

Chapter 16-731 WAC
ASPARAGUS GROWER EQUIPMENT LEASE PROGRAM

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WAC

16-731-010	What is the purpose of the asparagus grower equipment lease program?
16-731-020	How does the department ensure that program participants comply with the program's purpose?
16-731-030	What definitions are important to this chapter?
16-731-040	How will the asparagus grower equipment leasing program be administered?
16-731-050	Who is eligible to participate in the asparagus grower equipment leasing program?
16-731-060	How does an eligible asparagus grower apply to the equipment leasing program?
16-731-070	How will applicants be selected to participate in the equipment leasing program?
16-731-080	If an application is not selected, can the applicant request a review of the director's decision?
16-731-090	If an applicant's initial application is not selected, can the applicant reapply to the equipment leasing program?
16-731-100	How will the program distribute equipment leasing funds?
16-731-110	How will the program's equipment leasing funds be allocated?
16-731-120	For the leasing program, what are the maximum distribution amounts for each successful grower applicant?
16-731-130	What requirements apply to equipment leasing program lease agreements?
16-731-140	What happens if a selected asparagus grower defaults on a lease?
16-731-150	How long will the asparagus grower equipment leasing program be in operation?
16-731-160	Who develops the depreciation schedules for the program's leased equipment?
16-731-170	Will the equipment used in the asparagus grower equipment leasing program be offered for sale to the grower who leased it?

WAC 16-731-010 What is the purpose of the asparagus grower equipment lease program? (1) The Washington state department of agriculture is establishing the asparagus grower equipment lease program to implement section 3217, chapter 520, Laws of 2007 (ESHB 1092), which appropriates funds to the Washington state department of agriculture to extend and expand the department's asparagus automation and mechanization program. These rules also provide the criteria and qualifications to apply for participation in this program.

(2) The asparagus grower equipment lease program allows Washington state asparagus growers to lease with an opportunity to purchase labor saving equipment that will strengthen their production and harvesting efforts to efficiently produce fresh asparagus.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-010, filed 9/15/08, effective 10/16/08.]

WAC 16-731-020 How does the department ensure that program participants comply with the program's purpose? To ensure that program participants are in compliance with the terms of the program and to ensure that the leased equipment is being used principally to produce or harvest fresh asparagus, the participating growers must, during each year of their participation, provide the department or its agent a letter:

(1) Certifying that the leased equipment is being used for the program's intended purpose; and

(2) Summarizing the cost and labor savings for that year relative to asparagus production or harvesting.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-020, filed 9/15/08, effective 10/16/08.]

WAC 16-731-030 What definitions are important to this chapter? "**Applicant**" means any person who applies to participate in the asparagus grower equipment leasing program and who produces in the state of

Washington asparagus in commercial quantities (6,000 pounds or more in a calendar year) for fresh market, for processing, or for sale to processors and paid assessments to the Washington asparagus commission in the calendar year preceding the year in which they submit an application.

"Automation" means a labor-saving technique or equipment used to bring about automatic operation and control of a process.

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Equipment" means labor-saving equipment used principally to aid in the production or harvesting of asparagus but excludes general farming equipment, such as tractors.

"Grower" means any person who produces in the state of Washington asparagus in commercial quantities for fresh market, for processing, or for sale to processors.

"Labor saving" means actions, activities or processes designed to decrease the amount of human labor needed to produce or harvest fresh asparagus.

"Leasing" means to obtain the use of asparagus production or harvesting equipment through the asparagus grower equipment leasing program.

"Person" means an individual, firm, partnership, corporation, or association engaged in growing fresh Washington state asparagus.

"Program administrator" means the director of the Washington state department of agriculture or the director's designee.

"Review committee" means a group of five to seven people that is made up of representatives from the department, the Washington asparagus commission staff and its members. In addition, one agricultural representative who is neither directly affiliated with the asparagus industry nor any of the equipment leasing program applicants shall be part of the committee. The purpose of the committee is to review equipment leasing program applications and make selection recommendations to the director.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-030, filed 9/15/08, effective 10/16/08.]

WAC 16-731-040 How will the asparagus grower equipment leasing program be administered? The director or the director's designee will administer the asparagus equipment leasing program according to the rules of this chapter.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-040, filed 9/15/08, effective 10/16/08.]

WAC 16-731-050 Who is eligible to participate in the asparagus grower equipment leasing program? To be eligible to participate in the asparagus grower equipment leasing program, a grower must:

(1) (a) Produce in the state of Washington asparagus in commercial quantities (6,000 pounds) in the calendar year preceding the year in which they apply; and

(b) Provide documentation verifying the 6,000 pounds. Verification can include proof of payment of asparagus commission assessments or other industry accepted documentation.

(2) Comply with all applicable federal, state, and local laws and rules related to doing business in Washington.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-050, filed 9/15/08, effective 10/16/08.]

WAC 16-731-060 How does an eligible asparagus grower apply to the equipment leasing program? (1) Eligible growers can obtain an equipment leasing program application by contacting:

Asparagus Grower Leasing Program
Washington State Department of Agriculture
1111 Washington St. S.E., 2nd Floor
P.O. Box 42560
Olympia, WA 98504-2560

(2) Eligible applicants must complete the program application and provide the department with the following information:

(a) Verification consistent with normal and usual leasing agreements that their business is a going concern;

(b) Verification that they have the ability to adequately insure any equipment they may lease;

(c) A statement declaring their eligibility and intent to participate in the program;

(d) Documentation of their ability to provide the necessary up-keep and maintenance of any equipment they may lease;

(e) A description of the equipment to be leased and its cost, along with the percentage of equipment cost the applicant pledges to match (minimum of 25% required);

(f) A description of how the leased equipment will automate their production or harvesting operation;

(g) The estimated amount of labor savings in terms of wages and labor hours to be achieved through automation; and

(h) The number of pounds of asparagus produced as stated in a range for the period of years identified on the application. (The department will verify the pounds of production with the Washington asparagus commission.)

(3) The completed application and the related information (subsection (2) of this section) must be submitted to:

Asparagus Grower Leasing Program
Washington State Department of Agriculture
1111 Washington St. S.E., 2nd Floor
P.O. Box 42560
Olympia, WA 98504-2560

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-060, filed 9/15/08, effective 10/16/08.]

WAC 16-731-070 How will applicants be selected to participate in the equipment leasing program? (1) The department, in consultation with the Washington asparagus commission, and the industry at large, will establish application deadlines, application review dates and

dates for notifying applicants if they have been selected to participate in the equipment lease program.

(2) The process for reviewing and approving applications is as follows:

(a) The review committee will review all applications, weigh the responses, rank the applications and make selection recommendations to the director based on the selection criteria which will include:

(i) The application is complete and includes all required information;

(ii) The percentage of equipment costs that the applicant is willing to match relative to the cost of the equipment;

(iii) The amount of labor savings to be achieved;

(iv) The type and reliability of the equipment requested; and

(v) The extent to which the equipment will be used in the production or harvesting of asparagus.

Additionally, the following balancing factors shall be used to determine the final ranking:

(A) Geographic location of applicant;

(B) Size of operation or business;

(C) Type of equipment requested, with preference given to requests for mechanical harvesting equipment.

(b) The director will review the committee's recommendations and ranking. The director reserves the right to modify the committee's recommendations and ranking. If the final ranking results in a tie, the director reserves the right to select the successful applicant(s) by lot.

(c) Once the director selects the successful applicants, applicants will be notified of the results within five working days of the director's decision.

(3) The department may implement additional application cycles if needed.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-070, filed 9/15/08, effective 10/16/08.]

WAC 16-731-080 If an application is not selected, can the applicant request a review of the director's decision? (1) An applicant whose application is not selected by the director may request a review of the director's decision within ten calendar days after the decision has been mailed to the applicant. The request for review must:

(a) Specify the date of the decision or action being reviewed;

(b) Explain as precisely as possible the issue or error to be resolved by the review;

(c) Include the address of the applicant; and

(d) Be signed by the applicant.

(2) Reviews of unsuccessful applications will follow an informal process conducted by the director or director's designee based on the following criteria:

(a) Was there a factual or numerical error in scoring the application?

(b) Were the selection criteria as listed in WAC 16-731-070 (2)(a) erroneously applied?

(3) The review will be completed within fifteen days after receipt of the review request.

(4) Once the review is completed, the department has five working days to inform the applicant of the review decision.

(5) The rights of the department provided in this section are exclusive and are in addition to any other rights and remedies provided by law.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-080, filed 9/15/08, effective 10/16/08.]

WAC 16-731-090 If an applicant's initial application is not selected, can the applicant reapply to the equipment leasing program?

(1) If an applicant whose initial application was not selected has been notified that additional program funds are available, the applicant has ten days from the date they receive notification of the availability of additional funds to reapply.

(2) Applicants must reapply by following the procedures outlined in WAC 16-731-060.

(3) When reapplying, the applicant must present a different proposal from that contained in their original application. Differences may include a greater percentage of matching funds, a request for different equipment and/or a way to improve labor or cost savings.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-090, filed 9/15/08, effective 10/16/08.]

WAC 16-731-100 How will the program distribute equipment leasing funds?

The program's equipment leasing funds will be distributed indirectly for the benefit of selected applicants through an approved leasing company. The approved leasing company will purchase the production or harvesting equipment, request reimbursement from the department in the amount of the allocation for that applicant and subsequently lease the equipment to the selected applicant. Title to the equipment shall be held by the department. "Reimbursement" means that equipment has already been paid for or a bill for the equipment is due and payable within thirty days.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-100, filed 9/15/08, effective 10/16/08.]

WAC 16-731-110 How will the program's equipment leasing funds be allocated?

(1) The initial allocation of equipment leasing funds will be distributed based upon the availability of funds and the evaluation of the application using the criteria set forth in WAC 16-731-070

(2) (a).

(2) An applicant will receive no more than 75% of the value of the equipment to be purchased.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-110, filed 9/15/08, effective 10/16/08.]

WAC 16-731-120 For the leasing program, what are the maximum distribution amounts for each successful grower applicant?

(1) The final grower allocation will not exceed 75% of the value of the equipment to be purchased.

(2) Any future distributions will be determined by:

(a) The amount of program funds available after all administrative and contract-leasing costs are subtracted from the total program allocation received from the legislature;

(b) The number of participants in the program;

(c) Whether any viable projects were eligible for funding but not previously selected; and

(d) Department consultations with the Washington asparagus commission and the industry at large.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-120, filed 9/15/08, effective 10/16/08.]

WAC 16-731-130 What requirements apply to equipment leasing program lease agreements? (1) The department will follow the department of general administration purchased service procurement guidelines when selecting a leasing company to act as its agent to purchase and manage all equipment leasing arrangements for all selected growers.

(2) All selected growers must enter into a department-approved lease agreement with the department-approved leasing firm.

(3) All equipment lease agreements:

(a) Must be exclusive to the selected grower for the term of the contract with the leasing company; and

(b) Are not transferable without the written approval of the department.

(4) Lease agreements cannot be paid off before the leasing company's contract termination date.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-130, filed 9/15/08, effective 10/16/08.]

WAC 16-731-140 What happens if a selected asparagus grower defaults on a lease? If a selected grower defaults on a lease agreement, the department retains ownership of the equipment and will make the equipment available to other asparagus growers. Availability will be determined by whether any other applicant that was not selected is interested in leasing the equipment or if none, if any other asparagus grower is interested in leasing the equipment.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-140, filed 9/15/08, effective 10/16/08.]

WAC 16-731-150 How long will the asparagus grower equipment leasing program be in operation? (1) How long the equipment leasing program will be in operation will be determined by:

(a) An office of financial management (OFM) approved depreciation schedule for each type of equipment that will be available for leasing; and

(b) The period of time needed to:

(i) Surplus and dispose of or transfer the equipment; and

(ii) Complete program closeout activities.

(2) For any distributions following the initial one, the department may modify the program length, depreciation schedules, contract requirements or leasing agreements.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-150, filed 9/15/08, effective 10/16/08.]

WAC 16-731-160 Who develops the depreciation schedules for the program's leased equipment? The department, with final approval from OFM, will develop depreciation schedules for the program's leased equipment. These schedules will be based upon the characteristic economic useful lives of asparagus production or harvesting equipment used by the industry.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-160, filed 9/15/08, effective 10/16/08.]

WAC 16-731-170 Will the equipment used in the asparagus grower equipment leasing program be offered for sale to the grower who leased it? (1) At the end of its depreciation period, the equipment leased to a grower will be declared "surplus" and offered for sale to the grower or their designee at a price to be determined at the end of the depreciation period.

(2) If a grower chooses not to purchase the leased equipment at the end of its depreciation period, the state will attempt to first sell the surplus equipment to another grower.

[Statutory Authority: RCW 15.04.402, 2007 c 520, and chapter 34.05 RCW. WSR 08-19-061, § 16-731-170, filed 9/15/08, effective 10/16/08.]