



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 23, 2020

TIME: 6:34 AM

WSR 20-16-010

Agency: Dept. of Agriculture

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: This rule making order amends chapter 16-390 WAC, Fruit and Vegetable Inspection Fees and Other Charges by: (1) increasing the apple maggot survey fee to \$0.020 per CWT (hundredweight); (2) establishing a mechanism to trigger a secondary future fee increase to \$0.025 per CWT; and adding a definition for 'Minimum Operating Fund Balance (MOFB).'

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 16-390-005 and 16-390-230.
 Suspended: None

Statutory authority for adoption: RCW 17.24.101 and RCW 17.24.131

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-11-069 on May 20, 2020 (date).

Describe any changes other than editing from proposed to adopted version: No changes.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>2</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 7/22/2020

Name: Derek I. Sandison

Title: Director

Signature:



WAC 16-390-005 Definitions. "**Certificate**" means an official document issued by the director which reports certification results.

"**Certificate of compliance**" means a shipping document issued by the fruit and vegetable industry attesting that the identified fruits or vegetables are known to be in full compliance with provisions of chapter 15.17 RCW. The member of the fruit and vegetable industry issuing the certificate of compliance has the sole responsibility of fairly and accurately representing the quality and quantity of fruits and vegetables listed on the certificate of compliance.

"**Certification**" means the complete service performed by the director, from inspection through the issuance of any applicable documentation of the results of the inspection.

"**Customer assisted inspection program (CAIP)**" means a quality or condition inspection performed by industry using the United States Department of Agriculture (USDA) standards with verification and oversight by the director.

"**CWT**" means a hundredweight, a unit of measure equaling one hundred pounds.

"**Director**" means the director of the department of agriculture or the director's designated representative. As used in this chapter, WSDA refers to the director unless the context states otherwise.

"**Grade and condition certificate**" means an official note sheet issued by the director confirming the results of an inspection.

"**Hourly fee**" means the fee charged for services based on the hours documented by each WSDA inspector providing the service. Hourly fees are charged based on increments of fifteen minutes, with time rounded up or down to the next fifteen minute interval as follows: Eight minutes into a quarter hour is rounded up to the full quarter hour. Less than eight minutes into a quarter hour is rounded down and not billed.

"**Inspection**" means the inspection by the director of any fruits or vegetables for the purpose of certification at any time prior to, during, or subsequent to harvest.

"**Inspection service notification**" means customer notification to the director of any request for inspection services.

"**Lot**" means, unless otherwise stated in this chapter, a distinct unit of fruits or vegetables.

"**Minimum operating fund balance**" or "**MOFB**" means six months of projected apple maggot survey program operating expenses. The factors that the department considers when setting the MOFB under WAC 16-390-230 include the projected program staff salary and benefits; costs of the program's goods and services, including transportation; costs associated with the department's administrative support of the program; and any additional costs associated with the program. In addition to expected future costs, the department may consider previously incurred operating expenses to estimate projected operating expenses.

"**Regular business hours**" means the hours between 8:00 a.m. and 5:00 p.m. Pacific time Monday through Friday except state holidays.

"**Shipping permit**" means a shipping document issued by the director attesting that the fruits or vegetables are known to be in compliance with the provisions of chapter 15.17 RCW and this chapter.

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

WAC 16-390-230 Apple maggot survey fees. The fee for the apple maggot survey program on all apples grown or packed in Washington state and introduced into commerce for sale or shipment as fresh apples is (~~(\$.015 per CWT)~~) \$.020 per CWT, unless and until the program fund balance falls below the minimum operating fund balance. This fee is assessed by the director on all certificates of compliance and all shipping permits.

(1) The department shall establish the minimum operating fund balance amount on the first business day of February each year unless the fee has been previously set at \$.025 per CWT.

(2) At the time the minimum operating fund balance amount is established, if the program fund balance is below the new minimum operating fund balance, the fee rate shall be set at \$.025 per CWT beginning July 1st of that year.

(3) The department shall post notice of the minimum operating fund balance on the department's website by February 10th of each year unless the fee has been previously set at \$.025 per CWT.

(4) The department shall post notice of the apple maggot survey fee by February 10th of each year.