

WSR 23-22-045

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed October 24, 2023, 2:46 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-240 WAC, WSDA grain inspection program—Definitions, standards and fees. In response to a requirement set by the United States Department of Agriculture's (USDA) Federal Grain Inspection Service (FGIS) under Directive 9100.07 issued on July 19, 2023, the Washington state department of agriculture (department) is proposing to amend WAC 16-240-039 by adding clarifying language which identifies Commodity Cooperative Service Agreement Fees and Agricultural Marketing Act (AMA), Rice Cooperative Service Agreement Fees as separate line items from the unit fees charged for each service.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new language will provide transparency to the program's customers related to federal fees the program collects and how they will appear on invoices for applicable services.

Reasons Supporting Proposal: The department's grain inspection program facilitates trade in domestic and international markets by providing unbiased, third-party sampling, weighing, quality testing, grade inspection, and phytosanitary services under an official delegation by the USDA-AMS-FGIS. As an official delegate, the department must comply with USDA requirements in order to provide these services.

USDA-AMS-FGIS has notified all delegates that they need to update their rule language to reflect required language pertaining to federal administrative and supervision fees. The department is required to collect these federal oversight fees when providing services and provide them to USDA-AMS-FGIS. Previously, these fees were included in the unit fee rate. With the rule change, these fees will be identified as a separate line item on invoices. Updated rule language has to be provided to USDA-AMS-FGIS by January 2, 2024.

Statutory Authority for Adoption: RCW 22.09.020, 22.09.790.

Statute Being Implemented: Chapter 22.09 RCW.

Rule is necessary because of federal law, 7 C.F.R. § 800.70(e), 7 C.F.R. § 800.0(b), 7 C.F.R. § 800.195(f), FGIS Directive 9100.7.

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Elisha Chambers, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1931; Implementation and Enforcement: Philip Garcia, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1921.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The amendment relates only to internal governmental operations, specifically how the department shows fees charged by FGIS on invoices and is not subject to violation by a person. This proposed amendment, therefore, meets the criteria for expedited adoption under RCW 34.05.353 (1)(a).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEAR-

INGS, 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, 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 January 2, 2024.

Jessica Allenton
Assistant Director

OTS-5048.1

AMENDATORY SECTION (Amending WSR 22-05-011, filed 2/4/22, effective 3/7/22)

WAC 16-240-039 USDA, AMS, FGIS administrative and supervision fees. The United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Federal Grain Inspection Service (FGIS) charges a per metric ton administrative and supervision fee for export and other grain handled by facilities in the Washington state department of agriculture service area.

(1) FGIS administrative tonnage fees. In addition to all other applicable fees, FGIS administrative tonnage fees for export grain shipments inspected and/or weighed, excluding land carrier shipments to Canada and Mexico, will be assessed at the current per metric ton rate identified in FGIS Directive 9180.74 Service Fees and Billing Codes, Attachment 1. Invoices will identify assessed administrative tonnage fees as separate line items per applicable carrier/unit type.

(2) FGIS supervision fees. In addition to all other applicable fees, FGIS supervision fees for domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico, will be assessed at the current per metric ton rate identified in FGIS Directive 9180.74 Service Fees and Billing Codes, Attachment 2. Invoices will identify assessed supervision fees as separate line items per applicable carrier/unit type.

(3) Commodity cooperative service agreement fees. In addition to all other applicable fees, commodity cooperative service agreement fees for commodity inspection services (pulses, hops, and miscellaneous processed commodities), excluding rice, will be assessed at the current percentage rate identified in FGIS Directive 9180.74 (Service Fees and Billing Codes, Attachment 4.) The assessed fees must exclude travel, mailing expenses, and state and local taxes. Invoices will identify assessed commodity cooperative service agreement fees as separate line items.

(4) AMA rice cooperative service agreement fees. In addition to all other applicable fees, AMA rice cooperative service agreement fees for rice inspection services will be assessed at the current percentage rate identified in FGIS Directive 9180.74 (Service Fees and Billing Codes, Attachment 3.) The assessed fees must exclude travel, mailing expenses, and state and local taxes. Invoices will identify assessed AMA rice cooperative service agreement fees as separate line items.