

Frequently Asked Questions
REGULATORY AUTHORITY
LARGE ON-SITE SEWAGE SYSTEMS (LOSS)
Chapter 70.118B RCW
July 2012



What systems are regulated by the Department of Health (DOH) and under what authority?

Chapter 70.118B RCW was amended by the legislature in 2007, giving authority to the Department of Health (DOH) to regulate all large on-site sewage systems (LOSS) treating residential sewage with flows of 3,500 to 100,000 gallons per day (gpd). DOH has revised its LOSS rule, Chapter 246-272B WAC, to incorporate the legislative changes. There are about 300 systems permitted by DOH today. There may be up to 500 additional systems that were previously permitted by local health, Ecology, or were installed before permits were required, that fall under the new regulations.

What systems transferred from Department of Ecology?

Ecology regulated mechanical systems with daily flows of 3,500 -14,500 gpd and all systems over 14,500 gpd, as authorized by Chapter 90.48 RCW and Chapter 173-240 WAC. There are about 30 high volume on-site sewage systems treating residential sewage permitted by Ecology that are transferring to DOH. We think there may be more high volume systems that are not currently permitted.

Why does the law require annual operating permits? What will the fee be?

The law establishes clear authority for DOH to issue annual operating permits for all LOSS 3,500 gpd - 100,000 gpd. The operating permits are an important way to verify that LOSS owners are operating and maintaining their systems adequately, and making required improvements.

LOSS fees have not increased as a result of the new legislation. They, along with other DOH wastewater fees, are in Chapter 246-272 WAC. The current annual operating permit fee is a \$150 base fee plus \$0.01 for each gallon of approved design flow.

What additional authority does RCW 70.118B give DOH?

RCW 70.118B expanded DOH's LOSS program to include the high volume LOSS that were previously regulated by Ecology. The law directed DOH to develop rules protective of the environment as well as public health. It requires annual operating permits for high volume LOSS instead of Ecology's five year permits. Previously, only low volume LOSS constructed after July 1984 were required to have annual DOH operating permits. Now all LOSS must have annual DOH operating permits. Older systems that have no DOH permit may also need evaluation and perhaps upgrades in order to assure the protection of public health and the environment.

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Why is the penalty for non-compliance set at \$10,000 per day?

The \$10,000 penalty is consistent with the maximum penalty authorized by RCW 90.48.144 for systems larger than 14,500 gpd. DOH fines will usually be much smaller than \$10,000 per day and correspond with the public health or environmental risk. Fines are not often assessed, but they are an important enforcement option that may prevent the closure of a LOSS or eviction of LOSS customers from their homes.

How do the water quality standards under RCW 90.48.035 and the land use regulations under RCW 36.70A interact with the authorities under RCW 70.118B?

By law there must be consistency between the various laws that govern land use, water quality, and public health. RCW 70.118B directs us to establish rules for LOSS that use the water quality standards established by Ecology under RCW 90.48.035. Also, we are directed to assure that our rules are consistent with local development plans and regulations.

Why did we need to change the previous rule?

There were several barriers created by the previous rule:

- The division of regulatory authority caused confusion for homeowners, developers, the wastewater industry, and state and local governments. The Department of Ecology regulations for LOSS 14,500 – 100,000 gpd were more suited to very large wastewater operations. Some believed they were a barrier to developing community LOSS. RCW 70.118B streamlines and simplifies the regulatory structure and provides more regulatory certainty for all interests.
- DOH's authority was previously directed solely towards protecting public health. Our program will now address potential environmental concerns and public health concerns during the review and permitting processes.
- Few existing LOSS have had operating permits that ensure long term operation and maintenance. Systems that don't have ongoing operation and maintenance are more likely to fail in the future, creating both public health and water quality problems.

Where I can I find copies of the statutes and rules you refer to?

- Chapter 70.118B RCW (<http://apps.leg.wa.gov/RCW/default.aspx?cite=70.118B>)
- Chapter 246-272B WAC (<http://apps.leg.wa.gov/WAC/default.aspx?cite=246-272B>)
- Chapter 246-272 WAC (<http://apps.leg.wa.gov/WAC/default.aspx?cite=246-272>)
- Chapter 90.48.035 RCW (<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48.035>)
- Chapter 36.70A RCW (<http://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A>)

For more information contact:

Department of Health - Office of Shellfish and Water Protection at 360-236-3330 or
E-mail: wastewatertmgmt@doh.wa.gov; or visit our website:
www.doh.wa.gov/CommunityandEnvironment/WastewaterManagement/LOSSProgram.aspx

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