

WSR 23-13-126
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
[Filed June 21, 2023, 10:50 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 Washington state department of agriculture (WSDA) 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 the United States Department of Agriculture, Agricultural Marketing Service (USDA-AMS) as published in the Federal Register (Vol. 88, No. 98) on May 22, 2023, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table with an effective date of October 1, 2023. These changes are necessary to comply with WSDA's cooperative agreement with USDA-AMS for services the WSDA 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 WSDA'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: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Rachel Furth, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1997; Implementation and Enforcement: Jessica Allenton, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1828.

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: WSDA performs audit verification and terminal market inspection services requested by customers as a "federal-state inspection agency" under a cooperative agreement with USDA-AMS. Under the cooperative agreement, WSDA is required to charge no less than USDA-AMS when conducting audit inspection and terminal market inspection services. The proposed rule amendments adopt the updated USDA-AMS fees that go into effect October 1, 2023.

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, WSDA, 1111 Washington Street S.E., Olympia, WA 98504, phone 360-902-1802, fax 360-902-2092, email wsdarulescomments@agr.wa.gov, AND RECEIVED BY August 21, 2023.

June 21, 2023
 Jessica Allenton
 Assistant Director

OTS-4691.1

AMENDATORY SECTION (Amending WSR 22-22-063, filed 10/28/22, effective 12/1/22)

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 in Vol. (~~(87, No. 114 on June 14, 2022)~~) 88, No. 98 on May 22, 2023, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table and, for the mileage fee related to terminal market inspection, 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) 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.

(2) Specialty crop fees/audit and terminal market fees:

Quality and Condition Inspections for Whole Lots	((\$225.00)) <u>\$242.00</u> per lot		
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots	((\$186.00)) <u>\$200.00</u> per lot		
Condition Half Lot	((\$172.00)) <u>\$185.00</u> per lot		
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product	((\$103.00)) <u>\$110.00</u> per lot		
Dockside Inspections - Each Package Weighing <30 lbs.	\$0.044 per pkg.		
Dockside Inspections - Each Package Weighing >30 lbs.	\$0.068 per pkg.		
Charge per Individual Product for Dockside Inspection	((\$225.00)) <u>\$240.00</u> per lot		
Charge per Each Additional Lot of the Same Product	((\$103.00)) <u>\$110.00</u> per lot		
Inspections for All Hourly Work	Regular	Overtime	Holiday
	((\$100.00)) <u>\$116.00</u>	((\$137.00)) <u>\$153.00</u>	((\$175.00)) <u>\$190.00</u>
Audit Services - Federal	((\$132.00)) <u>\$155.00</u> per audit		
Audit Services - State	((\$132.00)) <u>\$155.00</u> per audit		
GFSI Certification Fee ²	\$250.00 per audit		

² Global Food Safety Initiative (GFSI) Certification Fee—\$250 per GFSI audit to recoup the costs associated with attaining technical equivalency to the GFSI benchmarking requirements.

(3) The mileage fee related to terminal market inspection services is \$1.96 per mile. Round trip mileage will be charged from an inspector's assigned location to the inspection site.

[Statutory Authority: RCW 15.17.030, [15.17].140(2), [15.17].150, and [15.17].270. WSR 22-22-063, § 16-390-240, filed 10/28/22, effective 12/1/22; WSR 19-18-047, § 16-390-240, filed 8/30/19, effective 9/30/19. Statutory Authority: RCW 15.17.030, [15.17].140(2), [15.17].150, [15.17].270 and chapter 34.05 RCW. WSR 18-21-167, § 16-390-240, filed 10/23/18, effective 11/23/18; WSR 17-24-077, § 16-390-240, filed 12/5/17, effective 1/5/18. Statutory Authority: RCW 15.17.140(2), 15.17.040 [15.17.030], chapters 17.24 and 34.05 RCW. WSR 14-24-086, § 16-390-240, filed 12/1/14, effective 1/1/15. Statutory Authority: RCW 15.17.050, 2012 2nd sp.s. c 7, and chapter 34.05 RCW. WSR 12-19-040, § 16-390-240, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 15.17 and 34.05 RCW. WSR 07-16-084, § 16-390-240, filed 7/30/07, effective 8/30/07. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. WSR 04-11-078, § 16-390-240, filed 5/18/04, effective 6/18/04.]