



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: WA State 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 establishes Department procedures for conducting Commodity Commission elections for advisory votes, marketing order referenda, and board member selection, specifically addressing how the Department will handle unsigned ballot-mailing envelopes submitted by voters.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended:  
 Suspended:

**Statutory authority for adoption:** RCW 15.65.047 and RCW 15.66.055

**Other authority:**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 05-05-098 on February 16, 2005 (date).  
 Describe any changes other than editing from proposed to adopted version: None

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:** April 1, 2005

**NAME (TYPE OR PRINT)**

Valoria H. Loveland

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
 STATE OF WASHINGTON  
 FILE

APR 1 2005

TIME 1:18 PM  
 WSR 05-08-078

(COMPLETE REVERSE SIDE)

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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 in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____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

New	<u>1</u>	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>1</u>	Amended	_____	Repealed	_____

NEW SECTION

**16-501-525 Unsigned ballot envelopes: advisory votes, referenda, and board member elections.** The director of the department of agriculture is responsible for administering elections for advisory votes, marketing order referenda and board member selection as required in chapters 15.65 and 15.66 RCW.

(1) The Department will mail ballots to those eligible to vote in each election according to the terms of the applicable statute and marketing order. Each voter will be provided an official ballot, instructions for voting, a security envelope and a return ballot-mailing envelope with a "Certificate of Eligibility" (certification) printed on the reverse side of the envelope.

(2) After casting its vote in the election, an eligible voter must place the ballot in the security envelope. The security envelope is then to be placed in the ballot-mailing return envelope with the certification on the reverse side. To validate its ballot, the voter is required to complete, sign and date the certification.

(3) In the event a ballot is submitted to the Department and the certification is not signed and dated in accordance with the instructions contained on the outside of the ballot-mailing return envelope or the ballot is returned in a different envelope without a certification, the Department shall process the ballot and the ballot-mailing return envelope as follows, if the Department is able to ascertain the identity of the eligible voter from the envelope:

(a) The Department will not open the ballot-mailing return envelope, but will make a copy of the reverse side of the ballot-mailing return envelope with the printed certification. The original ballot-mailing return envelope will be held by the Department.

(b) The Department will provide the eligible voter with a copy of the ballot-mailing return envelope with the certification and require the voter to sign the copy of the certification and mail it back to the Department so that it is received not later than the date specified in the correspondence accompanying the certification.

(c) The Department shall advise the voter about the correct procedures for completing the unsigned certification and that, in order for the ballot to be counted, the

voter must sign and date the copy of the certification, and mail it back to the Department so that it does not arrive later than the specified date.

(d) The signed certification must be received by the Department within fourteen (14) calendar days from the date the copy of the certification was mailed to the voter as evidenced by the United States mail date stamp, for the voter's ballot to be validated.

(e) If the Department does not receive the signed certification with the requested information within the specified timeframe, the original ballot-mailing envelope will not be opened nor will the ballot it contains be counted. The unopened ballot-mailing envelope will be set aside and retained in accordance with the appropriate records retention schedule.

(4) A record shall be kept of the date on which the Department mailed the copy of the certification to the eligible voter, the date on which the voter signed the certification and the date that the Department received the certification. That record will be retained in accordance with applicable records retention schedules for ballots.

(5) Only validated ballots will be included in a ballot count.

(6) This rule applies to elections and run-offs required by statute that are conducted after the effective date of this rule. However, subsections (3) and (4) do not apply in an election once any election ballots have been counted or in a run-off election once any run-off election ballots have been counted.

(7) This rule does not apply if the recount period specified in the applicable statute has expired.