

WSR 22-09-076

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 20, 2022, 6:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-01-006.

Title of Rule and Other Identifying Information: Chapter 16-610 WAC, Livestock identification.

Hearing Location(s): On May 24, 2022, at 9:00 a.m., Microsoft Teams conference line. Join by link [https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGNlNWE1YzYtYjQyOC00NDgzLTg3ZWEtNzg2YmJhYmEzMmVk%40thread.v2/0?](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGNlNWE1YzYtYjQyOC00NDgzLTg3ZWEtNzg2YmJhYmEzMmVk%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%228067d4fb-227d-4cd5-a00a-7902df280a3c%22%7d; join by phone + 1 564-999-2000, ID 189384717#)

context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%228067d4fb-227d-4cd5-a00a-7902df280a3c%22%7d; join by phone + 1 564-999-2000, ID 189384717#. The public hearing will be held solely over video and teleconference.

Date of Intended Adoption: June 1, 2022.

Submit Written Comments to: Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email WSDARulesComments@agr.wa.gov, fax 360-902-2092, by 5:00 p.m., May 24, 2022.

Assistance for Persons with Disabilities: Contact Nicole Schoch, animal services division coordinator, phone 360-725-5642, fax 360-902-2087, TTY 800-833-6388, email Nicole.M.Schoch@agr.wa.gov, by May 17, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 16-610 WAC in response to a rule-making petition received from the Washington state department of agriculture's (WSDA) livestock identification advisory committee to:

- Reduce the electronic cattle transaction reporting (ECTR) per head fee; and
- Allow veterinarians and field livestock inspectors certified by the department to conduct inspections at public livestock markets, certified feedlots, slaughter facilities, or special sales when the facilities have received written notification from the department that department inspectors are not available.

The department is also proposing to amend WAC 16-610-021 to clarify the requirement that sellers using ECTR must provide proof of ownership by describing how the seller must provide that documentation.

Reasons Supporting Proposal: ECTR system is a web-based platform for Washington cattle owners to electronically report change of ownership or out-of-state movement of their cattle. All cattle reported in ECTR must have electronic official individual identification (RFID), commonly known as an "840" RFID tag. Users must submit proof of ownership documentation for all branded cattle that are reported in ECTR. The proposal reduces the ECTR fee from \$1.30 per head to \$0.80 per head. Reduction in the ECTR per head fee will incentivize more private sales of cattle to be conducted without the use of a livestock inspector. With more cattle producers utilizing ECTR, the program may see reduced expenditures as the need for department livestock inspectors conducting physical inspections may decrease.

An increased use of the ECTR system by producers will also advance animal disease traceability (ADT) in the state. ADT is critical

to ensuring a rapid response when animal disease events take place. An efficient and accurate traceability system reduces the number of animals and response time involved in a disease investigation, reducing the economic impact on cattle producers. ADT is based on individual identification and the ability to trace an individual, as opposed to a group of animals, allows fewer farms to face quarantine in the face of a disease event and secures continuity of business. The ECTR system requires individual identification in the form of RFID for every transaction.

In response to recent transactions and the expected increase of future transactions within the ECTR system, the need to put parameters around submitting original proof of ownership is important. Currently, the rule requires ECTR users to provide proof of ownership when the brand is not recorded in Washington to the seller, but does not specify how to do so. The department is proposing to clarify the rule by stating that ECTR users are required to upload a copy of proof of ownership at the time the transaction is reported and requiring that the department receive the original in the mail within seven days of the transaction. When ECTR users sell branded cattle that have a brand that is not recorded to the seller, it is important that the seller send the department the original proof of ownership so that the seller cannot continue to use that original proof of ownership when selling cattle in the future and more importantly so that the department can issue a duplicate certificate to the seller showing the number of animals remaining in their possession from the original certificate. This practice is also required when owners request a physical inspection of their branded cattle.

Certified veterinarians and private field inspectors are not authorized to conduct inspections at public livestock markets, certified feedlots, slaughter facilities, or special sales under the current permanent rule. During the COVID-19 pandemic, the department experienced a lack of staff availability to perform livestock inspections. This staffing shortfall resulted in the department issuing an emergency rule-making order that allowed certified veterinarians and private field inspectors to conduct inspections at the licensed facilities when the department notified those licensed facilities in writing that WSDA inspectors were not available. This proposed rule making makes the emergency rule permanent and ensures that the livestock industry is able to continue functioning even when department staff are unavailable to conduct inspections.

Statutory Authority for Adoption: RCW 16.57.350, 16.57.450, 16.58.030, and 16.65.020.

Statute Being Implemented: Chapters 16.57 and 16.58 RCW.

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

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Brennan Kimbel, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1808; Implementation and Enforcement: Jodi Jones, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1889.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule provides an option for li-

censed facilities, such as public livestock markets and slaughter facilities, to utilize certified veterinarians and field livestock inspectors to conduct proof of ownership inspections in the absence of a WSDA inspector, if they chose to do so. The rule does not require them to do so. Certified veterinarians and field livestock inspectors are considered private businesses, so providing this allowance in the rule would give these businesses more opportunities to generate additional revenue. Providing this alternative to these facilities allows them to continue operating when WSDA inspectors are not available. Without this option, these facilities would have to cease operations for the period of time WSDA inspectors are unavailable.

The proposed rule reduces the per head fee for ownership transactions using the ECTR system from \$1.30 to \$0.80 thus reducing overall costs for cattle producers.

The proposed rule clarifies the current requirement that sellers using the ECTR system must provide proof of ownership by adding instructions stating that the proof of ownership must be uploaded at the time the transaction is reported as well as received by WSDA within seven days of the transaction. In order to comply with these instructions, a seller selling cattle bearing a brand not recorded to them in Washington state would incur the cost of postage to mail the original proof of ownership document to WSDA. The current cost for postage is \$0.58 per stamp. Since the proposed rule is also decreasing the per head transaction fee for using ECTR from \$1.30 to \$0.80 (-\$0.50 per head), the difference between the per head fee for using the ECTR system and the cost for postage is \$0.08 per head (if the seller sent each proof of ownership document separately). Since the requirement to submit proof of ownership only applies to transactions affecting cattle bearing a brand that is not recorded to the seller in Washington state, it only applies to an extremely limited number of transactions occurring in the ECTR system. In fact, only a total of two transactions have been recorded thus far that would require proof of ownership to be submitted. All other transactions recorded in ECTR have been by sellers of cattle bearing brands recorded to them in Washington. Since both of the affected transactions were by the same seller, that seller would have an increased cost of \$0.16 under the proposed rule and would not exceed the minor cost threshold minimum of \$100 established in RCW 19.85.020(2).

None of the components of the proposed rule impose more-than-minor costs. Therefore, WSDA concludes that the proposed rule is exempt from requirements under chapter 19.85 RCW.

A copy of the detailed cost calculations may be obtained by contacting Gloriann Robinson, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email WSDARulesComments@agr.wa.gov.

April 20, 2022

Jodi Jones

Animal Services Operations Director

OTS-3732.2

AMENDATORY SECTION (Amending WSR 19-20-022, filed 9/23/19, effective 10/24/19)

WAC 16-610-021 Electronic cattle transaction reporting. (1) Individual private sales, trades, gifting, barter, or any other action that constitutes a change of ownership or movement out of state of cattle are required to obtain inspections under WAC 16-610-020 except when the seller holds an electronic cattle transaction reporting license under chapter 16.57 RCW and reports transactions through that system.

(2) (a) Any person may apply for an electronic cattle transaction reporting license. Applications shall be made on a form provided by the department to include:

(i) First and last name of the applicant.

(ii) Business name, physical address, mailing address, email address, and phone number.

(b) The license expires annually on June 30th.

(3) The initial license application fee is (~~thirty-three dollars~~) \$33. The annual renewal fee is (~~thirty-three dollars~~) \$33.

(4) The director may deny, suspend, or revoke an electronic cattle transaction reporting license for failure to comply with any condition of licensure under this section or any requirement of this chapter or chapter 16.57 RCW.

(5) All holders of an electronic cattle transaction reporting license must transmit to the department a record of each transaction containing the unique identification of each individual animal included in the transaction as assigned through a department-authorized identification method. All transactions reported to the department through the electronic cattle transaction reporting system must be reported within (~~twenty-four~~) 24 hours of the transaction and include the following information:

(a) Buyer's first and last name, email address, phone number, mailing address, and physical address of destination;

(b) Number of cattle sold;

(c) Electronic official individual identification tag number of each head of cattle sold;

(d) Type and sex of each head of cattle sold;

(e) Breed and color of each head of cattle sold; and

(f) Date the transaction occurred.

(6) The following information is required for cattle that are branded in addition to the requirements in subsection (~~(4)~~) (5) of this section:

(a) Design and location of the brand(s) on each head of cattle sold; and

(b) Washington brand number if the brand is recorded to the seller.

(i) If the brand is not recorded in Washington to the seller, the seller must provide proof of ownership under WAC 16-610-018. Proof of ownership must be uploaded at the time the transaction is reported. Original proof of ownership must be received by the department within seven days of the report of the transaction. Proof of ownership must be mailed to:

Washington State Department of Agriculture
Livestock Identification Program
P.O. Box 42577
Olympia, WA 98504-2577

(ii) A fee of (~~one-dollar and thirty~~) 80 cents per head will be assessed for electronically reported transactions, along with any other applicable fees including, but not limited to, the fees listed in subsection (7) of this section. The fees are due and collected at the time of reporting through the electronic cattle transaction reporting system.

(7) Exemptions from mandatory inspections do not exempt cattle owners or sellers from paying beef promotion fees owed to the Washington state beef commission under chapter 16.67 RCW or the animal disease traceability fee owed to the department under chapter 16.36 RCW.

[Statutory Authority: RCW 16.57.025, [16.57.]350, [16.57.]450(8), 16.58.030, 16.65.020, and [16.65.]350. WSR 19-20-022, § 16-610-021, filed 9/23/19, effective 10/24/19.]

AMENDATORY SECTION (Amending WSR 19-20-022, filed 9/23/19, effective 10/24/19)

WAC 16-610-060 Veterinarian and field livestock inspector certification. (1) (a) The director may certify veterinarians, who are licensed and accredited in Washington state and field livestock inspectors who comply with the requirements of this section, to issue livestock inspection certificates.

(b) Certified veterinarians and field livestock inspectors may not conduct inspections at certified feedlots, slaughter plants, public livestock markets, or special sales unless the department has notified the facility in writing that department inspectors are not available to conduct inspections. If the department notifies a facility that its inspectors are not available to conduct inspections, the facility may use a certified veterinarian or field livestock inspector to conduct inspections during the period, as specified by the department, in which department inspectors are not available.

(c) (i) Certified veterinarians and field livestock inspectors may not perform livestock inspections for an individual or business if a conflict of interest exists.

(ii) For the purpose of this rule, a "conflict of interest" includes, but is not limited to, a financial or other interest, direct or indirect, in the livestock, the facility in which the livestock are presented for sale, or the event at which the livestock are being exhibited.

(2) Veterinarians licensed and accredited in Washington state and field livestock inspectors who wish to issue inspection certificates for livestock must apply for certification on the department's application form (WSDA form #7028). The application must include the following:

(a) The full name, address, telephone number, and email address of the individual applying for certification;

(b) The applicant's Washington state veterinary license number if the applicant is a veterinarian;

(c) The geographic area in which the applicant will issue inspection certificates for livestock;

(d) A statement describing the applicant's experience with large animals, especially cattle and horses;

(e) A brief statement indicating that the applicant is requesting certification to issue inspection certificates for cattle, horses or both;

(f) The signature of the applicant; and

(g) Any other additional information as requested by the director.

(3) All applications must be accompanied by a check or money order for the amount of the certification fee of (~~sixty dollars~~) \$60 per applicant.

(4) Certifications expire on the third December 31st following the date of issuance. For example, if a certification was issued on October 14, 2003, it would expire on December 31, 2005. All applications for renewal of certification must be submitted on AGR Form 930-7089 and accompanied by a check or money order for the amount of the certification fee of (~~sixty dollars~~) \$60 per applicant.

(5) All applicants applying for certification or renewal of certification must complete department-provided training and pass a written test with no less than a score of (~~ninety~~) 90 percent. The department will provide to each person applying for certification or renewal of certification a copy of the most current brand book and any supplements issued to date to each certified veterinarian or field livestock inspector. Training will include, but will not be limited to, the:

(a) Reading of printed brands;

(b) Reading of brands or other marks on animals, including the location of brands on animals;

(c) Reading of a microchip or other electronic official individual identification;

(d) Completion of official documents; and

(e) Review of satisfactory ownership documents.

(6) The director will maintain a list of veterinarians and field livestock inspectors certified to perform livestock inspections. Interested parties may request a copy of the list by contacting the department at:

Washington State Department of Agriculture

Animal Services Division

1111 Washington Street S.E.

P.O. Box 42577

Olympia, WA 98504-2577

Email: livestockid@agr.wa.gov

Phone: 360-902-1855

Website: <https://agr.wa.gov/departments/animals-livestock-and-pets/livestock>

(7) Inspections by certified veterinarians and field livestock inspectors are conducted upon request and provided at the discretion of the veterinarian or field livestock inspector.

(8) Certified veterinarians and field livestock inspectors must submit all required inspection fees to the director and copies of each inspection certificate within (~~thirty~~) 30 days of the date of issue.

(9) The director may deny certification or renewal of certification to issue inspection certificates if the veterinarian or field livestock inspector fails to meet the requirements of this section or knowingly makes false or inaccurate statements regarding his or her qualifications on the certification application.

[Statutory Authority: RCW 16.57.025, [16.57.]350, [16.57.]450(8), 16.58.030, 16.65.020, and [16.65.]350. WSR 19-20-022, § 16-610-060, filed 9/23/19, effective 10/24/19. Statutory Authority: RCW 16.57.160 and chapter 34.05 RCW. WSR 16-21-008, § 16-610-060, filed 10/7/16, effective 11/7/16. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. WSR 10-21-016, § 16-610-060, filed 10/7/10, effective 11/7/10; WSR 07-14-057, § 16-610-060, filed 6/28/07, effective 7/29/07; WSR 04-01-171, § 16-610-060, filed 12/23/03, effective 1/23/04.]