



CODE REVISER'S OFFICE
STATE OF WASHINGTON
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MEMORANDUM

Date: July 24, 2003

To: Dennis W. Cooper, Code Reviser
Marty Brown, OFM Director
Joint Administrative Rules Review Committee

- Agency Rule Coordinators:
- Department of Corrections
 - Department of Ecology
 - Department of Fish and Wildlife
 - Department of Health
 - Department of Labor and Industries
 - Department of Natural Resources
 - Washington State Parks and Recreation Commission
 - Department of Social and Health Services
 - Department of Transportation

From: George Huffman, Rules Coordinator 
Washington State Department of Agriculture
P. O. Box 42560
Olympia, WA 98504-2560
Phone: 902-1802

Re: **Semi-Annual Rules Development Agenda**
(July 1, 2003 to December 31, 2003)

Attached is the Department of Agriculture's semi-annual rules development agenda for the period July 1, 2003 through December 31, 2003, which is being sent to you in compliance with RCW 34.05.314.

If you have any questions, please call me at (360) 902-1802 or e-mail me at ghuffman@agr.wa.gov

Attachment

**Washington State Department of Agriculture
Semi-Annual Rules Agenda, July 1, 2003 – December 31, 2003**
P.O. Box 42560, Olympia, WA 98504-2560

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rulemaking
Pesticide Management Division WAC 16-200-750 through 887	Rules Relating to Commercial Feeds	Ali Kashani Assistant Program Manager Phone: 360-902-2028	11-6-02	9-17-03	11-19-03	<p>(1) As part of the department's Executive Order 97-02 rule review process, the department is proposing to repeal WAC 16-200-750 through WAC 16-200-950 and replace them with three new WAC chapters, each addressing the needs of a specific segment of the commercial feed industry. The department will propose:</p> <ul style="list-style-type: none"> • Chapter 16-250 WAC Commercial Feed Rules • Chapter 16-252 WAC Commercial Feed Rules: Pet Food and Specialty Pet Food • Chapter 16-256 WAC Commercial Feed Rules: Processed Animal Waste <p>(2) The new chapters will:</p> <ul style="list-style-type: none"> • Be written in a clear and readable style. • Increase the safety of animal feed by adapting applicable sections of Part 589.2000 of Title 21 of the Code of Federal Register (Animal proteins prohibited in ruminant feed) to WSDA feed rules. • Increase consistency between WSDA feed rules and the feed rules of many other states as well as the Association of American Feed Control (AAFCO) model regulations by incorporating applicable parts of the AAFCO commercial feed rules into WSDA feed rules. In addition to improving consistency between states the new WSDA rules will improve free trade between states. (3) In order to mitigate any potential adverse economic impact of these new commercial feed chapters upon the commercial feed industry, the department will delay the effective date of its proposed amendments until July 1, 2004.

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Pesticide Management Division							
Chapter 16-228 WAC	General Pesticide Rules	Ann Wick Program Manager Phone: 360-902-2051	11-6-02	8-20-03		10-22-03	As part of its regular four-year Executive Order 97-02 rule review, WSDA is proposing modifications to chapter 16-228 WAC, including incorporating WAC 16-219-010 into the chapter. WAC 16-219-016 and WAC 16-230-250 through WAC 16-230-290 will be repealed.
WAC 16-219-010	Ziram—Bosc pears.						
WAC 16-219-016	Restricted use pesticides— Mevinphos (Phosdrin)						
WAC 16-230-250 through WAC 16-230-290	Microencapsulated methyl parathion						
WAC 16-228-1460	Experimental use permits.	Ted Maxwell Program Manager Phone: 360-902-2026	9-4-02	8-20-03		10-22-03	WAC 16-228-1460 will be amended to: (1) Clarify the requirements and restrictions that apply to individual experimental use permits. (2) Expand the definition of "collective experimental use permits" to include "organizations, pesticide registrants, or persons licensed by the department to conduct demonstration and research activities" on land they own or control. (3) Define the term "control." (4) Require that any unused experimental use pesticide that does not have a registered use in Washington state must be returned to the manufacturer or disposed of properly.

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Pesticide Management Division WAC 16-200-715	Fertilizer labels.	Ted Maxwell Program Manager Phone: 360-902-2026	6-18-03	9-17-03	CR-102	CR-103	(1) The department will propose amendments to WAC 16-200-715 (Fertilizer label information) to implement chapter 15, Laws of 2003 (HB 1117), which unanimously passed the 2003 Legislature and was signed by Governor Locke April 16, 2003. HB 1117 amends RCW 15.54.340(f) and is effective on January 1, 2004. (2) HB 1117 amends RCW 15.54.340(f) by requiring the department to adopt, in rule, a statement on a fertilizer label referring people to the department's Uniform Resource Location (URL or web address) where data regarding the metals content of the product is located. The department intends to propose for adoption the three options that are currently in RCW 15.54.340(f) with the only change being the citation of the new URL. In addition, the department is considering adopting a fourth option that would cite the Association of American Plant Food Control Officials' (AAPFCO) website, which in turn would direct persons to the department's website. Language allowing this fourth option has been tentatively adopted by the AAPFCO and will be voted on in early August for permanent adoption. (3) In order to mitigate any potential adverse economic impact of these new label requirements upon the regulated industry, the department's proposed amendments will allow industry to continue to use the URL currently in RCW 15.54.340(f) until July 1, 2006.
WAC 16-201-010(20)	Definitions- "Temporary field storage"	Ted Maxwell Program Manager Phone: 360-902-2026	7-23-03	TBD	TBD	TBD	The department is considering amending chapter 16-201 WAC (Fertilizer Bulk Storage and Operational Containment Rules) to permanently allow temporary field storage to be kept in place for 21 days. Current rule allows for 21 days but beginning March 1, 2004, this time period is reduced to 14 days. The department will solicit industry comment regarding repealing the 14 day time period and making 21 days permanent.
WAC 16-201-180	Primary containment of liquid bulk fertilizers-Temporary field storage						

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CR-101 CR-102 CR-103

WAC Number	Rule Title	Agency Contact	Tentative Timeline	Subject of Rulemaking
Plant Protection Division				
NEW	Labeling rules for nursery stock	Tom Wessels Plant Services Program Manager Phone: 360-902-1984	9-03	Proposed rules would implement statutory requirement that nursery stock offered for sale in Washington State be labeled with the botanical name of the stock.
Yellow nutsedge				
WAC 16-752-300	Establishing quarantines.	Mary Toohey Assistant Director Plant Protection Division Phone: 360-902-1907	Expedited Adoption	The department proposes lifting the yellow nutsedge quarantine at the Port of Kalama by amending the following sections of rule as requested by the Cowlitz County Noxious Weed Control Board: <u>WAC 16-752-300</u>
WAC 16-752-305	Quarantine area.		7-23-03	Establishing quarantine, 16-752-305 Quarantine area, 16-752-315 Regulations, and 16-752-320 Costs of quarantine.
WAC 16-752-315	Regulations.			In 1989, the department originally adopted the quarantine of the Port of Kalama in Cowlitz County for yellow nutsedge. The quarantine was initiated to prevent the movement of soil containing yellow nutsedge nutlets off-site. The quarantine was necessary because of the invasive nature of the weed - yellow nutsedge propagates by seed, rhizomes, bulbs, and nutlets. Soil containing nutlets is the primary mode of spread in cultivated land.
WAC 16-752-320	Costs of quarantine.			Since that time an effective method of containment of the contaminated soil has been found that will prevent the yellow nutsedge from spreading, thus making the quarantine at the Port of Kalama unnecessary.
Chapter 16-657 WAC	Retail Pricing of Motor and Heating Fuel	Jerry Buendel Weights and Measures Program Manager Phone: 360-902-1856	8-20-03	Executive Order 97-02 review of chapter 16-657 WAC with the intent to combine this chapter with chapter 16-659 WAC. Rewrite the chapter for clarity and possibly propose amendments based upon industry recommendations.
Chapter 16-659 WAC	Weights and Measures-Liquefied Petroleum Gas	Jerry Buendel, Weights and Measures Program Manager Phone: 360-902-1856	8-20-03	Executive Order 97-02 review of chapter 16-659 WAC with the intent to combine this chapter with chapter 16-657 WAC. Rewrite the chapter for clarity and possibly propose amendments based upon industry recommendations.

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Plant Protection Division WAC 16-401-050 WAC 16-350-045	Annual assessment-Fruit tree material Application and fees	Tom Wessels Plant Services Program Manager Phone: 360-902-1984	7-2-03	9-3-03	10-03	During the 2003 legislative session, the Washington State Legislature passed legislation (Chapter 25, Laws of 2003 (ESSB 5404), which was signed by Governor Locke on June 26, 2003, authorizing the department to sufficiently increase department fees to ensure that department programs will be able cover the full cost of providing program services. As a result, the department, with the support of Washington state fruit tree nursery industry, plans to amend WAC 16-401-050 to increase the annual assessment on fruit tree material. The department also plans to amend WAC 16-401-050 to require that licensed nurseries maintain accurate records of fruit tree sales. The department will also propose amending WAC 16-350-045 (Application and fees) to delete the fruit tree material assessment amount, since it is already specified in WAC 16-401-050, and to correct an RCW reference in WAC 16-350-045.
Food Safety, Animal Health and Consumer Services Division Chapter 16-100 WAC	Refrigerated Locker Establishments-Recording Thermometers Honey	Claudia Coles Food Safety Program Manager Phone: 360-902-1905 Claudia Coles Food Safety Program Manager Phone: 360-902-1905	6-18-03 (CR-105)	Expedited Repeal	8-20-03	As part of its ongoing Executive Order 97-02 rule review process, the department is proposing to repeal a rule chapter that is no longer needed. Content is covered by 21 CFR, Part 110, chapters 19.32, 69.04, 69.07, and 69.10 RCW, and chapters 16-139, 16-142, 16-165, and 16-167 WAC. As part of its ongoing Executive Order 97-02 rule review process, the department is proposing to repeal a rule chapter that is no longer needed. 32 FR 7565 and 50 FR 15861 cover chapter content.

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Subject of Rulemaking

**Tentative
Timeline**

Agency Contact

Rule Title

WAC Number

CR-102 CR-103

CR-101

WAC Number	Rule Title	Agency Contact	Tentative Timeline	Subject of Rulemaking
Food Safety, Animal Health and Consumer Services Division				
Chapter 16-101 WAC	Milk and Milk Products	Jim Pressley Food Safety Assistant Program Manager Phone: 360-902-1860	10-22-03	As part of its ongoing Executive Order 97-02 rule review process, the department is proposing to combine it's diary rules into one, clearly written and easy to use chapter.
Chapter 16-101X WAC	Degrades, License Suspensions and Revocations for Dairy Producers and Processors			
Chapter 16-102 WAC	Butterfat Testing of Milk			
Chapter 16-103 WAC	Milk Processing Assessments and Collections			
Chapter 16-124 WAC	Licensed Testers, Weighers, Samplers and Graders			
Chapter 16-125 WAC	Farm Milk Storage Tanks and Bulk Milk Tanker-			
Chapter 16-129 WAC	Requirements Labeling and Advertising of Products Resembling Genuine Dairy Products			
Chapter 16-144 WAC	Processing Frozen Desserts			

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CR-101 CR-102 CR-103

Food Safety, Animal Health and Consumer Services Division Chapter 16-607 WAC	Inspection and Identification of Livestock	Leslie Alexander Livestock Identification Assistant Program Manager Phone: (360) 902-1855 or (509) 545-8816	6-18-03	10-1-03	The department is planning to initiate rule making to implement chapter 326, Laws of 2003 (SSB 5891) requirements that were unanimously passed by the 2003 Legislature and signed by Governor Locke on May 16, 2003. In addition, the department, in response to Executive Order 97-02, will rewrite chapter 16-607 WAC by replacing it with chapter 16-610 WAC, which will incorporate rule amendments required by SSB 5891 and be written in a clear and readable format based upon clear rule writing principles. Extended previously adopted emergency rule to prevent the introduction or spread of Exotic Newcastle Disease (END) into Washington State. The virus that causes END is highly contagious and is readily spread by contact with infected birds or materials contaminated by the virus. Permanent rule making to replace the emergency END quarantine rules.
WAC 16-54-155	Exotic Newcastle Disease (END) emergency quarantine	Dr. Kathleen M. Connell, DVM Acting State Veterinarian Phone: (360) 902-1878	N/A	Emergency Rule	5-28-03
WAC 16-54-155	Exotic Newcastle Disease (END) emergency quarantine	Dr. Kathleen M. Connell, DVM Acting State Veterinarian Phone: (360) 902-1878	5-28-03	7-23-03	9-3-03

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CR-101 CR-102 CR-103

Food Safety, Animal Health and Consumer Services Division	Implementing Chapter 397, Laws of 2003 (ESHB 1754)	Special temporary permit-Poultry slaughter	Jim Pressley Food Safety Assistant Program Manager Phone: 360-902-1860	6-4-03	10-1-03	11-19-03	The department, working with industry stakeholders and other interested parties, will develop rules to implement Chapter 397, Laws of 2003 (ESHB 1754), which relates to the slaughter of chickens (<i>Gallus domesticus</i>). ESHB 1754 requires that the department issue a special temporary permit regulating "the slaughter and preparation of one thousand or fewer pastured chickens in a calendar year by the agricultural producer of the chickens for the sale of whole raw chickens by the producer directly to the ultimate consumer at the producer's farm, and for such sale." ESHB 1754, which was passed unanimously by the 2003 Legislature and signed by the Governor on May 20, 2003, specifically directs the department to develop rules generally patterned after those established by WAC 246-215-190 (Temporary food service establishments), but must be tailored specifically to the slaughter, preparatio and sale activities identified in the bill. The department's rule requirements must include, but are not limited to: <ul style="list-style-type: none"> • Cooling procedures, when applicable; • Sanitary facilities, equipment and utensils; • Clean water; • Washing and other hygienic practices; and • Waste water disposal. The department's special temporary rules must also identify the length of time the permit is valid.
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Commodity Inspection Division Chapter 16-403 WAC	Standards for Apples Marketed Within Washington	Jim Quigley, Program Manager Fruit & Vegetable Inspection Program Commodity Inspection Division Phone: 360-902-1883	7-23-02	9-17-03	11-03	Amendments may be necessary to accommodate changes in U.S. standards for apples. WSDA, with industry involvement, is reviewing chapter 16-403 WAC to make sure that department apple standards are at least as effective as new U.S. Standards for Apples.
Chapter 16-400 WAC	Fruit and Vegetable Inspection Fees	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone: (360) 902-1883	5-7-03	9-17-03	11-03	<p>The department will propose rules that:</p> <p>(1) Increase fruit and vegetable inspection program hourly inspection rates (regular and overtime). These hourly rate increases are necessary to recover the department's actual costs of providing inspection services. RCW 15.17.150 mandates that the department establish fees to recover the costs of providing inspection and/or certification or other requested services. To comply with this mandate, the department will propose a fee schedule that provides for the recovery of hourly inspection costs, both regular and overtime. Currently, hourly inspection rates are below the cost of providing inspection services.</p> <p>(2) Adopt federal terminal hourly rates established by USDA/AMS/FPB. Since there is no department rule for fresh produce audit verification of fruits and vegetables, the department will propose adopting the federal terminal market hourly inspection rate for such services. Adopting the federal terminal market hourly inspection rate would make the state and federal fees equal for this federal/state program.</p>

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			CR-101	CR-102	CR-103	
Commodity Inspection Division						
Chapter 16-400 WAC	Fruit and Vegetable Inspection Fees. (continued)	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone: (360) 902-1883	5-7-03	9-17-03	11-03	(3) Establish fees for fresh produce audit verification program for good agricultural practices (GAP) and good handling practices (GHP). The department will propose adopting federal market inspection fees for GAP and GHP audit certifications performed by federal/state-licensed auditors for the USDA fresh produce audit verification program. Combine the three chapters into one chapter containing the controlled atmosphere requirements for fruits and vegetables.
Chapter 16-449 WAC	Washington Controlled Atmosphere Storage Requirements for Winter Pears	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone: (360) 902-1883	7-2-03	9-17-03	11-03	
Chapter 16-459 WAC	Controlled Atmosphere Storage					
Chapter 16-690 WAC	Fruit Storage					
Chapter 16-461 WAC	Inspection Requirements for Fruits and Vegetables	Jim Quigley Fruit and Vegetable Inspection Program Manager Phone: (360) 902-1883	8-20-03	10-22-03	12-03	The department will consider amending chapter 16-461 WAC because current rule language does not address movement of controlled commodities to out of state facilities for packing and shipping for fresh market sales. Current language only addresses requirements for intrastate movement. Rule language will be revised to specifically define the requirements for interstate movement of controlled commodities. Such amendments are necessary because of recent problems a Washington state asparagus handler encountered when requesting to ship asparagus to a California packer/shipper for packing and shipping for fresh market. Also, the department will repeal WAC 16-461-015 because it is no longer needed.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rulemaking
Commodity Inspection Division	<p>General seed standards – Definitions. What publications are adopted in chapters 16-301, 16-302 and 16-303 WAC and where can they be obtained? Tolerances for seed law enforcement. Completion of seed certification – When may seed be labeled with a seed certification tag, label or seal? Eligibility for interagency certification. Interagency seed certification procedure. Land requirements for bean seed certification. Grass seed standards for certification. Standards for sod quality seed.</p>	<p>Bob Gore Assistant Director, Commodity Inspection Division Phone: (360) 902-1827</p>	6-4-03	7-23-03	9-03	<p>Proposed amendments will:</p> <ul style="list-style-type: none"> Amend the "official seed laboratory" definition in WAC 16-301-005 to include accredited seed laboratories Amend WAC 16-301-010 and WAC 16-301-055 to update Association of Official Seed Certifying Agencies (AOSCA) and Association of Official Seed Analysts (AOSA) adoption dates Amend WAC 16-302-110(1) to read that certification tags "must be" attached to a container of certified seed before it is distributed Amend WAC 16-302-110(2) by replacing the words "under the supervision of the certifying agency" with "in accordance with the certifying agencies rules" Amend WAC 16-302-150(3) and WAC 16-302-155(2)(b) to delete the references to "Part C" because there isn't a Part "C" on the Interagen Certified Seed Report form Amend WAC 16-302-255(1) by replacing "preceding three years" with "preceding one year" Amend WAC 16-302-385 by adding minimum purity requirements for "lurf type" fescue and "range/reclamation type" fescue to the fescue section of the table; Amend WAC 16-302-410(3) to delete "a ten gram Poa annua check"; and Any other clarifying amendments to these sections that might be necessary.

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Commodity Inspection Division							
WAC 16-303-200	Seed program testing fees.	Bob Gore Assistant Director, Commodity Inspection Division Phone: (360) 902-1827	6-4-03	7-23-03	9-03		Proposed rule amendments will restructure the Seed Program's fee schedule and increase fees charged for services to a sufficient level to recover current operating costs, finance two additional seed analysts and enhance the program's ability to address future testing requirements of new technology and crops being raised in Washington State. Chapter 308, Laws of 2003 (House Bill 1126), which was signed by the Governor on May 14, 2003 authorizes the department to increase seed certification fees, laboratory analysis fees and misc. fees for alfalfa, grasses, vegetables and other minor seed crops sufficiently to cover the cost of operating the seed program and provide expanded services to effectively meet the needs of the industry. In addition, some sections in chapter 16-303 WAC will either be repealed or combined.
WAC 16-303-210	Fees for special seed tests.						
WAC 16-303-220	Inventory testing for seed germination.						
WAC 16-303-230	Official seed sampling or similar service.						
WAC 16-303-240	Fees for blending seed.						
WAC 16-303-250	Miscellaneous charges for seed services						
WAC 16-303-300	Phytosanitary certification of seed-						
WAC 16-303-310	Fees Organization for economic cooperation and development scheme for varietal certification (OECD) fees						
WAC 16-303-315	Service fee for sod quality seed tags and tagging						
WAC 16-303-317	Annual and rough bluegrass quarantine fees						
WAC 16-303-320	Certification fees for seed certified by the department except grasses						
WAC 16-303-330	Certification fees for grass seed						

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CR-101 CR-102 CR-103

Commodity Inspection Division	Rule Title	Agency Contact	Tentative Timeline	Subject of Rulemaking
WAC 16-237-170	Emergency storage situation.	Don Michelbook Grain Warehouse Audit Program Manager Phone: (509) 533-2488	7-23-03	<p>8-28-03</p> <p>The purpose of this rule making is to implement Chapter 13, Laws of 2003 (HB 1101), which amended RCW 22.09.660, and was unanimously passed by the 2003 Legislature and signed by Governor Locke on April 14, 2003. The department will implement HB 1101 by amending WAC 16-237-170 to:</p> <ul style="list-style-type: none"> Extend the time period from 30 to 120 days that grain covered by negotiable receipts can be forwarded during emergency storage situations without canceling or reissuing the negotiable receipt. The 120-day time period aligns the department's rule with USDA requirements under the Uniform Grain and Rice Storage Agreement. Allow for possible extensions of the 120-day time period. Again, this aligns the department rule with USDA requirements. Require written permission from the depositor and/or the holder of the warehouse receipt before the grain is shipped. <p>The department will also rewrite WAC 16-237-170 according to clear rule writing principles that comply with the "clarity" criteria in Executive Order 97-02.</p>


George Huffman, Rules Coordinator