

WSR 24-01-130

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 19, 2023, 2:37 p.m., effective January 19, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-157 WAC, Organic food standards and certification, by increasing the following fees throughout WAC 16-157-251 to ensure that the full cost of operating the program is recovered.

The fee increases are as follows: New applicant fee - increased from \$375 to \$500; renewal fees - increased 38 percent on average for all income ranges; minimum renewal fee - increased from \$412.50 to \$570; inspection fees for crop producers increased from \$375 to \$500; inspection fees for livestock producers increased from \$250 to \$500; inspection fees for wild crop producers increased from \$100 to \$200; and inspection fees for handlers, processors, or retailers increased from \$500 to \$750.

Additionally, this amendment removes the new product application fee. The new product fee was intended to recover the additional costs of reviewing a new product. In practice, this fee disproportionately affected specific business types that had multiple types or variations of products with very small differences. While it had a significant impact on businesses, the total revenue it generated for the program was minimal. These costs will instead be covered by the increase in renewal fees.

Citation of Rules Affected by this Order: Amending WAC 16-157-251.

Statutory Authority for Adoption: RCW 15.86.065, 15.86.070.

Adopted under notice filed as WSR 22-20-098 [23-22-124] on November 1, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 19, 2023.

Derek I. Sandison
Director

OTS-4923.1

AMENDATORY SECTION (Amending WSR 19-01-062, filed 12/14/18, effective 1/14/19)

WAC 16-157-251 Certification fee schedule. (1) Producers and handlers of organic products must submit an application packet and fees to the department each year to receive or maintain certification.

(a) New applicant fee: A new application fee of (~~three hundred seventy five dollars~~) \$500 must be submitted with each new application.

(b) Renewal fee: A renewal fee must be submitted annually by March 1st with each renewal application. Renewal fees for producers, handlers, and processors are assessed based on the gross annual income received by the operation for the production or handling of organically certified products. The renewal fee is based on the following fee schedule:

GROSS ANNUAL INCOME RECEIVED FROM ORGANIC PRODUCTS IN PREVIOUS CALENDAR YEAR	RENEWAL FEE DUE ANNUALLY ON MARCH 1st
\$ 0 - \$25,000	(\$137.50) \$250.00
\$25,001 - \$50,000	(\$275.00) \$380.00
\$50,001 - \$75,000	(\$412.50) \$570.00
\$75,001 - \$100,000	(\$550.00) \$760.00
\$100,001 - \$150,000	(\$825.00) \$1,140.00
\$150,001 - \$200,000	(\$1,100.00) \$1,520.00
\$200,001 - \$250,000	(\$1,375.00) \$1,900.00
\$250,001 - \$300,000	(\$1,512.50) \$2,090.00
\$300,001 - \$400,000	(\$1,787.50) \$2,470.00
\$400,001 - \$500,000	(\$2,062.50) \$2,850.00
\$500,001 - \$750,000	(\$2,406.25) \$3,325.00
\$750,001 - \$1,000,000	(\$2,750.00) \$3,800.00
\$1,000,001 - \$1,500,000	(\$3,437.50) \$4,750.00
\$1,500,001 - \$2,000,000	(\$4,125.00) \$5,700.00
\$2,000,001 - \$3,000,000	(\$5,500.00) \$7,600.00
\$3,000,001 - \$4,000,000	(\$6,875.00) \$9,500.00
\$4,000,001 - \$5,000,000	(\$8,250.00) \$11,400.00
\$5,000,001 - and up	(\$8,250 plus 0.1375%) \$11,400.00 plus 0.19% of income over \$5,000,000

(i) The maximum renewal fee shall not exceed (~~twenty five thousand dollars~~) \$25,000 per primary facility or location.

(ii) The minimum renewal fee is (~~four hundred twelve dollars and fifty cents~~) \$570 for operations with more than: (~~Twenty five~~) 25 acres in production (excluding fallow, pasture, hay, haylage, and silage), or more than five production sites, or more than (~~fifteen~~) 15 products.

(iii) Operations certified to the retailer scope are exempt from the gross annual income assessment and are charged a (~~one thousand five hundred dollar~~) \$1,500 renewal fee per retail location or facility.

(iv) Renewal applications and fees submitted after March 1st must include a late fee in addition to the renewal fee.

If a renewal application is submitted after March 1st but before:

	The late fee is:
April 1st	\$100.00
May 1st	\$200.00
June 1st	\$300.00
July 1st	\$400.00
August 1st	\$500.00
September 1st	\$600.00

(c) **Inspection fee:** An inspection fee must be submitted after each annual and announced additional inspection conducted by the department. The inspection fee is the sum of the fees associated with the scopes of the inspection. Inspection fees are based on the following fee schedule:

INSPECTION SCOPE	INSPECTION FEE
Crop producer	- ((\$375)) <u>\$500</u>
Livestock producer	- ((\$250)) <u>\$500</u>
Wild crop producer	- ((\$100)) <u>\$200</u>
Handler, processor, or retailer	- ((\$500)) <u>\$750</u>

(i) Operations with a producer scope plus either the handler or processor scope and less than (~~two hundred fifty thousand dollars~~) \$250,000 in gross annual income qualify for a (~~three hundred dollar~~) \$300 reduction in their inspection fee.

(ii) Each primary location or facility must receive an annual on-site inspection. In the event more than one primary location or facility is included under one certification, the operation will be charged an inspection fee per primary location or facility.

(iii) Additional announced inspections, if necessary to determine compliance or requested by the operation, will be charged to the new applicant or certified operation per the inspection fee table. Unannounced inspections conducted by the department are not charged an inspection fee.

(iv) Out-of-state inspections, if necessary to determine compliance or requested by the operation, shall be charged (~~five hundred dollars~~) \$500 plus associated travel costs in addition to the inspection fee.

(2) New and renewal applicants may request additional evaluations throughout the year. A fee is charged to the operation based on the service requested.

(a) **New scope:** The request to add a new scope of certification will be charged to the certified operation at a rate of (~~one hundred dollars~~) \$100 per new organic system plan submitted.

(b) **New site application:** Each new site application submitted by a renewal applicant after March 1st will be charged (~~forty dollars~~) \$40 per application.

(c) **Land assessment:** A fee of (~~one hundred dollars~~) \$100 per inspection will be charged to a renewal applicant when an evaluation of one or more production sites is part of an inspection. The land assessment fee does not apply to the annual examination of a renewal applicant's existing certified sites.

(d) (~~**New product application:** A rate of forty dollars per handled or single ingredient processed product and a rate of sixty dollars per multi-ingredient processed product is charged to evaluate a~~

~~new handled or processed product for certification. Product fees are not required when products are submitted with a new application packet.~~

~~(e))~~ **New facility:** Certified operations are charged a fee of ~~((one hundred dollars))~~ \$100 per request to evaluate an additional facility.

~~((f))~~ (e) **Expedited services:** New and renewing applicants may request expedited services. Expedited services are defined as inspections and reviews conducted outside of the normal timelines and may be provided by the department if sufficient staff is available to expedite the work.

(i) Expedited services that do not require an inspection are charged a rate of ~~((five hundred dollars))~~ \$500 to receive an evaluation and certification decision within five business days from the acceptance of the request.

(ii) Expedited services requiring an inspection prior to a certification decision are charged a rate of ~~((seven hundred fifty dollars))~~ \$750 to receive an inspection on an expedited and agreed upon timeline that takes the crop harvest or anticipated production or handling dates into consideration. The review of the inspection report will be completed within five business days from the date of the inspection. The expedite fee is in addition to the inspection fee outlined under the certification fee schedule.

~~((g))~~ (f) **Mediation fee:** A ~~((five hundred dollar))~~ \$500 fee plus the cost of a formal mediator, if applicable, will be charged to a new or renewal applicant when mediation is accepted by the department.