



RULE-MAKING ORDER

R-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Agriculture

- Permanent Rule
 Emergency Rule

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)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

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 increases the certification fees for forest reproductive material certified by the Washington State Crop Improvement Association by the OFM fiscal growth factor of 3.03% for the fiscal year 2005 assuring fees for seed certification services are adequate to cover increases in operating costs.

Citation of existing rules affected by this order:

Repealed: 16-319-001, 16-319-002, 16-319-003, 16-319-004, 16-319-006, 16-319-007
 Amended: 16-319-041
 Suspended:

Statutory authority for adoption: RCW 15.49.310, 15.49.370(3)

Other authority : RCW 34.05

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-01-232 on 12-22-04 (date).
 Describe any changes other than editing from proposed to adopted version:

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

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: 2-14-05

NAME (TYPE OR PRINT)

Valoria Loveland

SIGNATURE

Valoria H. Loveland

TITLE

Director

CODE REVISER USE ONLY

DATE TIME & PLACE
STATE OF WASHINGTON

FEB 14 2005

324

TIME _____
 WSR 05-05-051 (VA)

**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	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

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

	New	0	Amended	1	Repealed	0
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The number of sections adopted in the agency's own initiative:

	New	0	Amended	0	Repealed	6
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	0	Amended	0	Repealed	0
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The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	0	Amended	1	Repealed	6

AMENDATORY SECTION (Amending WSR 04-06-028, filed 2/24/04 effective 3/26/04)

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection	Audit	Fee Due
Tested and Selected	\$ ((26.41)) <u>27.00/hr.</u>	\$ ((26.41)) <u>27.00/hr.</u>	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$ ((0.86)) <u>0.88/bu.</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Lots 6-10 bu.	\$ ((21.25)) <u>21.89/lot</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Lots 0-5 bu.	\$ ((12.85)) <u>13.00/lot</u>	\$ ((26.41)) <u>27.00/hr.</u>	
Audit	None	\$ ((26.41)) <u>27.00/hr.</u>	When billed

(b) Tree certification - \$ ~~((26.41))~~ 27.00/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits ~~((totalling))~~ totaling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at

\$ ((~~26.41~~)) 27.00, nr. payable when billed.

(d) OECD certification (certificates of provenance) - \$ 0.60 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-319-001	Promulgation.
WAC 16-319-002	Promulgation.
WAC 16-319-003	Promulgation.
WAC 16-319-004	Promulgation.
WAC 16-319-006	Promulgation.
WAC 16-319-007	Promulgation.