

**WSR 11-15-005**  
**WITHDRAWAL OF**  
**EXPEDITED RULE MAKING**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**  
 (By the Code Reviser's Office)

[Filed July 6, 2011, 2:16 p.m.]

WAC 181-82A-204, proposed by the professional educator standards board in WSR 11-01-039 appearing in issue 11-01 of the State Register, which was distributed on January 5, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 11-15-045**  
**EXPEDITED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed July 14, 2011, 3:04 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-08 WAC, Practice and procedure.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, AND RECEIVED BY September 20, 2011.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to amend chapter 16-08 WAC to clarify the director's designees for the presiding officer and reviewing officer roles in adjudicative proceedings. In addition, the department proposes to clarify how a request for hearing is timely filed with the agency.

Reasons Supporting Proposal: These changes either relate only to internal governmental operations or clarify the language of the rule without changing its effect on applicants for adjudicative proceedings.

Statutory Authority for Adoption: Chapters 34.05 and 43.23 RCW.

Statute Being Implemented: Chapter 34.05 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Elizabeth McNagly, Olympia, (360) 902-

1809; and Implementation: Teresa Norman, Olympia, (360) 902-2043.

July 14, 2011  
 Betty Ramage  
 Assistant Director

AMENDATORY SECTION (Amending Order 5081, filed 8/23/95, effective 9/23/95)

**WAC 16-08-002 Definitions.** The definitions (~~set forth~~) in this section (~~shall~~) apply (~~throughout~~) to this chapter unless the context otherwise requires:

~~((+))~~ "Date of service" means the date the department places a properly dated and stamped document into the United States Postal Service or other mail service for delivery.

"Department" means the department of agriculture of the state of Washington.

~~((2))~~ "Director" means the director of the department of agriculture.

~~((3))~~ "Presiding officer" means the person designated by the director to preside over adjudicative proceedings.

"Reviewing officer" means the (~~deputy~~) director (~~or administrative regulations analyst of the department of agriculture, who the director hereby designates to exercise all decision-making powers to review initial orders, and prepare and enter final orders for the director of agriculture pursuant to RCW 34.05.464(2), or the director of agriculture. The reviewing officer shall mean the director in those cases where the deputy director has acted as the presiding officer~~) of agriculture or the person designated by the director to review initial orders and prepare and enter final orders for the director.

AMENDATORY SECTION (Amending Order 5081, filed 8/23/95, effective 9/23/95)

**WAC 16-08-021 Presiding officer.** (1) In matters involving an adjudicative proceeding, the director will designate the presiding officer (~~for an adjudicative proceeding~~). The presiding officer may be:

(a) ~~(In matters involving an adjudicative proceeding, the director may designate as presiding officer)~~ An administrative law judge assigned by the office of administrative hearings under the authority of chapter 34.12 RCW((?)); or

(b) The deputy director(~~, the~~); or

(c) An assistant director(~~, agency operations division; the assistant director, laboratory services division~~); or ~~((the administrative regulations analyst of the department;~~

~~(b) In matters involving an emergency or brief adjudicative proceeding or involving a proceeding pursuant to WAC 16-08-022, the director may designate in writing staff persons to function as the presiding officer.)~~ (d) A staff person trained to act as a presiding officer in adjudicative proceedings.

(2) A person who has served as an investigator, prosecutor, or advocate in any stage of an adjudicative proceeding or someone who is subject to the authority or direction of such a person, may not serve as a presiding officer in the same proceeding.

(3) The presiding officer (~~((shall have))~~) has the authority to:

- (a) Determine the order of presentation of evidence;
- (b) Administer oaths and affirmations;
- (c) Issue subpoenas;
- (d) Rule on procedural matters, objections, and motions;
- (e) Rule on offers of proof and receive relevant evidence;
- (f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;
- (g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;
- (h) Take any appropriate action necessary to maintain order during the hearing;
- (i) Permit or require oral argument or briefs and determine the time limits for their submission (~~((thereof))~~);
- (j) Take any other action necessary and authorized by any applicable statute or rule;
- (k) Waive any requirement of these rules unless a party shows that (~~((#))~~) he or she would be prejudiced by such a waiver.

**AMENDATORY SECTION** (Amending WSR 97-14-050, filed 6/27/97, effective 7/28/97)

**WAC 16-08-031** (~~((Application for adjudicative proceeding-))~~) **Request for hearing—Filing.** (~~((An application for an adjudicative proceeding shall be made on a form provided by the department. Written application for an adjudicative proceeding shall be received at the address designated on the application form within twenty-five days of service of the proposed department action giving rise to the application unless provided for otherwise by statute or rule-))~~) (1) A request for hearing (application for adjudicative proceeding) must be in writing and filed with the department during regular office hours at the address designated in the notice or instructions provided by the department.

(2) A request for hearing is filed in a timely manner when the mailing is postmarked or received by the department within twenty-five days of service of the proposed department action giving rise to the request for hearing.

(3) A request for hearing may be filed with the department by personal delivery, commercial delivery, fax, or first-class, registered, or certified mail. A request for hearing may be filed by electronic mail (e-mail) only when instructions for e-mail filings have been provided by the department.

(4) If the request for hearing is not timely filed with the department, the applicant waives his or her right to a hearing.

**AMENDATORY SECTION** (Amending WSR 97-14-050, filed 6/27/97, effective 7/28/97)

**WAC 16-08-141 Brief adjudicative proceedings.** (1) Pursuant to RCW 34.05.482, the department will use brief adjudicative proceedings where not violative of law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. Those circumstances may include:

- (a) Actions taken by the agency based on the failure:
  - (i) To maintain, supply, or display records; and/or
  - (ii) To display evidence of a license; and/or
  - (iii) To display or post information required by law; and/or
  - (iv) To possess required insurance, bonding or other security.
- (b) Actions taken with respect to late application renewal fees.
- (c) Actions taken with respect to certificate of compliance agreements under WAC 16-461-010.
- (d) Actions taken with respect to sale permits pursuant to RCW 15.13.270.
- (e) Actions taken to revoke certification of plant material as foundation or breeder planting stock pursuant to RCW 15.14.110.
- (f) Penalty actions taken with respect to cattle breed name use.
- (g) Penalty actions taken against milk producers pursuant to RCW 15.36.115 or 15.36.595.
- (h) Dairy degrade or permit suspension actions taken pursuant to chapter 15.36 RCW.
- (i) Actions taken with respect to licenses for sale of milk for animal food pursuant to RCW 15.37.030 et seq.
- (j) Actions taken with respect to registration of commercial feed pursuant to RCW 15.53.9036.
- (k) Actions taken with respect to pesticide registration under RCW 15.58.110.
- (l) Actions taken with respect to organic certification pursuant to RCW 15.86.060 and/or 15.86.070.
- (m) Actions taken with respect to mushroom buyer or dealer licenses pursuant to RCW 15.90.020.
- (n) Actions taken with respect to animal health certificates pursuant to RCW 16.36.050.
- (o) Actions taken with respect to destruction or treatment of quarantined animals pursuant to RCW 16.36.090.
- (p) Actions taken with respect to licenses for garbage feeding to swine pursuant to RCW 16.36.108.
- (q) Actions taken with respect to licenses related to custom farm slaughter pursuant to chapter 16.49 RCW.
- (r) Actions taken with respect to licenses related to custom meat facilities pursuant to chapter 16.49 RCW.
- (s) Actions taken with respect to approval of livestock pens within feedlots pursuant to RCW 16.58.080.
- (t) Actions taken with respect to certified feed lot licenses pursuant to RCW 16.58.130.
- (u) Actions taken with respect to seizure and destruction of incorrect weights and measures pursuant to RCW 19.24.-250.
- (v) Actions taken with respect to licenses of grain dealers or warehousemen pursuant to RCW 22.09.471.
- (w) Revocation of compliance agreements for the completion of state phytosanitary, sanitation, or brown garden snail certificates pursuant to chapters 15.13 and 17.24 RCW.
- (x) Revocation of compliance agreements for preprinting or use of rubber stamps for nursery stock inspection certificates pursuant to chapter 15.13 RCW.
- (y) Revocation of compliance agreements for root sampling of nursery stock pursuant to chapter 15.13 RCW.

~~((aa))~~ (z) Agency refusal to certify seed stocks because of misleading or confusing labeling pursuant to chapter 15.60 RCW and WAC 16-316-345.

~~((bb))~~ (aa) Rescinding of permit for seed conditioning pursuant to chapter 15.60 RCW and WAC 16-316-185(8).

~~((ee))~~ (bb) Expulsion from or refusal to allow entry into a seed or plant certification program pursuant to chapters 15.60 and 15.13 RCW.

(2) A party to a brief adjudicative hearing has ~~((twenty))~~ twenty-five days to file an application or request from the date of service of the department's notice of intent to take action. The application or request for a brief adjudicative hearing shall be filed at the address listed on the form provided by the department. The party filing the application or request for a brief adjudicative proceeding shall submit a written explanation of their view of the matter along with the application or request. Other parties may file a written response within ten days after service of the application for a brief adjudicative proceeding. Copies of the response shall be served on all parties. Oral statements may be submitted and considered as follows:

(a) If a party to a brief adjudicative proceeding desires an opportunity to make an oral statement, it should be requested in the application or request.

(b) A request to make an oral statement may be granted if the presiding officer believes such a statement would benefit him or her in reaching a decision. The presiding officer shall notify the parties within a reasonable time of the decision to grant or deny the request to hear oral comments, and if the request is granted, shall notify the parties of the time and place for hearing comments.

(3) At the time any unfavorable action is taken, the presiding officer shall serve upon each party a brief statement of the reasons for the decision. Within ten days of the decision, the presiding officer shall give the parties a brief written statement of the reasons for the decision and information about any internal administrative review available.

(4) The presiding officer's written decision is an initial order. If no review is taken of the initial order, it shall be the final order.

(5) The reviewing officer shall conduct a review of an initial order resulting from a brief adjudicative proceeding upon the written or oral request of a party if the director receives the request within twenty-one days from the service of the initial order. If no request is filed in a timely manner, the reviewing officer may review, on his or her own motion, an order resulting from a brief adjudicative proceeding and adopt, modify, or reject the initial order; but the reviewing officer shall not take any action on review less favorable to any party without giving that party notice and opportunity to explain his or her view of the matter.

(6) A request for review of an initial order shall contain an explanation of the party's view of the matter and a statement of reasons why the initial order is incorrect. The request for review shall be filed with the director and copies shall be served on all parties, and evidence of such service filed. Responses to a request for review of an initial order shall be filed with the director and served on all parties within ten days after service of the request for review.

(7) The order on review shall be in writing, shall include a brief statement of the reasons for the decision, and shall be entered within twenty days after the date of the initial order or of the request for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(8) The record in a brief adjudicative proceeding shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding and/or by the reviewing officer for any review.

**WSR 11-15-088**  
**EXPEDITED RULES**  
**DEPARTMENT OF LICENSING**

[Filed July 20, 2011, 9:05 a.m.]

Title of Rule and Other Identifying Information: WAC 308-29-045 Collection agency fees.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ben Shomshor, Rules Coordinator, Department of Licensing, P.O. Box 2957, Olympia, WA 98507-2957, AND RECEIVED BY September 20, 2011.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Implementing legislation chapter 50, Laws of 2011 1st sp. sess. (prev. 2EHB [2ESHB] 1087).

Reasons Supporting Proposal: The 2011 legislature authorized a fee increase to support operating costs for the collection agency program.

Statutory Authority for Adoption: Chapter 50, Laws of 2011 (session law), RCW 19.16.140, 43.24.086.

Statute Being Implemented: Chapter 50, Laws of 2011 (session law).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret Vogeli, Department of Licensing, Olympia, Washington, (360) 664-1389; Implementation and Enforcement: Harumi Tolbert, Department of Licensing, Olympia, Washington, (360) 664-1379.

July 20, 2011  
Ben T. Shomshor  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-18-043, filed 8/26/04, effective 10/1/04)

**WAC 308-29-045 Collection agency fees.** The following fees (~~shall~~) will be charged by the business and professions division of the department of licensing:

<b>Title of Fee</b>	<b>Fee</b>
Collection agency—Main office:	
Original application	<del>\$(650.00)</del> <u>850.00</u>
Renewal	<del>((410.00))</del> <u>\$475.00</u>
Reregistration fee after 30 days	<del>((1,060.00))</del> <u>\$1,325.00</u>
Branch office (with WA main office):	
Original application	<del>((350.00))</del> <u>\$550.00</u>
Renewal	<del>((238.00))</del> <u>\$300.00</u>
Reregistration fee after 30 days	<del>((588.00))</del> <u>\$850.00</u>
<u>Out-of-state collection agency—Main office:</u>	
<u>Original application</u>	<u>\$425.00</u>
<u>Renewal</u>	<u>\$237.50</u>
<u>Reregistration fee after 30 days</u>	<u>\$662.50</u>
<u>Branch office—With out-of-state main office:</u>	
<u>Original application</u>	<u>\$275.00</u>
<u>Renewal</u>	<u>\$150.00</u>
<u>Reregistration fee after 30 days</u>	<u>\$425.00</u>