



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

JUNE 6

(1) Date of adoption: ~~June 7, 2001~~ *VMO*

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(2) Purpose: Reinstate grain inspection program rules and fees for inspection services until permanent rule takes effect on June 30, 2001.

(3) Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

(4) Statutory authority for adoption: RCW 22.09.790

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) 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.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Due to a clerical error, the fees for the grain inspection program were repealed. RCW 22.09.790 requires the Department to recover costs for inspection, weighing and grading of grain. Fees cannot be changed or deleted without federal approval. This emergency rule will reinstate the fees until the Department completes the rulemaking process to permanently adopt the fees.

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

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

- Yes No If Yes, explain: The United States Department of Agriculture has oversight of fees charged under the federal Grain Inspection, Packers and Stockyards Administration.

(6) Effective date of rule:

Emergency Rules

Permanent Rules
or Expedited Repeal

- 31 days after filing
- Other (specify) _____
- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

James M. Jesernig

Signature

Title
Director

Date
June 6, 2001

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUN 6 2001

TIME _____ 119
WSR 01-13-001

AM
PM

**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 nongovernmental entity:

New	_____	Amended	_____	Repealed	_____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

New	_____	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	_____

WSDA Grain Inspection Program – Fee Schedule

NEW SECTION

WAC 16-238-010 Definitions. (1) "Department" means the Washington state department of agriculture.

(2) "Ton" means two thousand pounds avoirdupois.

(3) "Overtime" means any time worked on Saturdays, Sundays, or holidays and all time worked before or after the regularly scheduled working hours, Monday through Friday, unless alternative work schedules have been established at inspection sites.

(4) "Fees" means any charge made by the department for inspection and handling of any commodity or for services related to weighing or storage of grains or commodities.

(5) "Occasional work stoppage" means the union stop work meetings usually held once per month.

NEW SECTION

WAC 16-238-020 Grain and Commodity Inspection Points. The following cities in the state of Washington are hereby designated as inspection points for the purpose of inspecting and weighing standardized grains, beans, peas, lentils and other commodities: Clarkston, Colfax, Kalama, Pasco, Seattle, Spokane, Tacoma and Vancouver.

NEW SECTION

WAC 16-238-030 General provisions for hourly charges.

(1) Straight time, per hour \$26.34

This hourly rate will be applied in any situation where the fees generated are not sufficient to provide revenue equivalent to the published hourly rate, per employee, including applicable supervisory and clerical hours, and where no other hourly rate, fee, guarantee of expenses or contractual agreement exists or is specified in this schedule of fees and charges. Whenever the lot size or workload is not of sufficient size to generate revenue equivalent to the published hourly rate, per employee, an additional fee shall be assessed so that total revenue generated is equal to the published hourly rate, per employee: Provided, That such revenue insufficiency may be established on the basis of the average hourly revenue generated at the worksite over the Monday through Sunday work week, upon written request of the applicant for service. In the absence of such request, fees shall be assessed on a daily basis.

(2) Overtime, and night shift rate per hour..... \$6.87

Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of \$6.87 per hour, per employee, including applicable supervisory and clerical hours, shall be charged in addition to the regular inspection and weighing fees.

(a) Requests for service on Saturdays, Sundays, or holidays, or for work shifts other than the inspection office's established standard workday hours, Monday through Friday, must be received by the inspection office no later than two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the requested service. When the request is not received within the established time frames, service will be provided where personnel are available, but an additional fee of \$4.57 per hour, per employee, will be assessed for the hours of the requested service.

(b) Requests for service which are beyond the scope or volume normally provided at an inspection site must be received by the inspection office no later than two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the date of the requested service in order for the department to guarantee to have adequate staff available to perform the service.

(c) Whenever an employee is notified after leaving the worksite to return to a worksite after the inspection office's established standard workday hours, or on a Saturday, Sunday or holiday, two additional hours per employee, will be charged at the rate of \$11.47 per hour and added to other fees charged.

(d) Scheduled night shifts.

(i) The department must be given at least seven calendar days notice, in writing, to establish a scheduled night shift. If the full seven-day notice is not given, a fee of \$6.87 per hour, per employee, will be assessed until the seven-day notice period has elapsed.

(ii) The department shall be given at least twenty-one calendar days' notice, in writing, of cancellation of any scheduled night shift operation. If the full twenty-one day notice is not given, a fee of \$6.87 per hour, per employee, will be assessed for each hour under the regular night shift schedule that would have been worked until the twenty-one day notice period has elapsed.

(3) Standby rate per hour \$28.77

Whenever a service is requested before or after the inspection office's established standard workday, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, four hours at the standby rate of \$28.77 per hour, per employee, shall be charged. Additional charges at the standby rate per hour, per employee shall be assessed for all hours over four that continue to be staffed at the request of the applicant. Whenever a service is requested before or after working hours, Monday through Friday or anytime on a Saturday, Sunday or holiday, and a cancellation of the request is not received two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the requested service, the four hour standby charge per employee, will be assessed.

(4) Guarantee of expense. When a service is requested that requires assignment of personnel at a facility where the volume of work at the established fees is not adequate to pay the cost of providing the service, a guarantee of the expense of providing the service is required. These facilities may enter into agreement with the department at guaranteed staffing levels and negotiated minimum hours and unit fees.

(5) Official commercial inspection services may be provided, on-site, at the applicant's request. When appropriate space, equipment and security can be provided, the program is able to provide appropriate licensed personnel, and a guarantee of expense can be negotiated.

NEW SECTION

WAC 16-238-060 Official inspection and/or weighing fees under the United States Grain Standards Act.

(1) Combination inspection and weighing fees. Ships, barges, unit trains and transfers of bulk grain.

- (a) From vessel to elevator, per ton \$ 0.128
- (b) Bin transfers, per ton \$ 0.128
- (c) From elevator to vessel, per ton \$..... \$ 0.128
- (d) From railcars of a unit train, sampled by diverter samplers, batch weighed and inspected under the subplot inspection plan in units of not less than five cars, per ton..... \$ 0.128

(2) Inspection only of railroad boxcars, open hopper-type cars, original inspection. Sampling only services are available at the inspection only rates shown in this fee schedule.

(a) Carlots sampled by United States Department of Agriculture approved diverter type mechanical samplers, per car \$ 15.50

Batch grades may contain up to the maximum number of cars allowable under Federal Grain Inspection Service regulations/instructions. The per car sampling charge will be assessed for each car included in the batch grade.

(b) When sampled by United States Department of Agriculture approved grain trier, original and subsequent original inspections, per car \$ 24.00

(3) Inspection only of trucks, per truck \$ 15.00

(4) Reinspections of railroad boxcars, open-type cars, covered hopper-type cars, ship subplot samples, barge lots, truck lots, and submitted samples.

(a) When based on an official file sample, per reinspection..... \$ 9.00

(b) When based on a new sample, for railcars only, per reinspection \$ 24.00

(c) When based on a new sample, for trucks only, per reinspection \$ 15.00

(d) FGIS approved per factor reinspections will be provided at the applicable file sample or new sample rate listed in this section.

(5) Submitted samples,

(a) Standardized grains, except canola per inspection \$ 7.75

(b) Canola, per inspection \$14.20

(6) Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of canola, identical to the fees assessed by the Federal Grain Inspection Service.

(7) Factor analysis and/or certification.	
(a) Nongrade determining factors added to existing certificates, or requested on ship subplot analyses, that do not affect the grade: per factor	\$ 2.50
Submitted sample certificates of grade for barley may show, on request, dockage to the nearest one-tenth percent without additional charge. Submitted sample certificates of grade for wheat may show, on request, foreign material when it is not a grade determining factor, without additional charge.	
(b) Factor certification only (maximum of one factor), per certificate	\$ 2.50
(i) Additional factors added to a factor certificate, per factor	\$ 2.50
(A maximum of \$7.50 will be charged for factor only certification.)	
(ii) When submitted samples are not of sufficient size to provide official grade analysis, obtainable factors will be provided, upon request of the applicant, at the factor only rate.	
(8) Official analysis of constituents (protein, oil, etc.) by near-infrared transmittance.	
(a) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities when in conjunction with official inspection for grade, per test	\$ 6.25
(b) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities when not in conjunction with official inspection for grade, per test	\$ 8.50
When based on official sample (including new sample reinspection) add the applicable sampling charges.	
(c) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities:	
Submitted sample or reinspection based on official file sample	\$ 8.50
(9) Inspection of bagged grain, per cwt	\$ 0.065
(10) Checkloading bagged grain, per hour, per employee.....	\$ 26.34
(11) Waxy corn determination, on request, per determination	\$ 12.75
(12) FGIS approved mycotoxin testing.	
(a) Screening or quantitative testing determinations, based on official sample, except thin layer chromatography, per test	\$ 37.50
(b) Submitted samples, screening or quantitative determinations, except thin layer chromatography, per test.....	\$ 26.34
(c) Reinspection, based on official file, screening or quantitative, except thin layer chromatography, per test	\$ 26.34
(d) Reinspection, based on a new sample, screening or quantitative, except thin layer chromatography, per test	\$ 37.50
(e) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service.	
(13) Stowage examinations - ships, barges, or vessels.	
(a) Per stowage space or tank, or return to stowage space or tank, per examination	\$ 24.00
(b) Initial inspection, minimum charge	\$120.00
(c) Subsequent inspections, minimum charge	\$ 72.00
(d) Travel time, two hour minimum, per hour, per employee	\$ 26.34

Note: Stowage examinations may be conducted on vessels at anchor, at the convenience of the designated grain inspection area office, on request. Inspections at anchor will be made during daylight hours only, and only under safe working and weather conditions. The applicant is responsible for providing safe transportation to and from the vessel by licensed tug or water taxi. Two vessel or ship's agent representatives will be provided to accompany each inspector providing stowage exam services. Tanker inspections may require additional inspection personnel. When appropriate, hourly and/or minimum charges listed in the fee schedule will be assessed to the inspection and travel time charges shown in this section.

(e) A minimum of four hours per inspector at the applicable overtime rate shall also be assessed on Saturdays, Sundays, or holidays.	
(14) Other stowage examinations.	
(a) Sea van-type containers (when checkloading is not required)	\$ 8.10
(b) Railroad cars, trucks and other containers, not in conjunction with loading, per container	\$ 8.10
(15) Diverter-type samples, per hour, per employee	\$ 26.34

(16) Ship samples:	
(a) Ship composite samples	
(i) Initial set of samples to applicant (maximum of three samples).....	no charge
(ii) Additional samples or samples at the request of other interested parties, per sample (two sample minimum when not requested with initial set)	\$ 5.25
(17) Weighing services.	
(a) Class X weighing services.	
(i) From railroad boxcars, open or covered hopper-type cars (without inspection required) or vessels to elevator (grain only), per ton	\$ 0.107
(ii) From elevator to boxcars, open or covered hopper-type cars, barges (without inspection required) or vessels (without inspection, grain only), per ton	\$ 0.107
(iii) Bin transfers (grain only), per ton	\$ 0.107
(iv) Trucks, per truck or weight lot	\$ 7.50
(b) Class Y weighing services, per hour, per employee	\$ 26.34
(c) Checkweighing of bagged grain, per hour, per employee	\$ 26.34
(d) Scale certification/checktesting of official weighing scales.	
(i) Weights and measures scale specialist, per employee-hour	\$ 34.87
(ii) Grain inspection personnel, per hour, per employee	\$ 26.34

NEW SECTION

WAC 16-238-070 Official services under the Agricultural Marketing Act of 1946.

(1) Inspection or analysis of graded and non-graded commodities.	
(a) Inspection of bagged commodities at inspection points, per cwt	\$ 0.065
(b) Bulk commodity inspection at inspection points, per ton	\$ 0.30
(c) Minimum charge for bulk or bagged commodities (one hour)	\$ 26.34
(d) Submitted sample inspection, per sample	\$ 14.20
(2) Weighing and combination inspection/weighing services for bulk commodities.	
(a) Weighing only, other than grain, per ton	\$ 0.117
(b) Combination inspection/weighing of bulk commodities under federal grade standards, state standards, or for factor determinations, per ton	\$ 0.128
(c) Weigh grain by-products into portable containers including fitness examination of the container, weigh and sample the by-product (thirty ton maximum).....	\$ 15.00
(3) Factor analysis.	
(a) Moisture only	\$ 5.25
(b) Additional factors, the determination of which are not required to establish grade, or otherwise not required by regulation, added to an existing certificate, per factor	\$ 2.50
(c) Certification, factor only (maximum two factors), per certificate	\$ 3.00
(d) Additional factors added to a factor certificate, per factor	\$ 2.50
(A maximum of \$13.75 will be charged for grading factors only.)	
(e) Analysis of rapeseed, mustard seed, confectionary sunflower seed, safflower seed, or other commodities with established FGIS factor only inspection procedures, per certificate	\$ 14.20
(f) Sampling only fees identified in subsection (4)(a) and (b) of this section will be assessed in addition to the factor analysis fees for rapeseed, mustard seed, confectionary sunflower seed, safflower seed, or other commodities with established FGIS factor only inspection procedures when official sampling is requested.	
(4) Sampling only, bulk commodities.	
(a) Trucks or containers, per carrier	\$ 15.00
(b) Boxcars, open or covered hopper-type cars, per car	\$ 24.00
(5) Processed commodity and defense personnel support center (DPSC) inspection fees.	
(a) Per hour per employee, two hour minimum	\$26.34
(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the Federal Grain Inspection Service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.	
(6) Sanitation inspections.	
(a) Initial inspection.....	no charge
(b) Reinspections, four hour minimum, per hour, per employee	\$26.34

(7) Stowage examinations under the Agricultural Marketing Act will be provided as per WAC 16-238-060(13) and (14).

(8) Mycotoxin testing fees.

(a) Screening or quantitative testing determinations, except thin layer chromatography, per test \$ 37.50

(b) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service.

(9) Falling numbers determinations, per determination \$ 12.75

Liquefaction number, per determination \$ 0.50

NEW SECTION

WAC 16-238-080 Miscellaneous fees.

(1) Mailing of samples shall be charged at the actual mailing costs, minimum charge \$ 2.00

(2) Fees for pickup of samples on routes established by the department, per sample \$ 0.60

(3) Fees for services performed at places other than established grain and commodity inspection points.

(a) Travel time, per employee, will be charged at the applicable straight time or overtime rate from office to inspection point and return.

(b) Mileage will be charged at the current general administration private vehicle mileage reimbursement rate, except where suitable transportation is provided by the applicant. Mileage is assessed on a per call, door to door basis and will be charged in addition to all other inspection fees, hourly rates and applicable charges.

(c) If the travel is of sufficient duration to require payment of subsistence or per diem to the employee, an amount equal to the established subsistence and/or per diem rate (WAC 82-28-040 and 82-28-050) shall be assessed, except where applicable subsistence and lodging are furnished, or paid, by the applicant.

(d) Incidental costs of telephone, mailing, etc. shall be at the actual cost.

(e) Facsimile transmissions, per page \$ 1.00

(4) Certificate charges for certificates under the United States Grain Standards Act or the Agricultural Marketing Act of 1946.

(a) Divided original certificates, per certificate \$ 1.50

(b) Extra copies of inspection, protein, weight, falling number, commodity or aflatoxin certificates, per copy \$ 3.00

(5) Phytosanitary certificates.

(a) When performed in conjunction with official inspection, per certificate \$ 6.75

(b) When performed without official inspection, add sampling fee, per hour, per employee \$ 26.34

(6) Timely payment. Payment of fees and charges is due within thirty days after the date of the statement.

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

NEW SECTION

WAC 16-238-082 Fees for services performed under state regulation.

(1) Inspection of commodities under state of Washington standards or other state, national, or international standards or criteria specified by the applicant, except as noted in this section.

(a) Cultivated buckwheat, safflower, submitted sample inspection for factors or grade, per sample \$ 7.50

(b) Rapeseed (except Canola), other commodities not listed above; inspection under Washington state standards or other specified standards or criteria, submitted sample inspection for factors or grade, per sample \$ 13.95

(c) Sampling only fees will be assessed at the rates shown in WAC 16-238-070(4)(a) and (b) and will be assessed in addition to the sample inspection fee when lot inspection is requested.

(d) Inspection of bagged commodities per cwt \$0.065

(e) Combination inspection and weighing fees assessed at the rates shown in WAC 16-238-060 (1)(a), (b), (c), and (d).

(2) Cracked corn, corn screenings, and mixed grain screenings will be inspected and/or weighed at applicable rates shown in WAC 16-238-060.

(3) Unofficial analysis of constituents (protein, oil, etc.) by near-infrared transmittance provided at the applicable rates shown in WAC 16-238-060.

(4) Fees for laboratory analysis of commodities covered by this section, or for the analysis of constituents or conditions of grains or commodities inspected under WAC 16-238-060 or 16-212-070 not provided for in the official standards will be assessed at the current rates established by the federal, state or private laboratory providing the analysis. These fees will be assessed in addition to all other inspection and sampling fees, hourly rates and applicable charges.

Note: This fee is applied in addition to the inspection fee for grading under state standards.

(5) For other laboratory analysis not identified herein, a fee will be assessed for each test or analysis identical with the amount charged by USDA or Washington state agency laboratories.

NEW SECTION

WAC 16-238-090 Covered commodities. Commodities covered under chapter 22.09 RCW in respect to storage and/or merchandising shall include wheat, barley, oats, field corn, popcorn, rye, triticale, grain sorghum, soybeans, sunflowers, flax, buckwheat, rapeseed, safflower, millet, mustard, dry peas, dry beans, lentils, malt, and the by-products resulting from conditioning the above commodities.

NEW SECTION

WAC 16-238-100 Grades and standards. The grades and standards established by the United States Department of Agriculture as of August 1, 1984, for all grains and commodities included within the provisions of this chapter are hereby adopted. In addition, the procedures to sample, grade, test and weigh grains and commodities, established by the regulations and instructions under the United States Grain Standards Act and the Agricultural Marketing Act of 1946, are hereby adopted for this state.

NEW SECTION

WAC 16-238-110 Scales. All scales used by warehousemen and dealers must be certified for accuracy annually by the department of agriculture. Scale testing for certification may be performed by the department or by an approved scale company. When scales are tested by the department a seal shall be placed on the scales. The seal shall be dated and shall indicate approval or rejection. When scales are tested by an approved scale company, a copy of a scale test report shall be forwarded to the department and a copy shall be maintained in the warehouseman's file.