Concise Explanatory Statement
for amendments to
Chapter 16-303 WAC
Seed Assessment, Fees for Seed Services and Seed Certification

On Tuesday, December 21, 2021, the Washington State Department of Agriculture held a hearing remotely using the Microsoft Teams platform to accept testimony on its proposal to amend chapter 16-303 WAC by:

1. Increasing fees for certification and testing to ensure the financial stability of the seed inspection program.
2. Establishing new testing and certification fees for services not previously identified in the rule.
3. Restructuring the fee schedule to clarify and allow for easier interpretation of the fees.
4. Creating section 16-303-117, Seed Program Testing Categories, to standardize the seed testing categories and associated crop kinds referenced in sections 16-303-200 and -210. This change is also being made to clarify inconsistencies in these sections.
5. Creating section 16-303-350, Seed tagging fees, to capture all of the seed tagging fees in one place.
6. Updating the footnote characters in all tables of this chapter to provide clarity.
7. Repealing section 16-303-317 to clarify the rule language by ensuring that all quarantine inspections are handled in the same manner.

Reasons for Adopting the Rule

Currently, the program’s financial operating reserve is fully depleted and will continue to deplete into the negative. The proposed fee increase and restructure is needed to allow the program to rebuild and then maintain the recommended six month reserve, as well as maintain the current staffing level. Without rebuilding the financial reserve and covering current costs, the program will need to reduce staffing and services to industry. Without the proposed amendments the department will be forced to eliminate the laboratory and maintain only seed certification and the phytosanitary inspections and certificates. The necessary laboratory analysis for final seed certification for purity and viability would be outsourced to a different lab. This would not be in the best interest of industry because WSDA would be reliant on outside lab knowledge, skills, and abilities without regulatory oversight, as well as turnaround times. Additionally, the industry is subject to a free market and price increases at will by a private laboratory without industry review or input. Lastly, the current volume of seed samples the WSDA laboratory intakes annually would go elsewhere in the market and create an unknown backlog among other seed testing laboratories. In all cases, the loss of the department seed laboratory is a hindrance to the body of work industry desires.
The program identified a need to add necessary laboratory succession planning in order to cover an increase in workload. In 2017, the average days behind in laboratory rush samples of grain was 6 days. The performance expectation by industry and by the quarterly performance management system for rush samples is that rush samples are to be started in three or less days during the busy season. The sample volume from 2017 has been over 8,000 samples per year and over 22,000 individual seed tests. Previously, the requests had been under 11,000 individual seed tests per year. The industry requested lab tests have more than doubled in the last 5 years. Looking into the future, the program has four seasoned purity staff whom are eligible for retirement. To maintain the skill level of the laboratory, it is necessary to succession plan now. It is required by AOSA that an analyst has two years of prior experience to test for accreditation. In order for new purity staff to gain adequate experience, we have initiated an in-training program with performance benchmarks to build crop specific skills. The industry benefits from building the skillset of analysts over time to be proficient in all crops and maintain the program legacy knowledge.

From 2013 – 2018, the amount of certified acreage applied for inspection increased by 35,828 and is close to a 40% increase. The field locations have dispersed to further remote and rural locations than prior years causing more drive time. The additional drive times makes reaching each location multiple times during the active growing season difficult with the prior field staffing level. Starting in 2018, the program had to increase the number of staff because the average overtime hours over the entire season was reaching 250 – 300 hours per person. The risk of burnout and accident rate increases by having tired staff. Lack of staff causes an increase in the number of late inspections. It benefits industry to have adequate field staffing and field inspections completed in time to make harvest decision.

Based on analysis, the program is proposing to restructure the way revenue will be generated by eliminating the hundredweight production field fee. Currently, the fee structure is based upon the assumption that each field inspection will generate one laboratory sample to bill the production fee. This kept the per acre cost down and enabled the program to collect revenue at the end of the season when samples are billed by weight. However, the program has not seen a one to one relationship and thus is not collecting sufficient revenue consistent with the assumption. Therefore, for every field inspection conducted the program spends more on transportation and salaries than it generates in revenue. The proposal, including the elimination of the hundredweight production field fee, will benefit the industry by enabling the field work to be billed for and paid for closer in time to when it occurred in the earlier part of the year and by not having a large production fee due when the lab sample arrives for analysis.

The increase of laboratory fees is designed to support the body of work the lab staff conducts instead of relying on the field production fees to fill the void. The fee increase proposal is designed to cover all the laboratory overhead, staffing, and supplies related to the lab work performed. This will no longer make the laboratory expenditure dependent upon the revenue collected by the production fees designed to support field costs. The benefit to industry is having a fully self-sufficient laboratory that is not dependent upon field harvest yields and hundredweight production charges.

Establishing new service fees that are not included in the current fee schedule will allow customers to know what the testing cost will be prior to submitting the request. This change will also ensure that all customers are being charged the same fee for services.
Addressing the inconsistencies in WAC 16-303-200 and -210 will provide clarity for program customers regarding purity, germination and tetrazolium (TZ) testing fees associated with their specific crop type.

**Summary of Comments and the Department’s Response**

The public comment period ran from October 20, 2021, until the close of business on December 21, 2021. During that time, one written comment was received regarding the proposed amendments. Zero oral comments were received.

*The following summarizes the testimony:*

Aaron Jeschke – representing the Washington State Crop Improvement Association (WSCIA) submitted written comments regarding the proposal. WSCIA stated, “This letter, formally approved by the Washington State Crop Improvement Association Board of Directors, is to indicate the support for Washington State Department of Agriculture Laboratory fee changes. The WSDA lab provides a critical role in seed testing and reducing services would hinder our ability to have timely seed sales. WSCIA as well as the industry should support a well functioning state lab that provides the necessary services to our business. There will be a negative impact to WSCIA as the average sample testing fees will more than double. This may be cause for WSCIA to reevaluate our own fee structure to compensate for this increase cost. However, the industry and especially WSCIA should support this fee change to keep the lab running at optimum capacity for all stakeholders in the seed industry. The WSDA lab provides a critical role in seed testing and reducing services would hinder WSCIA Foundation Seed Service’s ability to have timely seed sales. If lab capacity or services are reduced, there would be risk for loss revenue due in missed seed sales when samples are not processed timely at the lab. Thus, WSCIA FSS would be missing the critical analytical data required for seed sales. Despite the negative impact the fee increase will have on WSCIA, the Board of Directors supports WSDA in this decision in the hope that it will be more adept and provided necessary testing services to the seed industry."

*Response: Thank you for your support.*

**Differences Between the Proposed and Adopted Rule**

None