



# 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 ; 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)

WAC 246-358-990; WAC 246-361-990, amending sections to increase fees for Temporary Worker Housing.

**Hearing location(s):** Department of Health  
 Point Plaza East  
 Rooms 152 & 153  
 310 Israel Road SE  
 Tumwater, WA 98501

Date: 4/26/2011

Time: 9:00

**Submit written comments to:**

Name: John Hilger  
 Address: PO Box 47852  
 Olympia, WA  
 Website: <http://www3.doh.wa.gov/policyreview/>  
 fax 360-236-2901 by (date) 04/26/2011

**Assistance for persons with disabilities:** Contact

John Hilger by 04/21/2011

TTY (800) 833-6388 or () 711

**Date of intended adoption:** 05/24/2011

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The proposed rules increase fees for Temporary Worker Housing (TWH).

**Reasons supporting proposal:**

RCW 43.70.340 requires the department to collect fees to pay costs of administering and regulating construction and operation of TWH. ESSB 6444 (Chapter 37, Laws of 2010) reduced general fund state dollars for the TWH program and gave the department the authority to increase fees to cover the loss of funding. In order to maintain the viability of the TWH program, the department must increase fees.

**Statutory authority for adoption:**

RCW 43.70.340, ESSB6444 (Chapter 37, Laws of 2010)

**Statute being implemented:**

RCW 43.70.340, ESSB6444 (Chapter 37, Laws of 2010)

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE** 03/22/11

**NAME** (type or print)

Mary C. Selecky

**SIGNATURE**

**TITLE**

Secretary of Health

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE: March 22, 2011**

**TIME: 11:57 AM**

**WSR 11-07-089**

**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..... Debra Fisher	310 Israel Road SE, Tumwater, WA 98501	360-236-2942
Implementation.... Lisa Hodgson	310 Israel Road SE, Tumwater, WA 98501	360-236-2927
Enforcement..... Lisa Hodgson	310 Israel Road SE, Tumwater, WA 98501	360-236-2927

**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.

Under RCW 19.85.025 and RCW 34.05.310 (4)(f), an 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: Under RCW 34.05.328 (5)(b)(vi) of the administrative procedure act, a cost benefit analysis is not required for rules that set or adjust fees or rates pursuant to legislative standards.

AMENDATORY SECTION (Amending WSR 99-24-095, filed 11/30/99, effective 12/31/99)

**WAC 246-358-990 Fees.** (~~(1) License fees. An operator must submit to the department a license fee of twenty-five dollars and an on-site survey fee as specified in Table 990.~~

Note: ~~A separate on-site survey fee will be charged for each housing site owned or managed by an operator which is more than thirty minutes or twenty-five miles apart.~~

~~(2) Self-survey program fee. An operator who meets the self-survey program requirements of WAC 246-358-027 must pay:~~

~~(a) An annual licensing fee, according to Table 990; and~~

~~(b) An on-site survey fee every third year.~~

~~(3) Follow-up surveys. An operator will be charged an additional on-site survey fee for any follow-up surveys, when the department determines additional on-site surveys are necessary to confirm compliance with this chapter.~~

~~(4) Complaint investigation fees. An operator will be charged for each on-site survey conducted by the department when a complaint investigation results in the complaint being found valid. This fee will be charged according to Table 990 for on-site survey.~~

~~(5) Water test fees. An operator who cannot provide written proof that the water system serving the camp is in compliance with WAC 246-358-055 at the time of survey will be:~~

~~(a) Directly billed for the cost of each required water sample collected by department staff;~~

~~(b) Cited for noncompliance with WAC 246-358-055; and~~

~~(c) If substantiated, cited for operating an unlicensed camp.~~

~~(6) Late fees. An operator who does not submit the fee and application as required by WAC 246-358-025, Licensing, may be charged a late fee of one-half the cost of the license fee. If the license fee and the application are not received by the time of the preoccupancy survey, an additional late fee of one-half the cost of the license fee may be charged. If the fee and application are not received within ten days of the preoccupancy survey the TWI may be considered unlicensed and subject to fines according to WAC 246-358-900.~~

~~(7) Refunds. The license and on-site survey fee may be refunded when the operator submits:~~

~~(a) A written request to the department; and~~

~~(b) Provides documentation that the housing was not occupied during the license period.~~

Table 990

Number of Units or Occupants Whichever is Greater	On-Site Survey Fee (Includes: Initial, Annual Licensing, Follow-Up, and Complaint Investigation Surveys)	License Fee	Total Fee Survey +License
1 to 4 units or 9 occupants or less*	\$45.00	\$25.00	\$70.00
5 to 10 units or 10 to 50 occupants	\$70.00	\$25.00	\$95.00
11 to 20 units or 51 to 100 occupants	\$120.00	\$25.00	\$145.00
21 to 50 units or 101 to 150 occupants	\$150.00	\$25.00	\$175.00
over 50 units or over 150 occupants	\$175.00	\$25.00	\$200.00

Note: The on-site survey fee includes two surveys per year (one pre-occupancy and one occupancy). Any additional visits (follow-up and/or complaint investigation) will be considered an additional service and will be billed separately at the rates established in Table 990.  
 \*Operators with four or less units or nine or less occupants are not required to be licensed except when licensure is required by WAC 246-358-025.)

(1) License fee. The license fee covers initial licenses and renewals. An operator must submit to the department an annual license fee for maximum occupancy according to Table 1 of this section. For purposes of licensing, maximum occupancy is the total number of occupants that the amount of space and fixtures of the temporary worker housing (TWH) can support.

(2) Technical assistance fee. An operator may be charged for each technical assistance visit conducted by the department when requested or approved by the operator or their designee. This fee will be charged according to WAC 246-359-990 Table 1, Part G.

(3) Late fees. A late fee may be charged according to Table 1 of this section when:

(a) The initial application and licensing fee, as required by WAC 246-358-025(2), are not received by the department at least forty-five days prior to the TWH opening operation date;

(b) The renewal application and licensing fee, as required by WAC 246-358-025(2), are not received by the department by the TWH renewal due date.

(4) TWH civil fine. An operator may be assessed a civil fine for failure or refusal to obtain a license prior to occupancy of TWH. Civil fines for TWH are provided for in RCW 43.70.335.

(5) Refunds.

(a) The department will refund fees paid by the operator if:

(i) The operator submits a written request to the department for a refund; and

(ii) The operator provides documentation to the department that the housing was not occupied during the license period.

(b) The department will refund two-thirds of the licensing fees paid, less a fifty dollar processing fee, if an application has been received but no preoccupancy survey has been performed by the department.

(c) The department will refund one-third of the licensing fees paid, less a fifty dollar processing fee, if an application has been received and a preoccupancy survey has been performed by the department.

(d) The department will not refund applicant licensing fees under the following conditions:

(i) The department has performed more than one on-site survey for any purpose; or

(ii) One year has elapsed since a license application was received by the department, but no license was issued because the applicant failed to complete requirements for licensure.

**Table 1**  
**Fees, Regular Temporary Worker Housing**

<u>Fee Type</u>	<u>Fee</u>
<u>License fee</u>	<u>\$11 per occupant, at maximum occupancy (\$110 minimum fee)</u>
<u>Late fee</u>	<u>\$100</u>

AMENDATORY SECTION (Amending WSR 00-06-082, filed 3/1/00, effective 3/1/00)

**WAC 246-361-990 Fees for cherry harvest camps.** ~~((1) License and survey fees.~~ A cherry camp operator must submit to the department a license fee of twenty-five dollars and an on-site survey fee as specified in Table 990.

Note: ~~The on-site survey fee for licensing includes four surveys (one prior to camp being occupied, two while camp is occupied, and one to verify the camp has been closed).~~

~~(2) Additional survey fees.~~ An operator will be charged an additional on-site survey fee for any follow-up surveys, when the department determines additional on-site surveys are necessary to confirm compliance with this chapter. The additional survey will be one-half the cost of the on-site survey fee as stated in Table 990.

~~(3) Complaint investigation fees.~~ Operators will be charged for each on-site survey conducted by the department when a complaint investigation results in the complaint being found valid. This fee will be charged according to Table 990 for on-site survey.

~~(4) Water test fees.~~ An operator will be directly billed for each water sample collected by the department when the operator has not submitted the water tests as required by WAC 246-361-025 and 246-361-055.

~~(5) Refunds.~~ The license and on-site survey fee may be refunded when the operator submits:

~~(a) A written request to the department; and~~

~~(b) Provides documentation that the housing was not occupied during the license period.~~

TABLE 990

NUMBER OF UNITS	ON-SITE SURVEY FEE (includes cost of all survey types: Initial, annual, follow-up, complaint)	LICENSE FEE	TOTAL
0 to 9 persons	\$45.00	\$25.00	\$70.00
10 to 50 persons	70.00	25.00	95.00
51 to 100 persons	100.00	25.00	125.00
101 to 150 persons	125.00	25.00	150.00
for each additional 50 persons over 150 add \$25	125.00+ \$25.00 for each 50 persons	25.00))	

(1) License fee. The license fee covers initial licenses and renewals. An operator must submit to the department an annual license fee for maximum occupancy according to Table 1 of this section. For purposes of licensing, maximum occupancy is the total number of occupants that the amount of space and fixtures of the

temporary worker housing (TWH) can support.

(2) **Technical assistance fee.** An operator may be charged for each technical assistance visit conducted by the department when requested or approved by the operator or their designee. This fee will be charged according to WAC 246-359-990 Table 1, Part G.

(3) **Late fees.** A late fee may be charged according to Table 1 of this section when:

(a) The initial application and licensing fee, as required by WAC 246-361-025(2), are not received by the department at least forty-five days prior to the TWH opening operation date;

(b) The renewal application and licensing fee, as required by WAC 246-361-025(2), are not received by the department by the TWH renewal due date.

(4) **TWH civil fine.** An operator may be assessed a civil fine for failure or refusal to obtain a license prior to occupancy of TWH. Civil fines for TWH are provided for in RCW 43.70.335.

(5) **Refunds.**

(a) The department will refund fees paid by the operator if:

(i) The operator submits a written request to the department for a refund; and

(ii) The operator provides documentation to the department that the housing was not occupied during the license period.

(b) The department will refund two-thirds of the licensing fees paid, less a fifty dollar processing fee, if an application has been received but no preoccupancy survey has been performed by the department.

(c) The department will refund one-third of the licensing fees paid, less a fifty dollar processing fee, if an application has been received and a preoccupancy survey has been performed by the department.

(d) The department will not refund applicant licensing fees under the following conditions:

(i) The department has performed more than one on-site survey for any purpose; or

(ii) One year has elapsed since a license application was received by the department, but no license was issued because the applicant failed to complete requirements for licensure.

**Table 1**  
**Fees, Cherry Harvest Camps**

<b><u>Fee Type</u></b>	<b><u>Fee</u></b>
<b><u>License fee</u></b>	<b><u>\$11 per occupant, at maximum occupancy (\$110 minimum fee)</u></b>
<b><u>Late fee</u></b>	<b><u>\$100</u></b>