projects. Believes that the additional costs will ultimately be passed on to customers through higher monthly utility rates or connection charges.

Recommendations:

- Phase fee adjustments to allow budget planning and avoid rate spikes.
- Implement a scaled fee structure based on the number of systems managed or the system's design to ensure minimize costs.
- Encourage combined site visits for multiple OSS units in the same area to reduce travel time and associated inspection fees.

No change to proposed rule. The Department acknowledges the commenter's concerns regarding the increase in LOSS project reviews fees. The fee adjustments are necessary to ensure the long-term financial sustainability of the LOSS program and to maintain the Department's ability to fulfill its statutory obligations under chapter 70A.115 RCW and chapter 246-272B WAC.

Costs associated with program administration, technical assistance, permitting, and inspection activities have increased significantly. The revised fee structure reflects the actual costs of delivering these essential services and ensures the program continues to protect water quality and the health of communities served by or near LOSS.

To clarify, fee increases for LOSS base permit fee and per gallon design flow fee are being phased in over two years.

WAC 246-282-990 for Commercial Shellfish

Comment Received

Multiple commenters expressed strong opposition to the fees and urged the Department to reconsider the fee increase.

- Stated the proposed fee increases are excessive, unfair, and unrealistic.
- Fees are already among the highest in the country.
- Stated that the fees will significantly and

Department of Health Determination

The department is delaying the adoption of WAC 246-282-990 for Commercial Shellfish to further review the proposed fee adjustments that are intended to align with the Greene Economic Report. These rules will be adopted in a separate filing.

disproportionately affect small businesses, potentially forcing them out of operation. - Proposed fee increases creates a significant disadvantage for Washington state shellfish industry when competing for both domestic and international market share. - Believes a fee increase of this magnitude threatens individual businesses and the state's economic and food diversity. - The benefits extend beyond growers to the public, retail outlets, and restaurants, and that costs should be shared accordingly.	
Multiple commenters strongly recommend the Department should fully align with the recommendations from the Greene Economics Fee Assessment Report. Pause rulemaking to provide the industry and Legislature time to respond to the report. They highlighted two key findings from the report: - Biotoxin testing should be considered a public service, with costs covered entirely by state general funds, a similar practice in other states. - It does not recommend a full cost recovery program due to the potential financial strain on the industry.	
Commenter recommended that fees should be based on B&O tax and actual revenue.	
Commenter expressed concern about the proposed fee increases, noting that shipper fees would rise 1,214% and biotoxin fees over 200%.	
Commenter recommended that fees be based on a poundage threshold or similar adjustment to help protect micro shippers from disproportionate financial impact.	

Commenter recommended a sliding scale for fees based on farm size or revenue, and reduced fees for companies harvesting wild-set shellfish on leased private beaches.

Commenter asked for clarification on whether Tribes will only be affected by the proposed biotoxin fee increases and asked if the State decided not to fund biotoxin monitoring through GFS revenue, as recommended in Greene's report.

Commenter stated that fees should only cover actual program costs and requested a Small Business Economic Impact Statement (SBEIS). Suggests suspending the fee increase until an SBEIS analysis is completed, considering tiered or employee size-based fees, publishing a detailed breakdown of administrative costs, and extending the public comment period.

Multiple commenters expressed this is an unwarranted shift in the relationship between the Department of Health and shellfish producers. They do not support the industry covering the majority of government operating expenses to administer the program. Raised concerns about potential legal and policy implications.

For the biotoxin fees and shucker packer, commenter asked why it seems as if the Harvest sites drive the cost more than the square acres?

With Export Fee increases going into effect December 1, commenter asked if we foresee a lot of operations needing to pay the increased amounts before the end of legislative session?

Commenter expressed concerns and confusion about the increase to the export certificate fee and asked the Department to justify the numbers.

Multiple commenters expressed appreciation for the work that the Department's Shellfish Program does and acknowledged that the state is currently dealing with a substantial budget deficit and needs to ensure programs charge fees to cover their costs they are required to.

WAC 246-358-990 for Temporary Worker Housing

Comment Received	Department of Health Determination
Multiple commenters expressed opposition to the proposed Temporary Worker Housing (TWH) fee increases, noting that the increases may discourage investment and will impose a severe financial burden on growers already in the middle of financial uncertainty.	No change to proposed rule. The Department acknowledges the commenters' concerns regarding the proposed increase in Temporary Worker Housing (TWH) licensing fees. The fee adjustments are necessary to ensure the long-term financial sustainability of the TWH program and to maintain the Department's ability to fulfill its statutory obligations under chapter 70.114A RCW and chapter 246-358 WAC. The TWH fees have remained unchanged for over a decade, during which time the costs associated with program administration, technical assistance, licensing, and inspection activities have increased significantly. The revised fee structure reflects the actual costs of delivering these essential services and ensures the program continues to protect the health and safety of temporary agricultural workers.
Multiple commenters urged the Department to reconsider the proposal to identify cost-saving measures and internal efficiencies before resorting to such significant fee increases. Encourage the Department to clearly identify how the fee adjustments were made and how the additional funds will be used and to ensure that any future fee adjustments are implemented gradually and transparently.	No change to proposed rule. The Department acknowledges the commenters' concerns regarding the proposed increase in TWH licensing fees. The fee adjustments are necessary to ensure the long-term financial sustainability of the TWH program and to maintain the Department's ability to fulfill its statutory obligations under chapter 70.114A RCW and chapter 246-358 WAC. The TWH fees have remained unchanged for over a decade, during which time the costs associated with program administration, technical assistance, licensing, and inspection activities have increased significantly. The revised fee structure reflects the actual costs of delivering these essential services and ensures the program continues to protect the health and safety of temporary agricultural workers. The program remains committed to protecting the health and safety of temporary agricultural workers. In recent years, it has implemented key operational changes to

	improve efficiency including regionally assigning all inspectors and cross-training them in the Transient Accommodations Program and now we have more inspectors to cover both programs. These adjustments have helped reduce travel costs, shorten inspection times, and enhance overall responsiveness. The program continues to actively pursue and implement additional efficiencies as new opportunities emerge. Reductions to general fund state funding have further limited resources to support the TWH program. The fee changes are based on program costs. Some fees are increasing more than others because they were set low in the past and no longer cover the actual cost of the work required. Additional revenue will help maintain adequate staffing, technology costs, outreach and educational materials, complete inspections and maintain coordination with partner agencies. The Department is committed to being transparent, providing data-driven fee reviews and will evaluate fees more regularly to avoid large, one-time adjustments in the future.
Commenter objected to the proposed change in subsection (4) that replaces “may” to “shall” regarding processing late fees, stating that the revision removes necessary discretion. Notes that operators can control only the timing of application submission, not receipt, and that flexibility is warranted for reasonable circumstances. Explained that when a new TWH application is submitted for expedited consideration, labeling the charge as a “late fee” is misleading, as it functions more as an expedited review cost. Stated that while an expedited service fee may be appropriate, doubling the standard application fee appears disproportionate to the administrative burden.	No change to proposed rule. The Department will continue to evaluate the language under 246-358-990(4) and evaluate program efficiencies and cost-containment measures while ensuring that licensing fees remain aligned with the statutory requirement that regulatory fees recover, but do not exceed, the cost of administering the program.
Commenter opposed the introduction of a new \$179 administrative processing fee, stating that it appears punitive when applied to minor discrepancies. Notes that requiring TWH operators to pay the full fee again under such circumstances is unreasonable and urges the Department to reconsider this provision.	No change to proposed rule. The Department previously charged a \$50 administrative fee as part of the TWH licensing process. The fee increased from \$50 to \$170. Administrative fees have been in place prior to this adjustment.

Commenter stated that the phrase “for any purpose” in subsection (10)(a) is overly broad and lacks clarity. Requests clarification on whether it includes routine post-occupancy inspections or only applies to re-inspections due to operator error or complaints. Urges the Department to limit adjustments to inflationary trends and improve program efficiency that incentivizes the construction, maintenance, and licensing of Temporary Worker Housing.	No change to proposed rule. The Department appreciates the comment and the opportunity to clarify. The phrase “for any purpose” does not include “routine post-occupancy inspections,” as an occupancy inspection would have already been performed. Under the TWH program, each facility is required to have both pre-occupancy and occupancy inspections, as part of the annual licensing requirement. No refund is granted once a pre-occupancy inspection has been performed along with either a required follow-up on-site (in-person) inspection due to critical violations or an occupancy inspection. If only the pre-occupancy inspection has been conducted and no additional inspections were performed on-site, a partial refund may be considered. On-site pre-application technical assistance does not qualify as an “inspection.”
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WAC 246-380-990 for Food Service

Comment Received	Department of Health Determination
Commenter expresses concern about the proposed fee increases, noting that a 160% rise to \$1,569 for certain food establishments imposes undue financial pressure. States that while regulatory oversight is important, the increases appear disproportionate and lack transparency regarding cost drivers. Urges the Department to audit internal expenditures, pursue operational efficiencies, expand collaboration with local health jurisdictions, and reconsider the fee schedule with stakeholder input to balance public health goals and economic sustainability.	No change to proposed rule. Thank you for your comments regarding the Department’s Food Safety Program inspection fee increases. We understand this is a significant increase. To clarify, the fee changes are for services provided by the Department, not fees charged by the local health jurisdictions. Our fees have never fully covered the cost of the inspection program. We have always used General Fund State to supplement the gap. These funds have been reduced, and we can no longer supplement inspection costs in this manner. Increasing the fees to fully cover our inspection costs allows us to continue our valuable food safety work to protect public health.

Notes: The Department of Health did not receive comments for sections WAC 246-360-020 and 246-360-990.



CES WSR [WSR 25-22-068]

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