WASHINGTON STATE DEPARTMENT OF HEALTH

Small Business Economic Impact Statement

WAC 246-272A a Rule Concerning On-Site Sewage Systems

Washington State Department of HEALTH

September 2023

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SECTION 1

A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Chapter 246-272A WAC, On-Site Sewage Systems, regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems (OSS). There are approximately 950,000 OSS in Washington that produce around 340,000,000 gallons of wastewater per day. This rule protects public health by minimizing both the potential for exposure to sewage from on-site sewage systems, and the adverse effects of discharges from on-site sewage systems on ground and surface waters.[1]

Local health officers (LHOs) have three options to enforce chapter 246-272A WAC. They can: adopt their own local code; adopted this rule by reference; or defer to chapter 246-272A WAC. The State Board of Health (board) is authorized under RCW 43.20.050 to adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day. The Washington State Department of Health (department) implements these rules. The department is required to review chapter 246-272A WAC every four years to evaluate the effectiveness of the rules and determine areas where revisions may be necessary. The department is also required to provide results of the review along with recommendations to the board and local health officers. This requirement was adopted in 2005 and the department completed its first evaluation in 2009 and a subsequent evaluation in 2013. Both evaluations concluded with the finding that no revisions were necessary.[2]

In 2017, the department conducted an evaluation of the existing OSS rule, including gathering feedback on the rules from local health partners and interested parties. In December 2017, the department published the following report on the findings: 2017 Evaluation of the Effectiveness of Chapter 246-272A WAC, On-Site Sewage Systems.[3] The report identified seven key issues and several minor issues that should be considered for possible revision in rulemaking. The seven key issues were: Definitions, Local management plans, Property transfer inspections, Application of treatment levels, Ultraviolet light disinfection effectiveness and approval, Horizontal setbacks (system location) and Statewide service provider licensing. The department briefed the board in January 2018 and the Board directed staff to file a CR-101, Preproposal Statement of Inquiry. Staff filed the CR-101 as WSR 18-06-082 on March 6, 2018.[4]

The Washington state legislature passed Senate Bill 5503 in the 2019 legislative session and it was codified as RCW 43.20.065.[5] The bill addressed repair and replacement of failed systems and system inspections. The law has been addressed in the rulemaking.

To assist and inform the rule revision process, and to ensure that chapter 246-272A WAC consistently promotes safe and effective operation of OSS, the board requested input and review from a statewide representation of diverse interested parties. The department formed the On-Site Rule Revision Committee (ORRC) in June 2018 to serve as this group and foster communication and cooperation between interested parties. The ORRCs role was informal and advisory to the department in this

[1] Internal Document "2018 Socioeconomic Impact Survey of Hammersley Inlet Shellfish Growers." Available Upon Request.

[2] https://doh.wa.gov/sites/default/files/legacy/Documents/Pubs/337-152a.pdf?uid=635807f46e5ae

[3] 2017 Evaluation of the Effectiveness of Chapter 246-272A WAC, On-site Sewage Systems

[4] https://doh.wa.gov/sites/default/files/legacy/Documents/Pubs/337-152a.pdf?uid=635807f46e5ae

[5] RCW 43.20.065: On-site sewage system failures and inspections—Rule making

rulemaking. The ORRC proposed, made recommendations, and gave input to the rule. ORRC members include representatives from industry, regulators, consumers, and academia. Two subcommittees were formed to advise on policy and technical issues. The department drafted issue papers on several key topics for both subcommittees. These subcommittees worked on topics, held votes on topics. and ultimately made recommendations to the entire ORRC. The ORRC used a majority rule when considering amendments that were forwarded to the department. There were proposals with unanimous support and others with simple majority.

The ORRC met nine times between June 2018 and February 2020 as a full committee and the department convened many associated subcommittee meetings that reported out to the full ORRC. The department shared a draft with interested parties for informal review and comment. In addition, the department conducted three in-person and one web-based public workshops concluding in October 2019. Based on comments received, the department made several changes to the draft rules. The department worked with environmental health directors from different areas of the state on the ORRC and separately to help fine tune the draft rules.

The objectives of the proposed OSS rules are to:

- Incorporate the most recent science and technology standards for OSS;
- Ensure OSS are inspected periodically in all areas of the state to determine whether they are functioning properly to avoid contamination and environmental degradation resulting from a failure; and
- Establish a mechanism for local and state governments to enforce OSS practices that protect the environment and residents of WA state from OSS safety hazards.

The department assumes businesses will have to hire professional engineers, designers, installers, pumpers, and maintenance service providers in various situations to prepare documents and to provide other professional services as described in the significant analysis.

SECTION 2

Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS).

SBEIS Table 1. Summary of Businesses Required to comply to the Proposed Rule

NAICS Code [6]	NAICS Business Description	Number of businesses in Washington State	Minor Cost Threshold [7]
541330	Engineering Services	1,717	$7,717
562991	Septic Tank and Related Service	118	$2,661
327390	Other Concrete Product Manufacturing	49	$15,846
326199	All Other Plastics Product Manufacturing	98	$18,869
562998	All Other Miscellaneous Waste Management Services (Maintenance Service Providers)	42	$14,287
238910	Site Preparation Contractors	2,373	$4,017
333318	Commercial and Service Industry Machinery Manufacturing (Manufacturers)	109	$9,003
531210	Offices of Real Estate Agents and Brokers	2,751	$3,168

[6] U.S. Census Bureau, North American Industry Classification System (NAICS).
[7] Governor's Office for Regulatory Innovation and Assistance, Regulatory Fairness Act Tools & Guidance, Minor Cost Threshold Calculator.

237210	Land Subdivision	195	$4,213

SECTION 3

Analysis of probable costs of businesses in the industry to comply to the proposed rule and includes the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue.

Sectional Analysis: The sectional analysis includes sections that result in compliance costs to businesses. It does not include sections where businesses provide services to customers for example costs of completing an inspection of an OSS for a client. This is because costs are passed to the clients and clients pay for these additional costs, in this case OSS owners will pay the cost of the services. These costs are not included in this analysis because businesses elect to provide these services and are not obligated to do so. The department anticipates that most new requirements will not cause businesses to lose sales or revenue, with potential exceptions.

Cost Survey: To help better understand the costs of each section of the rule, the department developed a cost survey surveying local government environmental health directors, wastewater program staff, and industry members associations that represent them. Cost survey details and methodology is outlined in the Significant Analysis (available upon request).

WAC 246-272A-0120 Proprietary treatment product registration—Process and requirements.
Description: This section establishes the required content and submittal process for manufacturers to use to register their products.

Cost: The department received survey responses from nine manufacturers. The department also does not collect cost estimates for non-compliance events so did not complete a survey on the cost of the compliance plan because this only applies if a manufacturer is having problems. SBEIS Table 2 shows the estimated costs for maintenance service providers of taking a pair of samples for E. coli or fecal coliform. Only one of six manufacturers indicated they would hire a third-party contractor to take the required 25 sample sets during a routine maintenance visit due to logistical restrictions. Additionally, 6 out of 11 manufacturers indicated that they already maintain a company website so posting required materials was solely cost to update websites. Six manufacturers provided cost estimates to post the materials. The table does not include the cost of 25 pairs of samples. The department contacted and received cost information for 50 samples. The department was given a cost of $28 to $65 per sample[8] depending on the test technique; for a total cost for 50 samples ranging between $2,000 and 3,250. [9]

SBEIS Table 2. Estimated cost to adhere to the Field Verification component of the proprietary treatment product registration, process, and requirements* (from SA Table 6)

Description	Cost Frequency	N	Range ($)	Median ($)	Mean ($)	Standard Deviation ($)
Cost to collect a pair (one influent AND one effluent) of samples, during	Unit	5	4.28 - 47.50	24	23.66	16.65

[8] Range: $28 per sample (Lewis County) to $65 per sample. AmTest Laboratories quoted $40/sample.
[9] $28 X 50 samples = $1,400, $65 X 50 samples = $3,250.

a routine maintenance service visit NOT including travel						
Cost to collect a pair (one influent AND one effluent) of samples, during a non-routine maintenance service visit (including travel)	Unit	5	For one pair 50 – 292 For 25 pairs 1,250 - 7,300	65	147.10	122.81
Cost to take the pair of influent and effluent samples to the lab	Unit	5	68.50 – 190	120	126.90	50.82

Cost to complete a product field verification process report (not including sampling costs)	Unit	6	144 - 48,000	3188	10,353	18,682
Cost to hire a service provider or a third-party sampler to collect 25 pairs of samples	Unit	6	5,225 - 100,000	20,000	34,038	35,936
Cost to post required materials on website	One-time	6	20 – 450	65	141	170

*In the past two years the department has received applications for four treatment productions and one distribution product, which helps to estimate the total cost.

Potential impact on Businesses: Manufacturers of treatment units will need to arrange for sampling of at least 25 installations of each of their products that are registered as providing DL1, DL2, or TLN treatment. Manufacturers may conduct this sampling or hire a third party to conduct it. It will entail developing a sampling plan, contacting owners and arranging for site visits, collecting samples, delivering samples to a laboratory for analysis, and writing a report synthesizing the laboratory results. If the results demonstrate that the product does not meet the registered treatment level, the product will be reassessed and may be reassigned a treatment level or be removed from registration. If it is removed from registration, it can no longer be sold in Washington.

WAC 246-272A-0200 Permit requirements

Description: This section specifies the permit application content when a person proposes the installation, repair, modification, connection to, or expansion of an OSS. The proposed change adds a requirement for site maps to include 1) horizontal separations as noted in Table IV in the rule, 2) an elevation benchmark, and 3) relative elevations of system components.

Cost: SBEIS Table 3 and Table 4 show the anticipated one-time cost for designers and engineers to add the specified items to their designs. The results of our survey found that 34 of 40 Designer respondents already include these new components in their site plans. Therefore, they would not have additional costs to comply with the rule. The department received survey responses from 10 designers and 10 engineers about adding new elements to designs. SBEIS Table 3 & SBEIS Table 4 presents the estimated costs.

SBEIS Table 3. Estimated cost to Designers to adhere to permit requirements (from SA Table 7)

Description (responses)	N	Range ($)	Median ($)	Mean ($)	Standard Deviation ($)

One-time cost to add horizontal separations as noted in Table IV into design process	4	6.25-900	250	352	385
Unit cost to put the horizontal separations as noted in Table IV into one OSS design **Low-end range****	4	6.25-500	175	164	122
Unit cost to put the horizontal separations as noted in Table IV into one OSS design **High-end range****	4	12.50-500	225	241	209
One-time cost to add elevation benchmark as noted in Table IV into design process*	10	6.25-1,200	150	306	409
One-time cost to add relative elevations of system components as noted in Table IV into design process*	7	6.25-900	81	223	316
Unit cost to add relative elevations of system components on one site map* **Low-end range****	7	6.25-512	150	170	188
Unit cost to add relative elevations of system components on one site map* **High-end range****	6	12.50 - 368	170	368	503

*These are items covered under WAC 332-130-145 (1).

**Respondents were asked to provide a range of costs (rows are denoted in grey) and the department analyzed the low end and high end of the range to better understand the potential minimum cost and maximum cost of compliance.

SBEIS Table 4. Estimated cost to Professional Engineers to adhere to permit requirements (from SA Table 8)

Description (responses)	N	Range ($)	Median ($)	Mean ($)	Standard Deviation ($)
One-time cost to add horizontal separations as noted in Table IV into design process	8	180 - 22,500	11,050	10,765	7,531
One-time cost to add elevation benchmark as noted in Table IV into design process	10	150 - 8,000	800	1,620	2,348
Unit cost to add elevation benchmarks on one site map **Low-end range****	9	37.50 - 3,250	390	731	1,014
Unit cost to add elevation benchmarks on one site map **High-end range****	9	300 - 5,200	700	1,351	1,531
One-time cost to add relative elevations of system components as noted in Table IV into design process*	6	200 - 8,000	795	1,932	3,019

*These are items covered under WAC 332-130-145(1).

**Respondents were asked to provide a range of costs (rows are denoted in grey) and the department analyzed the low end and high end of the range to better understand the potential minimum cost and maximum cost of compliance.

Potential impact on Businesses: Designers and engineers will need to incorporate the new items required as part of a permit application and site plan. The department anticipates that there will be an initial period of added costs, effort, and learning while designers and engineers incorporate the new requirements into their practices and routines. However, over time, these requirements are expected to become part of their routine data collection and reporting with marginal impacts.

WAC 246-272A-0210 Location

Description: This section establishes minimum horizontal separations (distance) in Table IV of this section for septic tanks, drainfield and building sewers to various water sources to prevent pollution. The proposed change includes adding any or all of the following components to a site map if they exist on the site: 1) non-public in-ground water containment vessels, 2) closed geothermal loop or pressurized non-potable water line, 3) lined stormwater detention pond; 4) unlined stormwater infiltration pond; or 5) Subsurface stormwater infiltration or dispersion component.

Cost: The department received survey responses from 4 designers and 8 engineers on the cost of adding any or all the new source types to site maps. SBEIS Table 5 presents the estimated costs.

SBEIS Table 5. Estimated cost to include any of all source types to a site map (from SA Table 9)

Description	N	Range ($)	Median ($)	Mean ($)	Standard Deviation ($)
Designer					
One-time cost to incorporate the items that you currently do not include from current Table IV into the design process	4	6.25 - 900	250	352	385
One-time cost to incorporate the items that you currently do not include from current Table IV into one OSS design **Low-end range***	4	6.25 - 500,241	175	164	122
One-time cost to incorporate the items that you currently do not include from current Table IV into one OSS design **High-end range***	4	12.50 - 500	225	241	209
Engineer					
One-time cost to incorporate the items that you currently do not include from current Table IV into the design process	8	180 - 22,500	11,050	10,766	7.531
One-time cost to incorporate the items that you currently do not include from current Table IV into one OSS design **Low-end range***	7	0 - 6,000	520	1,207	2,129
One-time cost to incorporate the items that you currently do not include from current Table IV into one OSS design **High-end range***	7	300 - 72,000	900	11,121	26,850

*Respondents were asked to provide a range of costs (rows are denoted in grey) and the department analyzed the low end of the range and the high end of the range to better understand the potential minimum cost and maximum cost to compliance.

Potential impact on Businesses: The proposed setbacks will impact some developments (individual lots and subdivisions). By requiring additional setbacks, this may restrict how these lots can be laid out (require house placement in different area or potentially the size/footprint of the house). Conceivably, this could prevent the development of a lot if the extent of threats to water sources, with their associated setbacks, resulted in no viable building site unless the applicant requested and received a

waiver. This impact is difficult to predict because it depends on the existence of the newly proposed components on the protected sources list.

WAC 246-272A-0270 Operation, monitoring, and maintenance—Owner responsibilities.
Description: This section describes what owners must do for operating, monitoring, maintaining, and inspection of their OSS to minimize the risk of failure and threat to public health.

Cost: If the property owner is in compliance with routine inspection requirements,[10] and the inspection was completed by a third-party inspector, there will likely be no additional costs.

Potential impact on Businesses: There is expected to be minimal impact to realtors. Real estate purchases in Washington are contracted through a Purchase and Sale Agreement (PSA) form. This form requires an inspection of the OSS. Buyers are currently allowed to waive this requirement. The realtor is responsible for ensuring that the PSA is completed and recording that either the OSS is inspected, or that the buyer has waived the OSS inspection. Under the proposed revisions, the buyer would no longer be permitted to waive the OSS inspection and the realtor would be responsible for recording that the inspection was complete. To reiterate the above, if the property owner is not in compliance with routine inspection requirements there will likely be no additional costs, if the property owner is not in compliance with routine inspection requirements the additional cost to realtors would be time for the owner to bring the OSS into compliance with routine inspection requirements.

WAC 246-272A-0320 Developments, subdivisions, and minimum land area requirements.
Description: This section establishes minimum land area requirements when proposing land developments or subdivisions. The proposed amendments have potential costs to businesses by: 1) Increasing minimum lot size, 2) Reducing the maximum unit volume of sewage per day per acre from 3.5 to 3.35 for non-residential uses on lots served by public water supplies, 3) Establishing minimum useable land area as a new requirement, and 4) Updating requirements for sub-sized lots. For a more detailed description of these changes see the Significant Analysis.

Cost:
Part 1 Increase minimum lot size: The department developed tables that show the modest impact of the proposed increase of minimum lot size to lots that can be subdivided (shown in the Significant Analysis). The proposed increase ranges from 500 square feet to 1,000 square feet, depending on soil type. As an example, for soil type 2, the change will require a landowner to have a minimum of .30 of an acre lot to create a lot compared to the .29 acre (1/100 of an acre impact) and for a 10-lot subdivision the minimum size of subdividable lot would have to be 11/100 of acre larger.

Potential impact on Businesses: In general, the department does not anticipate that the proposed rule will impact developers' sales/revenue. The department acknowledges that there could be potential scenarios where developers are affected by the rule but in general most subdivisions will not be affected. The potential impact of the rule could be seen if the development is over 20 acres AND the developer is developing the lots to be as small as possible.

Part 2 Reduce the maximum unit volume of sewage per day per acre: SBEIS Table 6 describes the change from 3.5 to 3.35 maximum volumes of sewage per day per acre for non-residential uses on lots served by public water supplies. To understand the costs, SBEIS Table 6 and SBEIS Table 7 outline the maximum unit volume of sewage per acre under the current and proposed rule.

SBEIS Table 6. Calculation of maximum unit volume of sewage per acre under current rule (from SA Table 20)

[10] WAC 246-272A-0270(1)(e)

Current Rule	
Known Variables	Minimum Lot Size = 12,500 sq ft. 1 acre = 43,560 sq ft Unit Volume of Sewage = 450 Gallons of Sewage per Day
Maximum unit volumes of sewage per acre for non-residential uses on lots served by public water supplies	1 acre / Minimum Lot Size = Unit Volumes of Sewage per Acre 43,560 sq ft / 12,500 sq ft = 3.48 ≈ 3.5 Unit Volumes of Sewage per Acre
Unit volumes of sewage converted into gallons per acre	Unit Volumes of Sewage per Acre x Gallons of Sewage per Unit Volume of Sewage 3.5 Unit Volumes of Sewage per Acre x 450 gallons per day = **1,575 Gallons of Sewage per Day per Acre**

SBEIS Table 7. Calculation of maximum unit volume of sewage per acre under proposed rule (from SA Table 21)

Proposed Rule	
Known Variables	Minimum Lot Size = 13,000 sq ft. 1 acre = 43,560 sq ft Unit Volume of Sewage = 450 Gallons of Sewage per Day
Maximum unit volumes of sewage per acre for non-residential uses on lots served by public water supplies	1 acre / Minimum Lot Size = Unit Volumes of Sewage per Acre 43,560 sq ft / 13,000 sq ft = 3.35 Unit Volumes of Sewage per Acre
Unit volumes of sewage converted into gallons per acre	Unit Volumes of Sewage per Acre x Gallons of Sewage per Unit Volume of Sewage 3.35 Unit Volumes of Sewage per Acre x 450 gallons per day = **1,508 Gallons of Sewage per Day per Acre**

The proposed amendment maximum quantity of sewage that can be generated by non-residential uses on lots served by public water supplies is therefore reduced from 1,575 gallons per day per acre to 1,508 gallons per day per acre. This is a reduction of 67 gallons per day per acre (a decrease of about 4%).

Potential impact on Businesses: The department is unable to estimate how this will affect businesses. The department acknowledges that businesses could be impacted by the rule by the reduction of 67 gallons of sewage per day per acre.

Part 3 Establish minimum useable land area as a new requirement: The cost to designers to incorporate the proposed minimum useable land requirement into an OSS design was collected during the cost survey, but as the costs will likely be passed onto the consumer and not be a cost to businesses, the department did not include the cost in this section.

Potential impact on Businesses: Lots created for commercial usage that will be served by an OSS will be required to have a minimum area of land that is usable for an OSS. Land subdivisions that will be served by OSS will need to be planned and configured so that each lot contains the required minimum usable land area.

Part 4 Update requirements for sub-sized lots: The amendments are based on the premise that lots sized in compliance with Table XI in the rule adequately protect groundwater and surface water resources from nitrogen impacts. Smaller lot sizes are allowed if nitrogen is treated at the same proportion that the lot is smaller than the Table XI requirement. This allows OSS to be installed on lots

that do not meet Table XI's requirements (sub-sized lots) while ensuring that groundwater and surface water is protected. Using this methodology, new planned developments can be designed with lots as small as half the size of Table XI's minimum lot sizes by installing nitrogen treatment technology that takes the place of the land area that is otherwise used to treat and dilute nitrogen. Developers may choose to pay more for OSS which treat nitrogen in exchange for using less land area and get more lots from a subdivision.

Potential impact on Businesses: Developers may choose to pay more for OSS that treat nitrogen in exchange for using less land area. The result is more lots from a subdivision and a higher cost OSS on each lot.

Summary of all Costs

Due to the large number of requirements of the proposed rule, coupled with the fact that many of the requirements do not universally apply to businesses, many costs are indeterminate, and it is not possible to compute the total incremental costs of the revised rules. The department anticipates that most new requirements will not cause businesses to lose sales or revenue, with potential exceptions as noted in this document.

SECTION 4

Analysis on if the proposed rule may impose more than minor costs for businesses in the industry. Includes a summary of how the costs were calculated.

Yes, the costs of the proposed rule are greater than the minor cost threshold (SBEIS Table 8).

Summary of how this determination was made

SBEIS Table 8 shows the reported estimated costs of selected sections of the rule (that will affect businesses) and that the proposed rule will likely impose more than minor costs for businesses in the industries.

SBEIS Table 8. Summary of costs to businesses

NAICS name/number	Minor Cost Threshold ($)	Requirement/section	Reported Estimated Cost ($)*
Engineers / 541330	$7,117	One-time cost to incorporate the items that you currently do not include from current Table IV into the design process (WAC 246-272A-0210)	$10,000 $12,100 $15,625 $16,900 $22,500
Manufacturers / 33318	$9,003	Cost to hire a service provider or a third-party sampler to collect 25 pairs of samples (WAC 246-272A-0120)	$20,000 $20,000 $50,000 $100,000

*Each cost listed represents an individual response from the survey. Results are not intended to be summed but intended to be the cost to each individual business to comply with the individual rule section.

SECTION 5

Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Yes, the department believes the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Explanation of the determination
The department makes this determination based on examining cost per employee criteria. Many of the cost are comparable for small and large businesses. Therefore, because smaller businesses have fewer employees, their cost per employee will be higher (disproportionate) than the cost per employee of larger businesses.

Thoughts on disproportionate impacts to small businesses:
Installers will need to incorporate new requirements into their installation practices. Initial implementation costs may be elevated as new requirements and practices are learned and refined. This may cause some uncertainties for installers as contracts are bid and accepted under the rule's new requirements. Over time, the new requirements are expected to become common practice with marginal impacts as compared to current practices and costs. The department assumes costs will be passed to customers with no long-term negative impacts to installers.

Engineers and Designers will need to incorporate new requirements into their design practices. Initial implementation costs may be elevated as new requirements and practices are learned and refined. This may cause some uncertainties for engineers and designers as contracts are bid and accepted under the rule's new requirements. Engineering firms and designers are generally adept at learning new requirements and applying their costing structure to ensure that costs are covered, and profits maintained and appropriate margins. Over time, the new requirements are expected to become common practice with marginal impacts as compared to current practices and costs. The department assumes costs will be passed to customers with no long-term negative impacts to engineers or designers.

Maintenance Service Providers are often some of the largest companies involved in the onsite sewage industry. Maintenance service providers will need to incorporate new requirements into their installation practices. Initial implementation costs may be elevated as new requirements and practices are learned and refined. In particular, new requirements for inspections may be challenging for maintenance service providers to incorporate into their practices and costing structures. This may cause some uncertainties for maintenance service providers as service is provided under the rule's new requirements. Over time, the new requirements are expected to become common practice with marginal impacts as compared to current practices and costs. The department assumes costs will be passed to customers with no long-term negative impacts to installers.

Manufacturers vary from very small and local to very large and international. Manufacturers of disinfecting proprietary treatment products will be required to conduct field verification of all of their registered products. This is a new requirement and practice and may elevate costs to manufacturers as they undertake field verification of their products. Over time, the new requirements are expected to become common practice with costs minimized and processes streamlined. The department assumes most costs will be passed to customers with no long-term negative impacts to manufacturers. Some manufacturers may elect to adjust their prices to offset the projected impacts while others are expected to wait to review impacts before adjusting prices.

Realtors will need to ensure that OSS property transfer inspections happen for all property sales, unless you already in compliance with routine inspection requirements in the rule. This is already part of their work. The Purchase and Sale Agreement that accompanies all property sales includes an OSS inspection

addendum. The new requirements will preclude buyers from waiving this inspection. There is expected to be little to no long-term negative impact to realtors.

Developers will need to plan subdivisions with slightly larger lot sizes if they are subdividing/building at the minimum lot sizing (i.e., the maximum density) allowed. The number of lots created from a subdivision would be impacted if the lots were the smallest size allowed and the subdivision was over 20 acres. The department does not have information on the frequency of this type of subdivision required to make a determination of the disproportionate impact to small businesses but anticipates that the impacts would be marginal when compared to proceeds from sale of lots.

SECTION 6

If the proposed rule has a disproportionate impact on small businesses, the following steps have been identified and taken to reduce the costs of the rule on small businesses. If costs cannot be reduced an explanation has been provided below about why the costs cannot be reduced.

1. **Reducing, modifying, or eliminating substantive regulatory requirements.**

The department convened the on-site rule revision committee (ORRC). Its members took great interest in minimizing impact of the draft rules by reducing, modifying, and eliminating the requirements when appropriate. The ORRC included eight representatives from industry, including manufacturers, installers, designers, engineers, maintenance service providers and realtors. The department also was aware and considered the impact of every provision when drafting the rules.

2. **Simplifying, reducing, or eliminating recordkeeping and reporting requirements.**

Similar to above, the ORRC was very aware and attempted to limit the impact to all parties when drafting the rules and attempted to simplify, reduce and eliminate recordkeeping and reporting requirements when possible.

3. **Reducing the frequency of inspections.**

The rule does not require inspections of any businesses. OSS are required to be inspected to protect public health. Most OSS are owned and operated by private residential owners. Some businesses are served by an OSS. The proposed rule requires all OSS are inspected at the time of property transfer. The proposal allows the local health officer to remove the property transfer inspection for any OSS that is in compliance with routine inspections requirements that are already required for all OSS. This will significantly reduce the frequency of inspections.

4. **Delaying compliance timetables.**

The department plans to recommend delaying the effective date of most provisions in the rule by one year to enable local health officers, industry practitioners, and interested parties to work on implementation. The department also plans to recommend delaying implementation of the property transfer inspection provision two additional years to allow more time to prepare for implementation. The board will take these recommendations under consideration at the time of the public hearing and rule adoption.

5. **Reducing or modifying fine schedules for noncompliance; or**

The proposed rules do not add any new fining authority or new fine schedules.

6. **Any other mitigation techniques including those suggested by small businesses or small business advocates.**

Several changes that will reduce burdens and save costs for small businesses are included in the proposed rule. Some of the proposed improvements include:

- Streamlining and digitizing the proprietary product renewal process;

- Adding testing and registration options for proprietary products;
- Adding a provision that manufacturers of proprietary products can use replacement components that their products have not been tested with in cases of supply chain or manufacturing disruption; and
- Adding an allowance for local health officers to develop a policy allowing remediation practices.

SECTION 7

Description of how small businesses were involved in the development of the proposed rule.

The ORRC included eight representatives from industry, including manufacturers, installers, designers, engineers, maintenance service providers and realtors. Each of these representatives represented the interests of small businesses. The ORRC gave input on all aspects of the draft rule that was released for informal comment. The department received and reviewed several comments from small businesses and small business advocates. The department made adjustments to the draft rule to reduce burdens and perceived burdens noted by commentors.

The department also developed a proposed revision to include the new proprietary product field verification requirement as proposed by the ORRC to the standards document that details the processes of registering proprietary products. The department invited all manufacturers that currently have registered proprietary treatment products in Washington, as well as representatives of the state and national manufacturers' associations, to participate in a workgroup to draft this document.

SECTION 8

The estimated number of jobs that will be created or lost in result of the compliance with the proposed rule.

The impact of the revised rules on jobs is indeterminate. However, as the rule increases the number of inspections, this could result in increased employment for inspectors, pumpers, and maintenance service providers.