



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: May 6, 2003

(2) Purpose: Chapter 16-470 WAC - Quarantine--Agricultural Pests. This rulemaking order adopts the fees charged for the plant pest detection, testing, inspection and documentation by the pest and plant services programs for fiscal years 2003 and 2004. Except for virus identity determinations, the fee schedules in WAC 16-470-912 and WAC 16-470-917 increase plant pathology fees by the OFM fiscal growth factor for fiscal year 2003 (3.29%), effective until June 30, 2003, and fiscal year 2004 (3.2%), effective July 1, 2003. For virus identity determinations, the fee for 1-9 samples will be charged at cost, the fee for 10-99 samples is decreased significantly, and the fee for 100+ samples is increased within the fiscal growth factors. The adopted amendments also clarify the requirements for services provided by written agreement. In addition, this order repeals WAC 16-470-911 and WAC 16-470-916 because they are no longer needed. Finally, as required by Executive Order 97-02, WAC 16-470-905, WAC 16-470-912, WAC 16-470-917, and WAC 16-470-921 are rewritten to improve their clarity.

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

- Repealed: WAC 16-470-911 and 16-470-916
- Amended: WAC 16-470-905, 16-470-912, 16-470-917, and 16-470-921
- Suspended:

(4) Statutory authority for adoption: Chapters 17.24 and 34.05 RCW

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 03-07-092 on March 19, 2003 (date).
Describe any changes other than editing from proposed to adopted version: None

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:

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

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) June 30, 2003*

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

Emergency Rules

- Immediately
- Later (specify) _____

Name (Type or Print)
Valoria H. Loveland

Signature
Valoria H. Loveland

Title: Director
Date: May 6, 2003

CODE REVISER USE ONLY

STATE OF WASHINGTON
OFFICE OF THE CODE REVISER

TIME: 10:32:33 AM
WSR: 03-10-082

AM
PM

(COMPLETE REVERSE SIDE)

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>4</u>	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>4</u>	Repealed	<u>2</u>

AMENDATORY SECTION (Amending WSR 99-12-035, filed 5/26/99, effective 6/26/99)

WAC 16-470-905 Schedule of fees and charges--Establishing hourly rates. (1) Requested services are provided at the applicable hourly rate except as provided in (~~WAC 16-470-905~~) subsection (5) of this section. The hourly rate for nonbusiness hours applies for service provided before 8:00 a.m. or after 5:00 p.m. during the (~~work day~~) workday and for all services provided on Saturday, Sunday, or on a holiday listed in subsection (2) of this section.

(2) Holidays shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) Charges are assessed in one-half hour increments.

(4) Persons requesting service with less than twenty-four hours notice during nonbusiness hours, may be subject to a charge of two additional hours at the nonbusiness hourly rate if the department is required to pay call back pay to the employee(s) providing the requested service.

(5) (~~For large projects,~~) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with one of the following characteristics:

(a) Projects requiring multiple periodic inspections and/or certificates; or

(b) Projects requiring field inspections of crops not regulated under chapter 15.13 or 15.14 RCW.

The rate charged shall not be less than the cost to the department of providing the services.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-912 Schedule of fees and charges--Applicable fees and charges (~~--Effective July 1, 2001~~). (1) Hourly rate.

(~~(a) Business hours \$28.40~~
~~(b) Nonbusiness hours (see WAC 16-407-905) \$36.30)~~)

	<u>Effective until June 30, 2003</u>	<u>Effective July 1, 2003</u>
<u>Hourly rate - business hours</u>	<u>\$29.33</u>	<u>\$30.20</u>

	<u>Effective until June 30, 2003</u>	<u>Effective July 1, 2003</u>
<u>Hourly rate - nonbusiness hours</u>	<u>\$37.49</u>	<u>\$38.60</u>

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

Effective until June 30, 2003

<u>Identity</u>					
<u>Determi- nation</u>	<u>1 sample</u>	<u>5 samples</u>	<u>10 samples</u>	<u>50 samples</u>	<u>100+samples</u>
<u>virus (ELISA)</u>	(\$85.30 ea) <u>At cost</u>	(\$62.45 ea) <u>At cost</u>	\$(47.70) <u>9.70 ea</u>	\$(18.10) <u>4.85 ea</u>	\$(2.75) <u>2.84 ea</u>
<u>bacteria</u>	((37.60)) <u>38.83 ea</u>	((36.30)) <u>37.49 ea</u>	((34.05)) <u>35.17 ea</u>	((32.90)) <u>33.98 ea</u>	((32.90)) <u>33.98 ea</u>
<u>fungus</u>	((39.75)) <u>41.05 ea</u>	((34.05)) <u>35.17 ea</u>	((32.90)) <u>33.98 ea</u>	((31.80)) <u>32.84 ea</u>	((29.50)) <u>30.47 ea</u>
<u>nematode</u>	((29.50)) <u>30.47 ea</u>	((27.20)) <u>28.09 ea</u>	((24.95)) <u>25.77 ea</u>	((24.90)) <u>25.71 ea</u>	((22.70)) <u>23.44 ea</u>

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

Effective July 1, 2003

<u>Identity</u>					
<u>Determi- nation</u>	<u>1 sample</u>	<u>5 samples</u>	<u>10 samples</u>	<u>50 samples</u>	<u>100+samples</u>
<u>virus (ELISA)</u>	<u>At cost</u>	<u>At cost</u>	<u>\$10.00 ea</u>	<u>\$5.00 ea</u>	<u>\$2.90 ea</u>
<u>bacteria</u>	<u>40.05 ea</u>	<u>38.65 ea</u>	<u>36.25 ea</u>	<u>35.05 ea</u>	<u>35.05 ea</u>
<u>fungus</u>	<u>42.35 ea</u>	<u>36.25 ea</u>	<u>35.05 ea</u>	<u>33.85 ea</u>	<u>31.40 ea</u>
<u>nematode</u>	<u>31.40 ea</u>	<u>28.95 ea</u>	<u>26.55 ea</u>	<u>25.90 ea</u>	<u>24.15 ea</u>

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

(4) ~~((For large projects,))~~ The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

- (a) Projects greater than one hundred samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-917 Schedule of fees and charges--Fees for post entry inspection services(~~Effective July 1, 2001~~)). (1) Post entry site inspection and/or permit review and approval (~~Effective July 1, 2001~~ \$56.80))

- (a) Effective until June 30, 2003 \$58.66
- (b) Effective July 1, 2003 \$60.50

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-921 Schedule of fees and charges--Miscellaneous fees(~~Effective July 1, 1999~~)). (1) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections or post entry inspections that are not a part of a regular work schedule. Such charges may be prorated among applicants if more than one applicant is provided service during a workday or trip when per diem is applicable.

(2) Postage, special handling services and other miscellaneous costs exceeding five dollars (~~are~~) will be charged back to the applicant at the actual cost.

(3) Certificates of inspection, phytosanitary certificates, and other official documents (~~are~~) will be provided to the applicant subject to the charges and conditions established in chapter 16-401 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-470-911 Schedule of fees and charges--
Applicable fees and charges--
Effective June 30, 2001.
- WAC 16-470-916 Schedule of fees and charges--Fees
for post entry inspection
services--Effective June 30, 2001.