

WSR 17-16-136
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 1, 2017, 9:30 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-06 WAC, Public records.

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, Agency Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, email wdsarulescomments@agr.wa.gov, AND RECEIVED BY October 3, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 16-06 WAC establishes procedures the department follows to provide full access to public records and to implement the provisions of the Public Records Act (chapter 42.56 RCW). The rule establishes procedures for the department to follow in response to requests for public records, including the schedule used by the department for recovering the costs of producing public records. The department is proposing to amend chapter 16-06 WAC to:

(1) Explain the reasons that it would be unduly burdensome for the department to establish the actual costs it charges for providing copies of public records as required by RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017.

(2) Adopt the fee schedule for public records established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.

(3) Add an exemption related to information about marijuana producers, marijuana processors, and marijuana retailers established in chapter 69.07 RCW as amended by section 4, chapter 138, Laws of 2017, and Title 15 RCW as amended by section 22, chapter 317, Laws of 2017.

Reasons Supporting Proposal: EHB 1595 (chapter 304, Laws of 2017) requires rule making regardless of whether the agency proposes to charge actual costs for producing public records, charge in accordance with the statutory schedule, or waive fees for producing public records. Under EHB 1595, to charge the statutory fees, the department must adopt a rule declaring that charging actual costs would be unduly burdensome. The department proposes to add language explaining why charging actual costs would be unduly burdensome. The department proposes to adopt the fee schedule established in RCW 42.56.120 without material change. And the department proposes to add an exemption to the list of agency exemptions in rule consistent with laws adopted by the 2017 legislature.

These rule amendments meet the criteria for expedited rule making under RCW 34.05.353 (1)(a), (b), and (d).

Statutory Authority for Adoption: Chapters 42.56 and 34.05 RCW.

Statute Being Implemented: RCW 42.56.120, as amended by chapter 304, Laws of 2017.

Rule is not necessitated by federal law, federal or state court decision.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Pam Potwin, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1935.

August 1, 2017

Kirk Robinson

Deputy Director

AMENDATORY SECTION (Amending WSR 17-06-034, filed 2/23/17, effective 3/26/17)

WAC 16-06-200 Costs of disclosure. (1) No fee will be charged for the inspection of public records.

(2) ~~((The department charges a fee of fifteen cents per page of photocopy when copy charges exceed twenty dollars for providing copies of public records. The department may also charge actual costs of mailing, including the cost of the shipping container. This charge is the amount necessary to reimburse the department for copying costs incident to the disclosure request-)) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, the department declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.~~

(3) ~~((The department may charge the actual cost involved for the duplication of tape recordings, video tapes, photographs, slides, postage, other electronic records, or delivery if these costs exceed twenty dollars-)) The department may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120, as amended by section 3, chapter 304, Laws of 2017.~~

(4) The public records officer may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

~~((5) Electronic records: The department charges a fee of five cents per page of scanned copy when the costs exceed twenty dollars and the records are converted from paper to electronic format, upon request. There will be no charge for emailing electronic records to a requestor unless another cost applies.))~~

AMENDATORY SECTION (Amending WSR 17-06-034, filed 2/23/17, effective 3/26/17)

WAC 16-06-210 Exemptions. The Public Records Act provides that a number of types of information or records are exempt from public inspection and copying. In addition, records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions to public disclosure specific to department records. This list is not exhaustive and other exemptions may apply:

(1) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (reference RCW 42.56.230(3)).

(2) Investigative records (reference RCW 42.56.240).

(3) Test questions, scoring keys, and other examination data used to administer a license (reference RCW 42.56.250(1)).

(4) Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts (reference RCW 42.56.290).

(5) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(6) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(12)).

(7) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

(8) Applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant (reference RCW 42.56.250(2)).

(9) Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, driver's license numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency (reference RCW 42.56.-250(3)).

(10) Information provided for the semi-annual report for fertilizers, minerals and limes that would reveal the business operation of the person making the report (reference RCW 15.54.362(5) and 42.56.380(2)).

(11) The semiannual report required in the Commercial Feed Act is not a public record, and any information given in

such report which would reveal the business operation of the person making the report is exempt from disclosure, and information obtained by the department from other governmental agencies or other sources that is used to verify information received in the report is exempt from public disclosure (reference RCW 15.53.9018).

(12) The department has the authority to publish reports of official seed inspections, seed certifications, laboratory statistics, verified violations of this chapter, and other seed branch activities which do not reveal confidential information regarding individual company operations or production (reference RCW 15.49.370(8)).

(13) Business related information obtained under the Organic Food Products Act concerning an entity certified under that act or an applicant for certification under RCW 15.86.110, and records whose disclosure is prohibited by the federal Organic Certification Act, 7 U.S.C. Sec. 6515(g) and the rules adopted under that act (reference RCW 42.56.380(1)).

(14) Consignment information contained on phytosanitary certificates issued by the department under chapters 15.13, 15.17, and 15.49 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States Department of Agriculture, or on applications for phytosanitary certification required by the department (reference RCW 42.56.380(4)).

(15) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by the former chapter 15.110 RCW or chapter 43.325 RCW (the energy freedom loan program) (reference RCW 42.56.270(4)).

(16) Information obtained under RCW 15.19.080 regarding the purchases, sales, or production of an individual American ginseng grower or dealer (reference RCW 42.56.380(6)).

(17) Financial statement information required to determine whether or not an applicant for a license to operate a warehouse under chapter 22.09 RCW, agriculture commodities, meets minimum net worth requirements (reference RCW 22.09.040(9)).

(18) All financial statement information to determine whether or not an applicant for a license to be a grain dealer under chapter 22.09 RCW meets the minimum net worth requirements (reference RCW 22.09.045(7)).

(19) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability, is exempt from disclosure. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete (reference RCW 42.56.380(9)).

(20) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or the owner's designee and that can be identified to a particular business or individual is exempt from disclosure (reference RCW 42.56.380(10)).

(21) Information that can be identified to a particular business and that is collected under chapter 15.17 RCW, standards of grades and packs, and specifically RCW 15.17.140(2) and 15.17.143 for certificates of compliance (reference RCW 42.56.380(7)).

(22) Financial statement information provided under RCW 16.65.030 (1)(d), public livestock markets, is confidential information and not subject to public disclosure (reference RCW 16.65.030 (1)(d) and 42.56.380(8)).

(23) Privileged or confidential information or data that contains trade secrets, commercial, or financial information and is required and submitted under the Washington Pesticide Control Act (reference RCW 15.58.060 (1)(c) and 15.58.065).

(24) Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects (reference RCW 43.23.270 and 42.56.-270(3)).

(25) Information submitted by an applicant under chapter 17.24 RCW that is privileged or confidential because it contains trade secrets or commercial or financial information (reference RCW 17.24.061).

(26) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, and 16.67 RCW, or required by the department to administer these chapters or the department's programs (reference RCW 42.56.380(3)).

(27) Financial and commercial information and records supplied by persons:

(a) To the department for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or

(b) To the department or commodity boards or commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, or 16.67 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(28) Farm plans developed by conservation districts, unless the farm plan is used for the application or issuance of a permit (reference RCW 42.56.270(17)).

(29) Under RCW 42.56.610 and 90.64.190, information identifying the number of animals; volume of livestock nutrients generated; number of acres covered by the plan or used for land application of livestock nutrients; livestock nutrients transferred to other persons; and crop yields in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations not required to apply for a National Pollutant Discharge Elimination System permit is disclosable in the following ranges:

(a) Number of animals: Beef cattle

1 to 19
20 to 159
160 to 299
300 to 999
1,000 to 5,999
6,000 to 10,999
11,000 to 15,999
16,000 to 20,999
21,000 to 25,999
26,000 to 31,199
31,200 to 37,439
37,440 to 44,999
45,000 and above

(b) Number of animals: Mature dairy cattle

1 to 37
38 to 199
200 to 699
700 to 1,699
1,700 to 2,699
2,700 to 3,699
3,700 to 4,699
4,700 to 5,699
5,700 to 6,839
6,840 and above

(c) Number of animals: Dairy heifers

1 to 49
50 to 149
150 to 299
300 to 999
1,000 to 1,999
2,000 to 2,999
3,000 to 3,999
4,000 and above

(d) Number of animals: Swine (fifty-five pounds or greater)

1 to 19
20 to 159
160 to 399
400 to 749
750 to 2,499
2,500 to 4,249
4,250 to 5,999
6,000 to 7,749
7,750 and above

(e) Number of animals: Swine (less than fifty-five pounds)

1 to 99
100 to 499
500 to 1,099
1,100 to 1,999
2,000 to 2,999
3,000 to 9,999
10,000 to 16,999
17,000 to 23,999
24,000 to 30,999
31,000 and above

(f) Number of animals: Layers (all ages)	262,735 to 394,200
1 to 199	394,201 to 558,384
200 to 999	558,385 to 722,634
1,000 to 10,999	722,635 to 919,734
11,000 to 24,999	919,735 to 1,051,134
25,000 to 81,999	1,051,135 and above
82,000 to 138,999	(k) Number of acres covered by the plan or used for land
139,000 to 195,999	application of livestock nutrients
196,000 to 252,999	0 to 25
253,000 to 309,999	26 to 65
310,000 to 371,999	66 to 120
372,000 to 446,399	121 to 300
446,400 to 535,679	301 to 550
535,680 to 642,815	551 to 900
642,816 to 771,379	901 to 1,300
771,380 to 925,655	1,301 to 1,800
925,656 to 1,110,787	1,801 to 2,500
1,110,788 to 1,332,945	2,501 to 3,200
1,332,946 and above	3,201 to 4,000
(g) Number of animals: Broilers (all ages)	4,001 to 6,000
1 to 199	6,001 to 9,000
200 to 999	9,001 to 11,500
1,000 to 17,999	11,501 to 14,000
18,000 to 37,499	14,001 and above
37,500 to 124,999	(l) Crop yields - tons/acre
125,000 to 212,499	0 to 1
212,500 to 299,999	1.1 to 2
300,000 and above	2.1 to 3.5
(h) Number of animals: Horses	3.6 to 5
1 to 19	5.1 to 7
20 to 79	7.1 to 9
80 to 149	9.1 to 12
150 to 499	12.1 to 14.5
500 to 849	14.6 to 17
850 to 1,199	17.1 to 19.5
1,200 to 1,549	19.6 to 22
1,550 and above	22.1 to 26
(i) Livestock nutrients generated or exported by volume	26.1 and above
(ft ³ /day)	(30) Records of international livestock importation that
1 to 74	can be identified to a particular animal, business, or individual
75 to 134	received from the United States Department of Homeland
135 to 299	Security or the United States Department of Agriculture that
300 to 449	are not disclosable by the federal agency under federal law
450 to 749	including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(11)).
750 to 1,499	(31) A person aggrieved by a violation of chapter 17.21
1,500 to 2,499	RCW or the rules adopted under that chapter is entitled, on
2,500 to 4,999	request, to have his or her name protected from disclosure in
5,000 to 8,499	any communication with persons outside the department and
8,500 to 11,999	in any record published, released, or made available to persons
12,000 to 15,999	outside the department except as provided in RCW
16,000 and above	17.21.340 (1)(a)(ii).
(j) Livestock nutrients generated or exported by weight	(32) All records, data, and information filed in support of
(tons/year)	an industrial hemp research program license application (reference
1 to 5,256	RCW 15.120.050(7)).
5,257 to 10,512	(33) <u>Information about marijuana producers, marijuana</u>
10,513 to 21,024	<u>processors, and marijuana retailers otherwise exempt from</u>
21,025 to 42,048	<u>public inspection and copying under chapter 42.56 RCW is</u>
42,049 to 84,096	<u>exempt from public inspection and copying if submitted to or</u>
84,097 to 164,184	<u>used by the department (reference chapter 69.07 RCW as</u>
164,185 to 262,734	<u>amended by section 4, chapter 138, Laws of 2017 and Title</u>

15 RCW as amended by section 22, chapter 317, Laws of 2017.

WSR 17-16-147
EXPEDITED RULES
POLLUTION LIABILITY
INSURANCE AGENCY

[Filed August 1, 2017, 12:55 p.m.]

Title of Rule and Other Identifying Information: The pollution liability insurance agency (PLIA) proposes to repeal chapter 374-60 WAC, the underground storage tank community assistance program, to correspond with the repeal of the statutes upon which it was based.

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 Cassandra Garcia, PLIA, P.O. Box 40930, Olympia, WA 98504, AND RECEIVED BY October 2, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: PLIA intends to repeal chapter 374-60 WAC to be consistent with the 2016 legislation (SHB 2357, section 24, chapter 161, Laws of 2016) which repealed PLIA's statutory authority in chapter 70.148 RCW. PLIA's proposed rule making will align the agency's rule with the change in state law. SHB 2357 became effective on June 9, 2016, at which time chapter 374-60 WAC also became ineffective.

Chapter 374-60 WAC established the underground storage tank community assistance program, which awarded grants to qualifying privately owned and operated sources of petroleum products, local government entities, and rural hospitals which met vital government, public health, education, recreation, or safety needs. The grants were used for replacement or upgrading and, if required, cleanup of underground petroleum storage tank sites.

In 2016, the legislature repealed the statute which authorized the program: RCW 70.148.120 Financial assistance for corrective actions in small communities—Intent, 70.148.130 Financial assistance—Criteria, 70.148.140 Financial assistance—Private owner or operator, 70.148.150 Financial assistance—Public owner or operator, 70.148.160 Financial assistance—Rural hospitals, and 70.158.170 [70.148.170] Certification.

Reasons Supporting Proposal: Expedited repeal of rules is authorized by RCW 34.05.353 (2)(a), as the statute [statute] on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule. The statutory authority for the underground storage

tank community assistance program was established in chapter 70.148 RCW. This authority was repealed by section 24, chapter 161, Laws of 2016. As PLIA no longer has statutory authority to implement the program, the rule should be repealed.

Statutory Authority for Adoption: RCW 70.148.120, 70.148.130, 70.148.140, 70.148.150, 70.148.160, 70.148.-170, section 24, chapter 161, Laws of 2016.

Statute Being Implemented: RCW 70.148.120, 70.148.130, 70.148.140, 70.148.150, 70.148.160, 70.148.-170, section 24, chapter 161, Laws of 2016.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: PLIA, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Cassandra Garcia, Lacey, Washington, (360) 407-0512.

August 1, 2017
 Cassandra Garcia
 Deputy Director

WSR 17-16-164
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 2, 2017, 8:19 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-301 WAC, General seed regulations.

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., Olympia, WA 98504-2560, AND RECEIVED BY October 2, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to remove all references to "arbitration" in chapter 16-301 WAC, and change "arbitration" to "mediation" in WAC 16-301-015, due to changes in the underlying statute, chapter 15.49 RCW. SB 5075, effective July 23, 2017, amends RCW 15.49.071 Damages—Arbitration prerequisite to legal action and 15.49.091 Arbitration—Procedure; and repeals RCW 15.49.081 Arbitration—Filing fee—Rules, 15.49.101 Investigation of complaint by arbitration committee, and 15.49.111 Arbitration committee—Creation—Generally. To implement the repeal or amendment under SB 5075 of all "arbitration" provisions in sections of chapter 15.49 RCW, and the replacement of the arbitration requirements with mediation requirements under RCW 15.49.071 and [15.49].091, the department is repealing arbitration sec-

tions or subsections under chapter 16-301 WAC and is amending WAC 16-301-015 to require notice of the mediation requirement.

Reasons Supporting Proposal: Chapter 33, Laws of 2017, changed the mechanism for resolving disputes between seed buyers and seed dealers from arbitration to mediation under chapter 7.07 RCW. Therefore, the existing provisions for arbitration in chapter 16-301 WAC no longer apply. These rule amendments/repeals meet the criteria for expedited rule making under RCW 34.05.353 (1)(d) and (2)(c).

Statutory Authority for Adoption: RCW 15.49.005, chapter 34.05 RCW.

Statute Being Implemented: Chapter 33, Laws of 2017, chapter 7.07 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Larsen, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1960; Implementation and Enforcement: Victor Shaul, 21 North 1st Avenue, Suite 203, Yakima, WA 98902-2663, (509) 249-6950.

August 2, 2017
Jason Ferrante
Assistant Director

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-005 General seed standards—Definitions. Definitions for terms used in this chapter and in chapters 16-302 and 16-303 WAC may be found in chapter 15.49 RCW, seed. For the purposes of these chapters, the following definitions shall apply unless otherwise provided for in law or rule:

"Agricultural seed" as defined in RCW 15.49.011(2) includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combination of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

"AOSA" means the Association of Official Seed Analysts.

"AOSCA" means the Association of Official Seed Certifying Agencies.

"Approved trial grounds" means a specific parcel of land approved by the director for experimental or limited production or increase of bean seed.

~~("Arbitration committee" means the committee established by the director under RCW 15.49.101 to hear and make determinations in mandatory, nonbinding, arbitration cases.)~~

"Bean" means common beans and adzuki beans.

"Blend" as defined in RCW 15.49.011(3) means seed consisting of more than one variety of a species, each in excess of five percent by weight of the whole.

"Blending" as related to this chapter shall be the process of commingling two or more lots of seed to form one lot of uniform quality.

"Buyer" means a person who purchases seeds.

"Certifying agency" as defined in RCW 15.49.011(6) means:

(a) An agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or

(b) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

~~("Chairperson" means the person selected by the arbitration committee from among their numbers to preside.)~~

"Common bean" means *Phaseolus vulgaris* L.

"Complete record" means information which relates to the origin, treatment, germination and purity (including variety) of each lot of seed. Records include seed samples and records of declaration, labels, purchases, sales, cleaning, bulking, treatment, handling, storage, analyses, tests and examinations.

"Dealer" as defined in RCW 15.49.011(9) means any person who distributes seeds.

"Department" as defined in RCW 15.49.011(10) means the Washington state department of agriculture or its duly authorized representative.

"Director" as defined in RCW 15.49.011(11) means the director of the department of agriculture.

"Field standards" means the tolerances permitted as determined by established field inspection procedures.

"Fiscal year" means the twelve-month period July 1 through June 30.

"Flower seeds" as defined in RCW 15.49.011(13) include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold as flower seeds in this state.

"Germination" as defined in RCW 15.49.011(15) means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

"Interagency certification" means the participation of two or more official certifying agencies in performing the services required to certify the same lot or lots of seed.

"Isolation standards" means the distance in feet from any contaminating source (i.e., distance from other fields of same species).

"Label" as defined in RCW 15.49.011(21) includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by chapter 15.49 RCW, and may include other information including the requirement for ~~(arbitration)~~ mediation.

"Land standards" means the number of years that must elapse between the destruction of a stand of a kind, and establishment of a stand of a specified class of a variety of the same kind (i.e., number of years out of production of same crop kind).

"**Mixture, mixed or mix**" as defined in RCW 15.49.011(24) means seed consisting of more than one species, each in excess of five percent by weight of the whole.

"**Nursery**" means an area of two acres or less in which grass for seed production is seeded in rows with twenty-four inch minimum spacing to facilitate roguing.

"**O.E.C.D.**" means the Organization for Economic Cooperation and Development certification scheme.

"**Off-type**" means a plant or seed which deviates in one or more characteristics from that which has been described as being usual for the strain or variety.

"**Official certificate**" means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps, or similar documents certifying seed quality or condition.

"**Official sample**" as defined in RCW 15.49.011(25) means any sample taken and designated as official by the department.

"**Official seed laboratory**" means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 21 N 1st Avenue, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon.

"**Origin**" means the county within the state of Washington, or the state, territory, or country where a specific seed lot was grown.

"**Person**" as defined in RCW 15.49.011(27) means an individual, partnership, corporation, company, association, receiver, trustee or agent.

"**Proprietary variety**" means that crop variety for which a person has exclusive production and/or marketing rights.

"**Representative sample**" means a sample drawn in accordance with sampling procedures adopted in WAC 16-301-095.

"**Seeds**" as defined in RCW 15.49.011(35) means agricultural or vegetable seeds, or other seeds as determined by rules adopted by the department.

"**Seed labeling permit**" means a permit issued by the department pursuant to RCW 15.49.400 to a person labeling seed for distribution in this state.

"**Seed program advisory committee**" means a committee of representatives from the small grains, pea, lentil, bean, vegetable, small seeded legumes, and grass seed industries selected by the program manager in consultation with the industry.

"**Seed standards**" means the tolerances permitted as determined by established seed inspection procedures.

"**Serology**" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry viruses.

"**Stock seed**" means breeders, prebasic, or like initial generation of seed.

"**Sudangrass**" means *Sorghum bicolor x drummondii*.

"**University**" means the Washington State University.

"**USDA**" means the United States Department of Agriculture.

"**Vegetable seeds**" as defined in RCW 15.49.011(40) include the seeds of all crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

"**WSCIA**" means the Washington State Crop Improvement Association.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-015 Seed labeling requirements for agricultural, vegetable, and flower seeds. (1) Each container of agricultural, vegetable or flower seeds, that is sold, offered or exposed for sale, or transported within this state for sowing purposes, must bear or have attached to the container a plainly written or printed label or tag in the English language; and

(a) The label provides information required in WAC 16-301-060 through 16-301-085 on treated seeds in addition to the information required in subsection (2) of this section; and

(b) The label is placed in a conspicuous manner on the seed container; and

(c) The printed label or tag is not modified or denied in the labeling or on any label attached to the seed container.

(2) Each container of agricultural, vegetable, or flower seeds sold, offered or exposed for sale, or transported within this state for sowing purposes must bear "*Requirement for ~~(arbitration)~~ mediation - The Washington State Seed Act, chapter 15.49 RCW, requires ~~(mandatory arbitration)~~ mediation of disputes involving allegedly defective seed. (See chapter 16-301 WAC or contact the Washington State Department of Agriculture, Seed Program, 509-249-6950.)*" on:

(a) The analysis tag; or

(b) A separate tag or label attached securely to each container; or

(c) Printed in a conspicuous manner on the side of each container; or

(d) Alternate wording may be approved in writing by the department to meet the needs of the industry.

(3) Except for grass seed mixtures, and hybrids that contain less than ninety-five percent hybrid seed, the label for agricultural seeds must contain the following information:

(a) The name of the kind and variety of each agricultural seed present in excess of five percent of the whole and the percentage by weight of each or if the variety is not listed with the certifying agency, the name of the kind and the words, "*variety not stated.*" Hybrids must be labeled as hybrids; and

(b) The lot number or other lot identification; and

(c) The origin state or foreign country, if known. If the origin is not known, that fact shall be stated on the label; and

(d) The percentage, by weight, of all weed seeds present. The maximum weed seed content may not exceed two percent by weight; and

(e) The name and rate of occurrence in seeds per pound of each kind of restricted noxious weed seed present; and

(f) The percentage by weight of agricultural seeds, which may be designated as "crop seeds," other than those required to be named on the label; and

(g) The percentage by weight of inert matter; and

(h) The percentage of seed germination, exclusive of hard seed, and the percentage of hard seed, if present, or "total germination and hard seed" as a single percentage; and

(i) The calendar month and year the seed germination test was completed to determine such percentages; and

(j) The name and address of the person who labels, sells, offers, or exposes for sale seed within this state.

(4) For seed that is coated the label must also contain the following:

(a) The percentage of pure seed with coating material removed;

(b) The percentage of coating material shown as a separate item in close association with the percentage of inert material;

(c) The percentage of germination as determined on four hundred coated seed pellets, with or without seeds.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-301-100 Matters subject to mandatory arbitration.
- WAC 16-301-105 Filing of a complaint for arbitration.
- WAC 16-301-110 Requirement to respond to complaint.
- WAC 16-301-115 Acceptance of filing by telefax.
- WAC 16-301-120 Arbitration committee.
- WAC 16-301-125 Referral to arbitration committee.
- WAC 16-301-130 Scheduling of hearing.
- WAC 16-301-135 Representation by counsel.
- WAC 16-301-140 Waiver of oral hearing.
- WAC 16-301-145 Record of the hearing.
- WAC 16-301-150 Attendance at hearings.
- WAC 16-301-155 Committee investigation.
- WAC 16-301-160 Evidence.
- WAC 16-301-165 Evidence by affidavit.
- WAC 16-301-170 Discovery.
- WAC 16-301-175 Arbitration in the absence of a party.
- WAC 16-301-180 Order of proceedings.
- WAC 16-301-185 Expert evidence and performance tests.
- WAC 16-301-190 Conservation of property.
- WAC 16-301-195 Reopening of a hearing.
- WAC 16-301-200 Expenses.
- WAC 16-301-205 Arbitration committee report.
- WAC 16-301-210 Award upon settlement.