



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Agriculture

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: A review of Washington State Department of Agriculture's Grain Inspection Program fund 128 shows the balance is growing faster than anticipated and is larger than is necessary to ensure the program has sufficient funds to operate effectively due to higher than expected export tonnage volumes. WAC 16-240-043 Minimum operating fund discount does not allow for a review of the fund balance and a credit to customers for any excess in the fund until January 1, 2016. Given this circumstance and to provide an equitable remedy for those customers whose fees contributed to the excess fund balance, the department is refunding the excess operating amount immediately as soon as practical proportionately to customers who paid into the fund from the enactment of the last fee schedule on November 17, 2012 through December 31, 2014. The excess balance amount is determined as of January 31, 2015, the date for which the department has the most complete current figures. The department will review the fund balance again within the 120 days covered by this emergency rule.

All other requirements and provisions within chapter 16-240 WAC will remain in effect. The department is pursuing permanent rule making for a long-range solution to address maintaining an adequate fund balance while not gaining an unnecessarily high balance that can occur because of variable workload volumes.

Citation of existing rules affected by this order:

- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 22.09.020; RCW 22.09.070; Chapter 34.05 RCW.

Other authority: The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA GIPSA FGIS) must approve changes in the Washington State Department of Agriculture, Grain Inspection Program's fee schedule. 7 CFR § 800.70; Directive 9100.7, Fees for Official Agency Services.

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Rule changes that affected fees in November 2012 have had some unintended consequences due to variable workload volumes, causing the program fund to grow beyond the desired level necessary to operate the program effectively. The fee discount rule, WAC 16-240-043, is not available to begin reducing the excess balance until 2016.

Date adopted: March 18, 2015

NAME (TYPE OR PRINT)

Kirk Robinson

TITLE

Acting Deputy Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 18, 2015

TIME: 9:32 AM

WSR 15-07-102

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____