



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (4/25/96)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: 7/28/97

(2) Purpose: Response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains, and to clarify wording in the field and seed standards for small grains.

(3) Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 16-316-474
 Suspended:

(4) Statutory authority for adoption: RCW 15.49.310 and RCW 15.49.370(3)

Other Authority:

PERMANENT RULE ONLY

Adopted under notice filed as WSR 97-11-050 on 5/20/97 (date).
 Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) 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.
- (b) 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:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

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

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

Emergency Rules

**Permanent Rules
or Expedited Repeal**

- 31 days after filing
- Other (specify) _____*
- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Jim Jesernig

Signature

Title
Director

Date
7/28/97

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUL 29 1997

TIME 10:03 AM

FILED 97-16-026 PM

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____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 nongovernmental entity:

New	_____	Amended	<u>1</u>	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	_____	Amended	<u>1</u>	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	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 96-14-091, filed 7/2/96, effective 8/2/96)

WAC 16-316-474 Buckwheat--Chickpea--Field pea--Lentil--Millet--Soybean--Sorghum--Small grain--Application and fees. (1)

An application for seed certification with application fee, field inspection fee, and late application fee (if due) for each field shall be filed by or for each grower with Washington State Crop Improvement Association, Inc., the certifying agency for seeds of buckwheat, chickpea (garbanzo beans), field pea, lentil, millet, soybean, sorghum and small grains.

- (2) Due dates:
 - (a) Buckwheat - June 1
 - (b) Field pea - June 1
 - (c) Chickpea - June 1
 - (d) Lentil - June 1
 - (e) Millet - June 1
 - (f) Soybean - July 1
 - (g) Sorghum - July 15
 - (h) Small grains - June 1 for both winter varieties and spring varieties.

(i) After due date, an application with late application fee may be accepted for service.

(3) Fees:

(a) Application fee per variety per grower . . .	((\$17.56))
	<u>\$18.27</u>
(b) Field inspection fee per acre	
except millet and hybrid sorghum	((\$ 2.46))
	<u>\$ 2.55</u>
(c) Millet - first acre	((\$26.11))
	<u>\$27.16</u>
- each additional acre	((\$ 5.22))
	<u>\$ 5.43</u>
(d) Hybrid sorghum - first acre	((\$26.11))
	<u>\$27.16</u>
- each additional acre	((\$10.44))
	<u>\$10.86</u>
(e) Special field inspection fee per acre . . .	((\$ 2.09))
	<u>\$ 2.27</u>
(f) Late application fee	((\$16.46))
	<u>\$17.12</u>
(g) Reinspection fee	((\$32.93))
	<u>\$34.26</u>

minimum for each field which did not pass field inspection plus \$ 0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ((~~\$32.93~~)) \$34.26.

(h) Final certification fee ((~~\$ 0.215~~))

\$ 0.22

per cwt. of clean seed sampled, which shall be charged to conditioning plant, or production fee \$0.105 per cwt. of production from fields inspected which is utilized for seed, which shall be charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

(i) Sampling fee \$0.105

per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which shall be charged to conditioning plant in lieu of mechanical sampling.

(4) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee shall be refunded upon request until June 30 of the year following harvest.

(5) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

AMENDATORY SECTION (Amending Order 5086, filed 10/25/95, effective 11/25/95)

WAC 16-316-715 Miscellaneous field and seed inspection standards. (1) The field inspection will be made:

- (a) For field pea and chickpea (garbanzo bean) - when seedcrop is in full bloom and at maturity;
- (b) For lentil - when seedcrop is in full bloom and at maturity;
- (c) For soybean - when seedcrop is in full bloom and/or of mature color;
- (d) For open pollinated sorghum - when seedcrop is in full bloom, and optionally again when seedcrop begins to show mature color;
- (e) For hybrid sorghum - two inspections during bloom and one inspection after seed begins to show mature color.
- (f) For small grains - when seedcrop is fully headed and of mature color.
- (g) For millet - one inspection during bloom and one inspection after seed begins to show mature color.
- (h) For buckwheat - one inspection when seedcrop is in full bloom.

(2) Any condition or practice which permits or causes contamination of the seedcrop, such as failure to prevent seed formation in bindweeds, Canada thistle or jointed goatgrass, or excess weeds, or mechanical field mixing, shall be cause for rejection upon inspection for field standards. Except: Fields of chickpea, lentil, and field pea will not be rejected for allowing seed formation of bindweed or Canada thistle. Fields rejected for jointed goatgrass at first inspection are not eligible for reinspection and shall remain ineligible for any production of certified classes of small grain seed until a reclamation procedure, as specified in subsection (3) of this section has been

completed. Fields rejected for other causes will remain eligible for reinspection.

(3) The jointed goatgrass reclamation procedure shall include the following:

(a) Each grower shall develop a reclamation plan for his/her affected fields. Such a plan shall be based on the most current recommendations of Pacific Northwest scientists and Washington State University cooperative extension as well as good management practices. Such plan may include use of certified seed, spring cropping practices, and late tilling and planting. No particular program is specified or endorsed and compliance with such program does not assure eligibility for the production of certified classes of small grain seed. Such eligibility shall be based solely upon results of field inspections as provided in (b) through (e) of this subsection.

(b) The rehabilitation and inspection program duration shall be three years for irrigated land and five years for dryland without production of certified small grain seed and the first year of certified seed production thereafter.

(c) Annual inspections of the affected fields shall be conducted by the Washington State Crop Improvement Association (WSCIA) during the prescribed rehabilitation period at such time that the jointed goatgrass would be most visible.

(d) Following the prescribed period of rehabilitation and during the first certified seed production year, a minimum of three field inspections shall be conducted by WSCIA.

(e) Should jointed goatgrass be found during any inspection as provided in (c) and (d) of this subsection, the rehabilitation program shall be determined to be unsuccessful or the field shall be declared ineligible and the rehabilitation and inspection program for that field shall begin again at year one of the procedure.

(4) No prohibited noxious weed seeds are permitted upon inspection for seed standards.

(5) Germination minimum refers to germination when sampled.

(6) If chemically controllable seed-borne diseases are noted upon inspection for field standards and seed standards for small grains, treatment of seed is required.

(7) Concerning wild oat, isolated patches and borders must be removed or clearly marked so as to avoid harvesting with the rest of the field. If rejected, a reinspection will be necessary to assure clean-up efforts have been satisfactory. Spot checks will occur on fields where heavy patches or contaminated borders were noted. Harvesting these areas with the rest of the field will be cause for rejection of the entire field.

(8) The official laboratory providing seed analysis for the purpose of certification shall be the Washington state department of agriculture.

WAC 16-316-724 Small grains standards. (1) Small grains (barley, oat, rye, triticale, wheat) - land, isolation, and field standards:

CLASS	LAND	ISOLATION	FIELD STANDARDS		
	STANDARDS	STANDARDS	OFF-TYPE	OTHER CROP	WILD OAT
	MINIMUM	MINIMUM	MAXIMUM	MAXIMUM	MAXIMUM
	YEARS	FEET	HEAD RATIO	HEAD RATIO	PLANTS/ACRE
Foundation	2*	3**	None found	None found***	None found
Registered	1*	3**	1/148,000	1/148,000***	5
Certified	1*	3**	1/49,000	1/49,000***	5

* Waived if the previous crop was grown from an equal or higher certified class of seed of the same variety.

** Refers to distance from other small grain fields. Foundation class fields shall be isolated ninety feet from fields of the same (~~species~~) genus. In addition, each rye field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other rye fields by six hundred sixty feet. Each triticale field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other triticale, rye and wheat fields by three hundred feet for foundation and registered class, and three feet for certified class, unless otherwise stated by plant breeder.

*** Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat; no vetch is permitted.

(2) Small grains - seed standards:

Class:

	Foundation	Registered	Certified
Pure seed (min)	98%	98%	98%
Inert (max)	2%	2%	2%
Off-type(*) (max)	None found	2/lb	4/lb
Other small grain(*) (max)	None found	1/lb	2/lb
Other crop(**) (max)	None found	0.03%	0.05%
Weed seed (max)	0.01%	0.01%	0.03%
Objectionable weed seed(***) (max)	None found	None found	1/lb
Wild oat (max) ((Germ or TZ))	None found	None found	None found(****)
<u>Viability(****) (min)</u>	85%	85%	85%

(*) The combination of other small grain and off-type shall not exceed 2/lb for Registered class, and 4/lb for Certified class. No rye, triticale, or vetch is permitted in barley, oat, or wheat. No rye or vetch is permitted in triticale. No triticale or vetch is permitted in rye.

(**) Excluding off-type and other small grain.

(***) Excluding wild oat.

(****) 1/ for Certified class oat.

(*****) A certification certificate will be issued upon receipt of either an official AOSA tetrazolium or germination test which meets minimum Washington viability standards.

NOTE: State and federal seed laws require seed to be labeled based on a germination test.

Note: For all classes the purity analysis shall be based on 100 grams examined. For Registered and Certified classes, noxious weed, vetch, off-type, and other small grain, determinations shall be based on 500 grams examined. For Foundation class, noxious weed, vetch, off-type, and other small grain determinations shall be based on two pounds examined.