



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: July 08, 2024

TIME: 1:32 PM

WSR 24-15-014

Agency: Washington State Department of Agriculture

Title of rule and other identifying information: (describe subject) WAC 16-390-240, USDA audit verification and terminal market inspection fees.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing to amend WAC 16-390-240, USDA audit verification and terminal market inspection fees, to adopt fees identical to, and not less than fees adopted by the United States Department of Agriculture, Agricultural Marketing Service (USDA-AMS) as published in the Federal Register (Vol. 89, No. 88) on May 06, 2024 under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table with an effective date of October 1, 2024. These changes are necessary to comply with the department's Cooperative Agreement with USDA-AMS for services the department provides as a "Federal-State Inspection Agency."

Reasons supporting proposal: The proposed fee amendments incorporate recent changes in the applicable USDA-AMS audit verification and terminal market inspection fees as required under the department's Cooperative Agreement with USDA-AMS.

Statutory authority for adoption: RCW 15.17.030, .140(2), .150, and .270

Statute being implemented: RCW 15.17.150 and .270

Is rule necessary because of a:

| | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION: 7 CFR Part 51

Name of proponent: (person or organization) Washington State Department of Agriculture

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|------------------|---|--------------|
| Drafting: | Timothy Estes | 1111 Washington ST. SE Olympia, WA 98504 | 360-485-1242 |
| Implementation: | Robert Newell | 21 North First Ave., Suite 226 Yakima, WA 98902 | 509-952-6737 |
| Enforcement: | Jessica Allenton | 1111 Washington St. SE Olympia, WA 98504 | 360-902-1828 |

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- ☐ Relates only to internal governmental operations that are not subject to violation by a person;
- ☒ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- ☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- ☐ Content is explicitly and specifically dictated by statute;
- ☐ Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- ☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- ☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- ☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- ☐ The rule is no longer necessary because of changed circumstances; or
- ☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The department performs audit verification and terminal market inspection services requested by customers as a "Federal-State Inspection Agency" under a Cooperative Agreement with USDA-AMS. Under the Cooperative Agreement, WSDA is required to charge no less than USDA-AMS when conducting audit inspection and terminal market inspection services. The proposed rule amendments adopt the updated USDA-AMS fees that go into effect Oct. 1, 2024

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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Agency: Department of Agriculture
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Other:

AND RECEIVED BY (date) September 23, 2024

Date: 07/08/2024

Name: Jessica Allenton

Title: Assistant Director

Signature:



AMENDATORY SECTION (Amending WSR 23-18-028, filed 8/28/23, effective 10/1/23)

WAC 16-390-240 USDA audit verification and terminal market inspection fees. WSDA performs audit and inspection services requested by customers under a "cooperative agreement" with the United States Department of Agriculture's Agricultural Marketing Service (USDA/AMS). Under USDA/AMS rules, WSDA provides these services as a "federal-state inspection agency." Under USDA/AMS regulations and the cooperative agreement, the fees that WSDA charges for these services must be no less than the current USDA/AMS fees for these services. The applicable current USDA/AMS fees were published in the Federal Register in Vol. ~~((88, No. 98 on May 22, 2023))~~ 89, No. 88 on May 6, 2024, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table and, for the mileage fee related to terminal market inspection, for incorporation in the USDA/AMS "General Market Manual" at Appendix II, "Schedule of User Fees." In conformity with the cooperative agreement, WSDA adopts the same applicable fees for these services as set forth in this section.

(1) Mileage related to audit verification services is charged at the rate established by the Washington state office of financial management at the time the service was performed.

(2) Specialty crop fees/audit and terminal market fees:

| | | | |
|---|--|---|---|
| Quality and Condition Inspections for Whole Lots | ((\$242.00)) <u>\$254.00</u> per lot | | |
| Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots | ((\$200.00)) <u>\$210.00</u> per lot | | |
| Condition Half Lot | ((\$185.00)) <u>\$194.00</u> per lot | | |
| Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product | ((\$110.00)) <u>\$116.00</u> per lot | | |
| Dockside Inspections - Each Package Weighing <30 lbs. | \$0.044 per pkg. | | |
| Dockside Inspections - Each Package Weighing >30 lbs. | \$0.068 per pkg. | | |
| Charge per Individual Product for Dockside Inspection | ((\$240.00)) <u>\$252.00</u> per lot | | |
| Charge per Each Additional Lot of the Same Product | ((\$110.00)) <u>\$116.00</u> per lot | | |
| Inspections for All Hourly Work | Regular | Overtime | Holiday |
| | ((\$116.00)) <u>\$123.00</u> | ((\$153.00)) <u>\$163.00</u> | ((\$190.00)) <u>\$203.00</u> |
| Audit Services - Federal | ((\$155.00)) <u>\$163.00</u> per audit | | |
| Audit Services - State | ((\$155.00)) <u>\$163.00</u> per audit | | |
| GFSI Certification Fee ² | \$250.00 per audit | | |

² Global Food Safety Initiative (GFSI) Certification Fee—\$250 per GFSI audit to recoup the costs associated with attaining technical equivalency to the GFSI benchmarking requirements.

(3) The mileage fee related to terminal market inspection services is \$1.96 per mile. Round trip mileage will be charged from an inspector's assigned location to the inspection site.