

**WSR 19-22-037**  
**EXPEDITED RULES**  
**TREE FRUIT RESEARCH COMMISSION**

[Filed October 31, 2019, 12:57 p.m.]

Title of Rule and Other Identifying Information: As required by RCW 42.56.040, the Washington tree fruit research commission is proposing to publish its public records disclosure procedures in a new chapter of the Washington Administrative Code.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new chapter will establish procedures the tree fruit research commission will follow to provide full access to public records and to implement the provisions of the Public Records Act (chapter 42.56 RCW). The rule will establish procedures for the commission to follow in response to requests for public records, including the schedule used by the commission for recovering the costs of producing public records.

Reasons Supporting Proposal: RCW 42.56.040 requires agencies to publish its public records procedures and requires rule making regardless of whether the commission proposes to charge actual costs for producing public records, charge in accordance with the statutory schedule, or waive fees for producing public records. To charge statutory fees, the commission adopt[s] a rule declaring that charging actual costs would be unduly burdensome.

Statutory Authority for Adoption: Chapters 42.56 and 34.05 RCW.

Statute Being Implemented: RCW 42.56.040 and 42.56.120.

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

Name of Proponent: Washington tree fruit research commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ines Hanrahan, Wenatchee, Washington, 509-665-8271.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Using the expedited rule-making process is appropriate because these proposed rules cover internal procedures of the Washington tree fruit research commission.

**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 Ines Hanrahan, Washington Tree Fruit Research Commission, 1719 Springwater Avenue, Wenatchee, WA 98801, phone 509-665-8271, email

hanrahan@treefruitresearch.com, AND RECEIVED BY January 7, 2020.

October 31, 2019  
 Ines Hanrahan  
 Executive Director

AMENDATORY SECTION (Amending Order 4, filed 4/30/70)

**WAC 16-560-005 Authority and purpose.** These rules are promulgated by the Washington tree fruit research commission pursuant to the authority granted by chapter 15.26 RCW and in accordance with procedures required under chapter 1-12 WAC. The purpose of administrative rules and regulations adopted under this chapter is to administer and carry out the provisions of chapter 15.26 RCW, tree fruit research act, and chapter 42.56 RCW, Public Records Act.

NEW SECTION

**WAC 16-560-006 Definitions.** "Commission" means the Washington tree fruit research commission.

"Disclosure" means inspection or copying.

"Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, photostating, telefaxing, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

NEW SECTION

**WAC 16-560-070 Public records officer.** The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

NEW SECTION

**WAC 16-560-080 Requests for public records.** (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at 1719 Springwater Avenue, Wenatchee, WA 98801, or by email at kathy@treefruitresearch.com. The written request should include:

(a) The name of the person requesting the record and his or her contact information;

(b) The calendar date on which the request is made; and

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-560-090 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

(a) Providing the record;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request; or

(d) Denying the public record request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the records withheld or to any redactions in records produced.

(2) Additional time to respond to the request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify third persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

#### NEW SECTION

**WAC 16-560-100 Fees—Inspection and copying.** (1) No fee shall be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records:

(a) Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations;

(b) Staff resources are insufficient to perform a study and to calculate such actual costs; and

(c) A study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120.

(4) For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington tree fruit research commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(5) The commission or its designee may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

#### NEW SECTION

**WAC 16-560-105 Processing of public records requests—Electronic records.** (1) The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records:

(a) The commission has the discretion to determine whether to provide records electronically or in paper form.

(b) When a requestor requests records in an electronic format, the public records officer will endeavor to provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the commission and is generally commercially available, or in a format that is reasonably translatable from the format in which the commission keeps the record.

#### NEW SECTION

**WAC 16-560-110 Protection of public records.** In order to adequately protect the commission's public records, the following will apply:

(1) Public records made available for inspection may not be removed from the area the commission makes available for inspection. The commission has the discretion to designate the means and the location for the inspection of records.

(2) Inspection of any public record will be conducted in the presence of a designated commission employee.

(3) Public records may not be marked or altered in any manner during inspection.

(4) After inspection is complete, the public records officer or designee will make requested copies or arrange for copying.

(5) Public records that are maintained in a file or jacket, or in chronological order, may not be dismantled except by a designated commission employee for purposes of copying.

(6) Whenever a public records request involves an entire file, a group of records, or a large number of records, the commission is allowed a reasonable time to review the records to determine whether information is exempt from disclosure under chapter 42.56 RCW or other law.

#### NEW SECTION

**WAC 16-560-115 Exemptions.** The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.26 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.26 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(8)).

(4) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

#### NEW SECTION

**WAC 16-560-120 Review of denials of public records requests.** (1) Any person who objects to the denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to the statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within ten business days following receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

#### NEW SECTION

**WAC 16-560-125 Records index.** The commission shall establish a records index, which shall be made available for public review.

#### **WSR 19-22-064**

#### **EXPEDITED RULES**

#### **DEPARTMENT OF REVENUE**

[Filed November 5, 2019, 10:31 a.m.]

Title of Rule and Other Identifying Information: WAC 458-16-560 Housing for very low-income households.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 458-16-560 to incorporate 2019 legislation, ESSB 5183, section 11. This legislation expanded the definition of "nonprofit entity" for purposes of the very low-income property tax exemption under RCW 84.36.560, to include a mobile home park cooperative or a manufactured housing cooperative, provided the Washington state housing finance commission provides the financing.

Reasons Supporting Proposal: This rule is being updated to incorporate changes resulting from 2019 legislation, ESSB 5183, section 11.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.560.

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

Name of Proponent: Department of revenue.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1603.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is applicable to this rule update because the department is incorporating changes resulting from 2019 legislation.

#### **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 Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY January 6, 2019 [2020].

November 5, 2019  
Atif Aziz  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-04-036, filed 1/29/09, effective 3/1/09)

**WAC 458-16-560 Housing for very low-income households.** (1)(a) **Introduction.** This rule explains the real and personal property tax exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes within a mobile home park, mobile home park cooperative, or manufactured housing cooperative for occupancy by a very low-income household in accordance with RCW 84.36.560.

(b) Examples. This rule includes examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Definitions.** For the purposes of this rule, the following definitions apply:

~~(a) ("CTED" means the state department of community, trade, and economic development or its successor agency;~~

~~(b) "Department" means the state department of revenue;~~

~~(e)) "Group home" means a single-family dwelling financed, in whole or in part, by ((the state department of community, trade, and economic development or by an affordable housing levy under RCW 84.52.105)) one or more of the sources listed in subsection (3)(d) of this rule. A "group home" has multiple units occupied on a twenty-four-hour basis by persons who are not related by birth or marriage and who are not dependent upon each other financially. Residents of a "group home" typically receive financial assistance from the federal or state government, such as Social Security benefits or supplementary security insurance;~~

~~((d)) (b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;~~

~~((e)) (c) "Nonprofit entity" means a:~~

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended;

(ii) Limited partnership in which a general partner is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a);

(iii) Limited liability company in which a managing member is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a); or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030. A "mobile home park cooperative" and a "manufactured housing cooperative" are defined as real property consisting of common areas and two or more lots held out for placement of mobile homes, manufactured homes, or park models in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members.

(d) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing or mobile home park becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted;

~~((f)) (e) "Rental housing" means a residential housing facility or group home that is occupied, but not owned, by very low-income households; and~~

~~((g)) (f) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted((; and~~

~~(h) "Nonprofit entity" means a:~~

~~(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended;~~

~~(ii) Limited partnership in which a general partner is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a); or~~

~~(iii) Limited liability company in which a managing member is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a)).~~

(3) ((Total)) Full exemption((—Requirements for rental housing or lot(s) for a mobile home)). Real and personal property is exempt from ~~((all))~~ property taxes if:

(a) The property is owned or used by a nonprofit entity, as defined in subsection (2) of this rule, in providing rental housing for very low-income households or used to provide a lot of land upon which a mobile home for a very low-income household will be placed in a mobile home park;

(b) The benefit of the exemption is received by the nonprofit entity. That is, if the property is leased to or used by, but not owned by, a nonprofit entity, the reduction in property taxes due to the exemption is passed on to the nonprofit user either through a reduction in rent, reimbursement of rent, or property tax paid;

(c) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in the mobile home park are occupied by very low-income households; and

(d) The rental housing or lots in the mobile home park are insured, financed, or assisted, in whole or in part, through one or more of the following sources:

(i) A federal or state housing program administered by ~~((CTED))~~ the department of commerce;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105; ~~((or))~~

(iv) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW; or

(v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030.

(4) **Partial exemption**~~((—Determination of the amount of exemption))~~. If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by very low-income households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption on the housing's or park's personal property. The property must be owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot upon which a mobile home for a very low-income household will be placed in a mobile home park.

(a) A partial exemption will be allowed for each dwelling unit in the rental housing or for each lot in the mobile home park occupied by a very low-income household; and

(b) The amount of the real property exemption will be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The formula for determining the fraction is as follows:

(i) The numerator of the fraction is the number of dwelling units or lots occupied by very low-income households as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational or on January 1st of each subsequent assessment year in which the claim for exemption is submitted; and

(ii) The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational or on January 1st of

each subsequent assessment year in which the claim for exemption is submitted.

(5) **Exempt facility with ~~((only))~~ three or ~~((less))~~ fewer units or a mobile home park with ~~((only))~~ three or ~~((less))~~ fewer lots with vacancy on January 1st**~~((—Size of exemption))~~. If the rental housing or mobile home park is comprised of ~~((only))~~ three or ~~((less))~~ fewer dwelling units or lots and there are any unoccupied dwelling units or lots on January 1st ~~((after receipt of a property tax exemption))~~, the department will determine the size of the exemption based on the number of occupied dwelling units or lots as of December 31st of the first assessment year the rental housing becomes operational, and on May 1st of ~~((the))~~ each subsequent assessment year in which a claim for exemption is submitted. For example, if one-half of an exempt duplex is vacant on January 1st ~~((which))~~ and it is the duplex's third year of operation, the department will determine the size of the exemption based on the number of occupied units on May 1st of that assessment year.

(6) **Facilities with ten or ~~((less))~~ fewer units or mobile home parks with ten or ~~((less))~~ fewer lots - Allowance for income growth**. Because the occupants of rental housing and mobile home parks granted an exemption under RCW 84.36.560 are generally attempting to improve their financial situation, the income of the household is likely to fluctuate during the time they occupy the housing unit or lot in the mobile home park.

(a) In an attempt to assist these households in improving their circumstances, the exemption will continue for specific rental units or mobile home lots when the household's income rises above fifty percent of median income under the following conditions:

(i) The currently exempt rental housing unit in a facility with ten ~~((units))~~ or fewer units, or mobile home lots in a mobile home park with ten ~~((lots))~~ or fewer lots, was occupied by a very low-income household at the time the exemption was granted;

(ii) The household's income rises above fifty percent of the median income but remains at or below eighty percent of median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located; and

(iii) The rental housing or mobile home park continues to meet the certification requirements of a very low-income housing program listed in subsection (3)(d) of this ~~((section))~~ rule; and

(b) If a dwelling unit or mobile home lot receiving an exemption under this exception becomes vacant and is subsequently re-rented, the income of the household moving into the unit or onto the mobile home lot must be at or below fifty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located to remain exempt from property tax.

(c) Example. If a unit is occupied by a household whose income rises up to sixty percent of median income, the unit will retain its exempt status as long as the household continues to occupy the unit and the household's income remains

below eighty percent of median income. If the residents of this unit move out on June 1st and the unit is subsequently rented to a household whose income is at or below fifty percent of median income, the unit will retain its exempt status. Conversely, if the unit is rented to a household whose income is above fifty percent of median income, the unit becomes ineligible for exemption as of January 1st of the following year.

(7) **Group homes - Income of residents.** The income of the individual residents of a group home, as defined in subsection (2) of this rule, will not be combined so as to constitute the income of a single household. Each resident will be considered an independent household occupying a separate dwelling unit. In other words, the income of the residents of a group home will not be aggregated when the department determines the size of the exemption the group home is entitled to receive. For example, if there are six residents in a group home, the department will process the application for exemption as if there were six separate dwelling units and determine the size of the exemption on that basis. If three of the residents have income at or below fifty percent of median income, the home will receive a fifty percent reduction in the property taxes due on the home.

(8) **Eligibility of property unoccupied at the time of initial application or at any time after the exemption is granted.** Property that is unoccupied at the time of application or on January 1st of any subsequent year is still eligible for exemption if certain conditions are met. If the property is currently taxable, it may receive exempt status as of the assessment year in which the claim for exemption is submitted. If the property is currently exempt but the exempt use will cease or will be reduced because of renovations or repairs, the exempt status of the property may be continued for taxes payable the next year. The following conditions must be satisfied to receive an exemption under either of these circumstances:

(a) The rental housing or mobile home park will be used for the exempt purpose stated in RCW 84.36.560 within two assessment years;

(b) The nonprofit entity applying for or receiving the exemption has obtained a commitment for financing, in whole or in part, to acquire, construct, remodel, renovate, or otherwise convert the property to provide housing for very low-income households from one or more of the sources listed in subsection (3)(d) of this ~~((section))~~ rule;

(c) The nonprofit entity has manifested its intent in writing to construct, remodel, renovate, or otherwise convert the rental housing or mobile home park to housing for very low-income households; and

(d) If less than the entire facility or mobile home park will be used to provide rental housing or mobile home lots for very low-income households, only that portion ~~((that will be so used))~~ is entitled to an exemption under this ~~((subsection))~~ rule.

(9) **Exclusive use required.** To be exempt under RCW 84.36.560, the property must be exclusively used to provide rental housing or mobile home lots for very low-income households, except as provided in RCW 84.36.805.

(10) **Payments in-lieu of property tax will be accepted.** Any nonprofit entity that qualifies for a property

tax exemption under RCW 84.36.560 may agree to make payments to the city, county, or other political subdivision for the improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the exempt rental housing facility or mobile home lots. However, these payments may not exceed the amount of property tax last levied as the annual tax by the city, county, or political subdivision upon the property prior to the time the exemption was effective.

## WSR 19-22-068

### EXPEDITED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 5, 2019, 11:29 a.m.]

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-97-0140 Transfer and discharge appeals for resident in medicare or medicaid certified facilities, in order to remove references to chapter 388-526 WAC.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this amendment is to remove references to chapter 388-526 WAC from this rule. WAC 388-97-0140(3) describes the appeal process for a nursing home resident or resident representative who wants to appeal a discharge or transfer decision made by the nursing home. Removing the references to chapter 388-526 WAC, which was repealed, will more clearly define the appeal process for the user.

Reasons Supporting Proposal: The proposed amendment provides clarity and refers users to the correct WAC chapter.

Statutory Authority for Adoption: RCW 74.42.620.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lisa Herke, P.O. Box 45600, Olympia, WA 98504, 509-225-2819.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed amendments update references without changing the effect of the rule.

### 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 Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m., January 6, 2020.

October 30, 2019  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-22-077, filed 11/1/11, effective 12/2/11)

**WAC 388-97-0140 Transfer and discharge appeals for resident in medicare or medicaid certified facilities.**

(1) A skilled nursing facility and a nursing facility that initiates transfer or discharge of any resident, regardless of payor status, must:

(a) Provide the required written notice of transfer or discharge to the resident and, if known or appropriate, to a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing, in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of administrative hearings on or before the date the resident actually transfers or discharges; and

(iii) The nursing home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.

(2) A skilled nursing facility or nursing facility must suspend transfer or discharge pending the outcome of the hearing when the resident's appeal is received by the office of administrative hearings on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.

(3) The resident is entitled to appeal the skilled nursing facility or nursing facility's transfer or discharge decision. The appeals process is set forth in (~~chapter 388-526 WAC,~~) chapter 182-526 WAC and this chapter. In such appeals, the following will apply:

(a) In the event of a conflict between a provision in this chapter and a provision in (~~chapter 388-526 WAC or~~) chapter 182-526 WAC, the provision in this chapter will prevail;

(b) The resident must be the appellant and the skilled nursing facility or the nursing facility will be the respondent;

(c) The department must be notified of the appeal and may choose whether to participate in the proceedings. If the department chooses to participate, its role is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) If a medicare certified or medicaid certified facility's decision to transfer or discharge a resident is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by a nursing facility or skilled nursing facility;

(e) Any review of the administrative law judge's initial decision shall be conducted under (~~chapter 388-526 WAC or~~) chapter 182-526 WAC.

**WSR 19-22-091**

**EXPEDITED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed November 6, 2019, 8:52 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-250 WAC, Commercial feed, and chapter 16-252 WAC, Commercial feed—Pet food and specialty pet food, the department is proposing to amend these chapters by specifying the amount of the semi-annual inspection fee and updating website address references.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule corrects an error made in the 2018 amendments of the rule that neglected to include the specific amount of the inspection fee that must be submitted with the semi-annual report. The fee of twelve cents per ton has been set in rule in both of these chapters since 2005. The proposed rule also updates the website references in the rule language.

Reasons Supporting Proposal: RCW 15.53.9018 requires that an inspection fee not less than four cents per ton and not more than twelve cents per ton on all commercial feed, as prescribed by the department by rule, be submitted to the department with the semi-annual report. In 2018, extensive revisions were made to rewrite the entire rule to adopt the standards of the Association of American Feed Control Officials (AAFCO) 2018 official publication. Since the AAFCO official publication does not have a requirement for a semi-annual inspection fee, the statement regarding the amount of the inspection fee was inadvertently not transferred over to the new language. The rate of twelve cents per ton has been in place since 2005.

Statutory Authority for Adoption: RCW 15.53.9012, 15.53.9018.

Statute Being Implemented: Chapter 15.53 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: Gloriann Robinson, 1111 Washington Street S.E., Olympia, 360-902-1802; Implementation and Enforcement: Ali Kashani, 1111 Washington Street S.E., Olympia, 360-902-2028.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule amendments correct an error that was made when the rule was rewritten and adopted in October 2018 by not including the specified amount of the inspection fee previously in rule into the revised rule and updates website address references.

#### 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 Gloriann Robinson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email [wsdarulescomments@agr.wa.gov](mailto:wsdarulescomments@agr.wa.gov), AND RECEIVED BY January 6, 2020.

November 6, 2019  
Steve Fuller  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 18-21-191, filed 10/24/18, effective 11/24/18)

**WAC 16-250-178 Licensing requirements.** (1) Except as provided for in RCW 15.53.9013, any person who manufactures a commercial feed in this state, or who distributes a commercial feed in or into this state; or whose name appears on a commercial feed label as guarantor, must obtain a commercial feed license for each facility that distributes in or into this state.

(2) The license application must be submitted on a form prescribed by the department.

(3) The license application must include:

- (a) The name, mailing address, and contact information of the applicant;
- (b) The name, mailing address, and contact information of the individual responsible for reporting tonnage;
- (c) The name, mailing address, physical address, and contact information of the facility being issued the license;
- (d) Types of business the firm is engaged in (manufacturer, distributor, guarantor);
- (e) Types of processing;
- (f) Types of feed distributed;
- (g) Types of ingredients;
- (h) Applicant's signature; and
- (i) Date signed.

(4) A separate license application form is required for each location or facility.

(5) A fifty dollar fee must accompany each license application form.

(6) License application forms can be obtained from the department ((online at <https://agr.wa.gov/FoodAnimal/AnimalFeed/Forms.aspx>);) by emailing the animal feed program at [feedreg@agr.wa.gov](mailto:feedreg@agr.wa.gov), or by phone at 360-902-1942.

**AMENDATORY SECTION** (Amending WSR 18-21-191, filed 10/24/18, effective 11/24/18)

**WAC 16-250-182 Semiannual feed distribution reporting requirements and inspection fees.** (1)(a) Each licensee must file a semiannual report on forms provided by the department setting forth the number of tons of commercial feed distributed in or into this state as required by RCW 15.53.9018.

(b) The report must include the amount of feed distributed by type of mixed feed by animal class, feed ingredients, signature of person filing report, and date signed.

(2) An inspection fee of twelve cents per ton on all commercial feed sold for distribution in or into this state during the year must accompany the semiannual report.

(3) The minimum inspection fee, the late fee, and exceptions to payment of the fee are described in RCW 15.53.9018.

(4) Semiannual reporting forms can be obtained ((online at <https://agr.wa.gov/FoodAnimal/AnimalFeed/Forms.aspx>);) by emailing the animal feed program at [feedreg@agr.wa.gov](mailto:feedreg@agr.wa.gov); or by phone at 360-902-1942.

(5) Any reports and associated fees may be submitted to the department by mail to:

Washington State Department of Agriculture  
Animal Feed Program  
P.O. Box 42591  
Olympia, WA 98504-2591

**AMENDATORY SECTION** (Amending WSR 18-21-191, filed 10/24/18, effective 11/24/18)

**WAC 16-252-178 Registration requirements.** (1) Any person who distributes a pet food or specialty pet food in or into this state must register the product with the department as required under RCW 15.53.9014.

(2) The registration application must be submitted on a form prescribed by the department.

(3) The registration application must include:

- (a) The name, mailing address, physical address, and contact information of the applicant;
- (b) The name, mailing address, physical address, and contact information of the guarantor;
- (c) The name, mailing address, physical address, and contact information of the manufacturer;
- (d) Type of activities the manufacturer is engaged in:
  - (i) Species of animals the facility manufactures products for the guarantor;
  - (ii) Types of product the facility handles.
- (e) Package size:
  - (i) Number of products distributed only in packages of ten pounds or more;
  - (ii) Number of products distributed both in packages of less than ten pounds and/or packages of ten pounds or more.
- (f) Applicant's signature;
- (g) Date signed;



(h) Electronic product label(s); and

(i) Registration fees as specified in RCW 15.53.9014(3).

(4) Registration application forms can be obtained from the department online at (~~(<https://agr.wa.gov/FoodAnimal/AnimalFeed/Forms.aspx>;~~) <https://agr.wa.gov/departments/animals-livestock-and-pets/animal-feed/pet-food-registration> by emailing the animal feed program at [petfood@agr.wa.gov](mailto:petfood@agr.wa.gov), or by phone at 360-902-1844.

AMENDATORY SECTION (Amending WSR 18-21-191, filed 10/24/18, effective 11/24/18)

**WAC 16-252-182 Semi-annual feed distribution reporting requirements and inspection fees.** (1)(a) Each registrant must file a semi-annual report on forms provided by the department setting forth the number of tons of pet food or specialty pet food distributed in or into this state as required by RCW 15.53.9018.

(b) The report must include the amount of pet food or specialty pet food distributed by type of species, applicant's signature, and date signed.

(2) An inspection fee of twelve centers per ton on all pet food or specialty pet food sold for distribution in or into this state during the year must accompany the semi-annual report.

(3) The minimum inspection fee, the late fee, and exceptions to payment of the fee are described in RCW 15.53.9018.

(4) Semi-annual reporting forms can be obtained (~~(online at <https://agr.wa.gov/FoodAnimal/AnimalFeed/Forms.aspx>;~~) by emailing the animal feed program at [petfood@agr.wa.gov](mailto:petfood@agr.wa.gov); or by phone at 360-902-1844.

(5) Any reports and associated fees may be submitted to the department by mail to:

Washington State Department of Agriculture  
Animal Feed Program  
P.O. Box 42591  
Olympia, WA 98504-2591