

WSR 23-10-007

EXPEDITED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 24, 2023, 10:15 a.m.]

Title of Rule and Other Identifying Information: Corporate officer cross-reference cleanup. This rule making will update the cross-reference in WAC 192-300-170 (2)(b) from a repealed statute to the current statute.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 192-300-170 to remove a cross-reference to RCW 23A.08.470, which was repealed in 1990. The cross-reference will be updated to the current statute, RCW 23B.08.400.

Reasons Supporting Proposal: The proposal is needed to update the rule to reference the current statute, rather than a statute that was repealed in 1990.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.12.010.

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

Name of Proponent: Employment security department (ESD), governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed change updates a cross-reference to a repealed statute and does not materially change the amended rule.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 Josh Dye, ESD, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, email rules@esd.wa.gov, TDD relay 711, AND RECEIVED BY June 21, 2023.

April 24, 2023

Dan Zeitlin

Employment Security Policy Director

OTS-4526.1

AMENDATORY SECTION (Amending WSR 13-24-068, filed 11/27/13, effective 12/29/13)

WAC 192-300-170 Requirements for election of unemployment insurance coverage. The department applies RCW 50.04.165 and 50.24.160 to establish the election of coverage for unemployment insurance by employers where personal services are not considered employment under the law:

(1) RCW 50.24.160 allows any employing unit to request unemployment insurance coverage for personal services that are not covered as employment:

(a) The request must be in writing to the department;

(b) The department must approve the request for election of coverage in writing; and

(c) The request must be signed by someone legally authorized to bind the business.

(2) RCW 50.04.165 allows a corporation to elect to cover the personal services of all or none of its corporate officers for unemployment insurance purposes.

(a) A corporation must submit a written request for voluntary election coverage signed by a person authorized to legally bind the corporation.

(i) When establishing voluntary coverage for an existing account, the written request will be considered timely if received within (~~thirty~~) 30 days before the end of the quarter in which the change is made.

(ii) When establishing voluntary coverage for a new account, the written request will be considered timely if received within (~~thirty~~) 30 days from the end of the quarter the employer is requesting coverage to begin.

(b) "Corporate officer" is defined in RCW (~~23A.08.470~~) 23B.08.400;

(c) Personal services provided by corporate officers appointed under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.24.160.

(d) All services performed by corporate officers are exempt until the date the election of coverage is approved.

(3) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. To terminate coverage, the employer must send a written request to the department by January 15th.

(4) The department reserves the right to disapprove a request for coverage because:

(a) The applicant is not liable for federal unemployment taxes (FUTA);

(b) The occupation or industry is seasonal; or

(c) Other reasons apply.

(5) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

(a) Of nonpayment of unemployment insurance taxes or failure to file an unemployment insurance tax and wage report;

(b) Of misrepresentation of facts;

- (c) Coverage is not used for involuntary unemployment as outlined in RCW 50.01.010; or
- (d) Other reasons apply.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 13-24-068, § 192-300-170, filed 11/27/13, effective 12/29/13; WSR 07-23-127, § 192-300-170, filed 11/21/07, effective 1/1/09; WSR 00-05-064, § 192-300-170, filed 2/15/00, effective 3/17/00.]

WSR 23-10-084
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 3, 2023, 7:03 a.m.]

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

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of agriculture (department) is proposing to amend chapter 16-610 WAC, Livestock identification, to align with recently enacted legislation. In April 2023, the Washington state legislature passed SSB 5439 (chapter 46, Laws of 2023). The department is proposing to amend chapter 16-610 WAC to align with this recently enacted legislation by:

- Adding a statement that the \$20.00 call out fee is not charged by certified veterinarians and private field inspectors; and
- Adding a requirement that the livestock identification advisory committee must review the costs and operations of the livestock identification program.

These changes mirror the legislation.

The department is also proposing to clarify the definition of "call out fee" by stating that it is a fee charged by department inspectors.

Reasons Supporting Proposal: To align with recently enacted legislation.

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

Statute Being Implemented: Chapter 16.57 RCW; chapter 46, Laws of 2023.

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 Implementation: Brennan Kimbel, 1111 Washington Street S.E., Olympia, WA, 360-688-0893; Enforcement: Joel Williams, 1111 Washington Street S.E., Olympia, WA, 360-688-4294.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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.

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

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Adding the statement that the call out fee is not charged by certified veterinarians or field livestock in-

spectors and adding the requirement that the livestock identification advisory committee must review the costs and operations of the livestock identification program mirror changes made to chapter 16.57 RCW in chapter 46, Laws of 2023. Amending the definition of "call out fee" to state that it is a fee only charged by department inspectors clarifies the rule without changing its effect.

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, Agency Rules Coordinator, 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, AND RECEIVED BY July 4, 2023.

May 3, 2023
Jodi Jones
Operations Director

OTS-4555.1

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

WAC 16-610-005 Definitions. In addition to the definitions found in RCW 16.57.010, 16.58.020, and 16.65.010, the following definitions apply to this chapter:

"Association of livestock breeders" means any properly incorporated association whose membership is made up of livestock breeders.

"Beef commission assessment point" means a person or business, as designated by the Washington state beef commission, required to collect and submit the mandatory per-head beef promotional fees directly to the commission when the sale of cattle occurs.

"Beef promotion fee" means the mandatory state and/or federal beef commission assessment fee under RCW 16.67.120 and 16.67.122 that is collected on each head of cattle at the time of sale.

"Call out fee" is a trip fee charged by department inspectors for conducting livestock inspections.

"Certified veterinarian" means an individual licensed to practice veterinary medicine in Washington state under chapter 18.92 RCW who has been certified to perform livestock inspections by the director.

"Electronic official individual identification" means an official USDA approved 840 radio-frequency identification (RFID) tag. Official USDA RFID ear tags are imprinted with an official USDA animal identification number (AIN), bear the official U.S. shield, and are tamper proof.

"Farmers cooperative association" means any cooperative association of livestock producers. Farmers cooperative association does not

include livestock youth organizations such as 4-H, FFA, or other junior livestock groups.

"**Field livestock inspector**" means an individual who has been certified by the director to perform livestock inspections.

"**Legacy brand**" means a brand that has been in continuous use for at least (~~twenty-five~~) 25 years.

"**Livestock heritage brand**" means a designation given to a brand that has been deactivated by the recorded owner. A heritage brand may not be applied to livestock.

"**Market**" means a public livestock market as defined in RCW 16.65.010(1).

"**Special sale**" means a public sale conducted by an individual, youth organization, livestock breeders association, or farmers cooperative association on a seasonal or occasional basis.

"**USDA**" means the United States Department of Agriculture.

[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, § 16-610-005, filed 9/23/19, effective 10/24/19. Statutory Authority: Chapters 16.57, 16.58, 16.65 and 34.05 RCW. WSR 07-14-057, § 16-610-005, filed 6/28/07, effective 7/29/07; WSR 04-01-171, § 16-610-005, filed 12/23/03, effective 1/23/04.]

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

WAC 16-610-010 Livestock identification advisory committee. (1)

The livestock identification advisory committee is established in RCW 16.57.015 for the purpose of advising the director regarding:

(a) Livestock identification programs administered under chapter 16.57 RCW and these rules;

(b) Inspection fees; and

(c) Related licensing fees.

(2) The advisory committee must review the costs and operations of the livestock identification program.

(3) The committee is appointed by the director and is composed of (~~twelve~~) 12 voting members as follows: Two beef producers, two livestock market owners, two horse producers, two dairy producers, two cattle feeders, and two meat processors.

Organizations representing the groups represented on the committee may submit nominations for these appointments to the director for the director's consideration. No more than two members at the time of their appointment or during their term may reside in the same county. Members may be reappointed and vacancies must be filled in the same manner as original appointments are made.

(~~(3)~~) (4) The committee shall elect a member to serve as committee chair. The committee must meet at least twice a year. The committee shall meet at the call of the director, chair, or a majority of the committee. A quorum of the committee consists of a majority of members. If a member has not been designated for a position, that position may not be counted for purposes of determining a quorum. A member may appoint an alternate who meets the same qualifications as the member to serve during the member's absence. The director may remove a member from the committee if that member has two or more unexcused absences during a single calendar year.

~~((4))~~ (5) Livestock identification advisory committee members must be residents of the state of Washington and actively engaged in the industry they represent.

[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, § 16-610-010, filed 9/23/19, effective 10/24/19. Statutory Authority: Chapters 16.57, 16.58, 16.65 and 34.05 RCW. WSR 07-14-057, § 16-610-010, filed 6/28/07, effective 7/29/07; WSR 04-01-171, § 16-610-010, filed 12/23/03, effective 1/23/04.]

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

WAC 16-610-065 Livestock identification fees. All livestock identification inspection fees charged by the director are specified in statute under RCW 16.57.220 but are reproduced in this section for ease of reference.

A call out fee of ~~((twenty dollars))~~ \$20 will be charged for conducting livestock inspections in accordance with RCW 16.57.220, 16.58.130 and 16.65.090. Public livestock markets, special sales, open consignment horse sales, certified feedlots, and USDA inspected slaughter facilities will be charged a call out fee per inspector per day, with the exception of:

Special sales conducted by youth livestock organizations such as 4-H, FFA, and junior livestock groups are exempt from call out fees. No call out fee is charged for an inspection done by a certified veterinarian or field livestock inspector.

Certificate	Fees:
Inspection Certificate - Cattle	<p>(1) The livestock inspection fee for cattle is \$4.00 per head except:</p> <p>The fee for livestock inspection for cattle is \$1.21 per head when cattle are identified with a valid brand recorded to the owner or identified with an electronic official individual identification tag.</p> <p>(2) The livestock inspection fee for cattle is \$4.40 per head for cattle delivered to a USDA inspected slaughter facility with a daily capacity of no more than five hundred head of cattle.</p> <p>(3) No inspection fee is charged for a calf that is inspected prior to moving out-of-state under an official temporary grazing permit if the calf is part of a cow-calf unit and the calf is identified with the owner's Washington state-recorded brand or identified with an electronic official individual identification tag.</p>
Inspection Certificate - Horse	(4) The livestock inspection fee for horses is \$3.85 per head.

Certificate	Fees:
Inspection Certificate - Groups of thirty or more horses	(5) The livestock inspection fee for groups of thirty or more horses is \$2.20 per head, if: (a) The horses are owned by one individual; and (b) The inspection is performed on one date and at one location; and (c) Only one certificate is issued.
Inspection Certificate - Minimum fee	(6) The minimum fee for a livestock inspection is \$5.50 . The minimum fee does not apply to livestock consigned to and inspected at a public livestock market, special sale, or a cattle processing plant.
Annual individual identification certificate for individual animals	(7)(a) The livestock inspection fee for an annual individual identification certificate for cattle and horses is \$22.00 per head. (b) The livestock inspection fee for an annual individual identification certificate for groups of thirty or more horses or cattle is \$5.50 per head, if: (i) The horses or cattle are owned by one individual; (ii) The inspection is performed on one date and at one location; and (iii) Only one certificate is issued.
Lifetime individual identification certificate	(8) A livestock inspection fee for a lifetime individual identification certificate for horses and cattle is \$63.00 per head.

[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, § 16-610-065, filed 9/23/19, effective 10/24/19. Statutory Authority: Chapters 16.57 and 34.05 RCW. WSR 12-21-013, § 16-610-065, filed 10/5/12, effective 11/5/12. Statutory Authority: Chapters 16.57, 16.58, 16.65, and 34.05 RCW. WSR 10-21-016, § 16-610-065, filed 10/7/10, effective 11/7/10; 07-14-057, § 16-610-065, filed 6/28/07, effective 7/29/07; WSR 04-01-171, § 16-610-065, filed 12/23/03, effective 1/23/04.]