

WSR 17-20-115
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 4, 2017, 11:29 a.m.]

Title of Rule and Other Identifying Information: WAC 16-390-240 USDA audit verification and terminal market inspection fees.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 16-390-240 USDA audit verification and terminal market inspection fees, to adopt fees identical to and not less than fees adopted by USDA/AMS as published in the Federal Register at Vol. 82, No. 88 under the "Fruit and Vegetable Fees" table (effective October 1, 2017), and, for the holiday and overtime fees, as published in "Patch #026 Fees for TMI" of the USDA/AMS SCI Division Inspection Series (dated September 25, 2017) intended for publication in the to-be-updated USDA General Market Manual. These changes are necessary to comply with the department's cooperative agreement with USDA/AMS for services the department provides as a "Federal-State Inspection Agency."

Reasons Supporting Proposal: The proposed fee amendments incorporate recent changes in the applicable USDA/AMS audit verification and terminal market inspection fees as required under the department's cooperative agreement with USDA/AMS.

Statutory Authority for Adoption: RCW 15.17.030, 15.17.140(2), 15.17.150, and 15.17.270.

Statute Being Implemented: RCW 15.17.150 and 15.17.270.

Rule is necessary because of federal law, 7 C.F.R. Part 51.

Name of Proponent: Department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Larsen, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1960; Implementation and Enforcement: Jim Nelson, 270 9th Street N.E., Suite 101-A, East Wenatchee, WA, 509-662-6161.

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 department performs audit verification and terminal market inspection services requested by customers as a "Federal-State Inspection Agency" under a cooperative agreement with USDA/AMS. The proposed fee amendments are required under the cooperative agreement to correspond with recent USDA/AMS fee amendments.

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 Henri Gonzales, Department of Agriculture, 1111 Washington Street S.E., phone 360-902-1802, fax 360-902-2092, email wsdarulescomments@agr.wa.gov, AND RECEIVED BY December 4, 2017.

October 4, 2017
 Jason Ferrante
 Assistant Director

AMENDATORY SECTION (Amending WSR 14-24-086, filed 12/1/14, effective 1/1/15)

WAC 16-390-240 USDA audit verification and terminal market inspection fees. WSDA performs audit and inspection services requested by customers under a "cooperative agreement" with the United States Department of Agriculture's Agricultural Marketing Service (USDA/AMS). Under USDA/AMS rules, WSDA provides these services as a "federal-state inspection agency." Under USDA/AMS regulations and the cooperative agreement, the fees that WSDA charges for these services must be no less than the current USDA/AMS fees for these services. The applicable current USDA/AMS fees were published in the Federal Register at Vol. 82, No. 88, on May 9, 2017, under the "Fruit and Vegetable Fees" table and, for the overtime and holiday fees, in Patch #26, dated September 25, 2017, for incorporation in the USDA/AMS "General Market Manual" at Appendix II, "Schedule of User Fees." In conformity with the cooperative agreement, WSDA adopts the same applicable fees for these services as set forth in this section.

(1) The fee for USDA audit verification services (~~(are \$92.00)~~) is \$108.00 per hour (~~(as per the authority of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621))~~).

(2) Mileage related to audit verification services is charged at the rate established by the Washington state office of financial management at the time the service was performed.

(3) The fee for terminal market inspection services is (~~(\$74.00)~~) \$85.00 per hour, (~~(\$151.00)~~) \$191.00 per lot for a carlot equivalent of each product, and (~~(\$125.00)~~) \$159.00 per lot for one-half carlot equivalent or less of each product. The fee for each additional lot of the same product is (~~(\$69.00)~~) \$79.00. The overtime fee for terminal market inspection services is an additional (~~(\$38.00)~~) \$27.00 per hour. The fee for terminal market inspection services on a holiday is an additional (~~(\$74.00)~~) \$63.00 per hour. The mileage fee related to terminal market inspection services is \$1.32 per mile. USDA fees for lots and mileage are regulated by 7 C.F.R. 51.38 and 51.40, respectively, and are current as of (~~(August 5, 2014)~~) October 1, 2017.