



**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 16-401 WAC - Nursery Inspection Fees. This rulemaking order adopts the fee schedule for nursery inspection charged by the Plant Services Program for fiscal years 2003 and 2004. The fee schedules in WAC 16-401-027, WAC 16-401-032, and WAC 16-401-041 increase nursery inspection 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. This adoption does not increase the fees for retail or wholesale nursery dealer licenses. In addition, this order repeals WAC 16-401-026 and WAC 16-401-031 because they are no longer needed. Finally, as required by Executive Order 97-02, WAC 16-401-021, WAC 16-401-023, WAC 16-401-027, and WAC 16-401-032 are rewritten to improve their clarity.

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

Repealed: WAC 16-401-026 and 16-401-031  
 Amended: WAC 16-401-021, 16-401-023, 16-401-027, 16-401-032, and 16-401-041  
 Suspended:

**(4) Statutory authority for adoption:** Chapters 15.13, 15.14, and 34.05 RCW  
Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 03-07-091 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**

CODE REVISER USE ONLY

STATE OF WASHINGTON

TIME: 3:38 AM

WSR: 03-10-083

(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:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	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>5</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:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>5</u>	Repealed	<u>2</u>

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

**WAC 16-401-021 Schedule of fees and charges--Facility inspection**~~(--Effective July 1, 1999)~~. (1) The department may conduct regulatory inspections of any plant material at ((a location)) any nursery facility licensed ((as a nursery dealer)) under chapter 15.13 RCW ((is subject to regulatory inspections. A nursery inspection report will be issued,)) without additional charge except as provided in subsection (2) of this section((, stating the results of the inspection)). Subsequent to each inspection the department will issue a nursery inspection report to the licensed nursery.

(2) ~~((A fee may be charged))~~ The department may charge a fee for repeated, subsequent inspections of ((license)) licensed locations where plant material does not meet the requirements ((set forth)) in chapter 15.13 RCW((: Provided, That)). However, the ((license)) licensed location ((is subject)) cannot be subjected to ((no)) more than two paid inspections each license period. Fees are assessed on the basis of the time required for the inspection at the applicable hourly rate provided in this chapter ((16-401 WAC)).

AMENDATORY SECTION (Amending WSR 99-12-034, filed 5/26/99, effective 6/26/99)

**WAC 16-401-023 Schedule of fees and charges--Establishing hourly rates.** (1) Requested services are provided at the applicable hourly rate. The nonbusiness hourly rate 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 a holiday listed in subsection (2) of this section.

(2) Holidays 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) The hourly charge is 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 to the employee(s) providing the requested service.

**WAC 16-401-027 Schedule of fees and charges--Applicable rates and charges (~~--Effective July 1, 2001~~)**. The following rates apply for requested inspection services:

- ~~((1) Hourly rate.~~  
 (a) Business hours . . . . . \$28.40  
 (b) Nonbusiness hours (see WAC 16-401-023) . . . . . \$36.30))

(1) Fee or Charge:	Effective Date	
	Until June 30, 2003	July 1, 2003
Hourly rate--business hours	\$29.33	\$30.20
Hourly rate--nonbusiness hours	\$37.49	\$38.60
Certificate issued at time if inspection	No charge	No charge
Certificate issued more than twenty-four hours after the inspection	\$14.04	\$14.40
Additional certificates	\$4.54	\$4.60
Fumigation lot or container fee	\$11.72	\$12.05
Certificate of plant health for noncommercial movement	\$5.83	\$6.00
Compliance agreement	\$29.33	\$30.20
Inspection tags or stickers (lots of 250)	\$5.83 per lot	\$6.00 per lot
Inspection tags or stickers (minimum 10)	\$0.278 each	\$0.28 each

(2) 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 that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a (~~work day~~) workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1) (b) or (2) (a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1) (c) or (2) (b), are without charge.

~~((a))~~ There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

~~((b) Phytosanitary certificates issued more than twenty-four hours from the time of the inspection, first certificate~~

~~. . . . . \$13.60  
 (c) Additional phytosanitary certificates . . . . . \$4.40 ea.))~~

(4) Inspection and certification of nonplant material or

equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

~~((a) There is no additional charge for the first certificate.~~

~~(b) Additional certificates . . . . . \$4.40~~

~~(5) Inspections for garden brown snail certification or other miscellaneous inspection certification are charged at the applicable hourly rate.~~

~~(a) For the first certificate . . . . . no charge~~

~~(b) For additional certificates . . . . . \$4.40~~

~~(6)) (5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee (of~~

~~. . . . . \$11.35~~

~~(7) For) .~~

~~(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection( ( . . . . . \$5.65) ) .~~

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge. ~~((Additional certificates are issued at the \$4.40 rate.))~~

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

**WAC 16-401-032 Schedule of fees and charges--Miscellaneous charges**~~((--Effective July 1, 2001))~~. The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are charges at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter ~~((16-401 WAC))~~.

~~((3) Nursery stickers and nursery stock inspection certificate tags:~~

~~(a) In lots of 250 . . . . . \$5.65 per lot~~

~~(b) Less than 250 (minimum 10) . . . . . \$0.27~~

~~(4) Authorization by the department to preprint Washington nursery stock inspection certificates on shipping containers, yearly authorization fee or renewal . . . . . \$28.40))~~

**WAC 16-401-041 Nursery dealer license fees.** Annual license fees as established below, must accompany the application for nursery dealer license:

- (1) Retail nursery dealer license fee:
  - (a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars . . . . . \$37.67
  - (b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is . . . . . \$80.72
  - (c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$161.45
- (2) Wholesale nursery dealer license fee:
  - (a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars . . . . . \$80.72
  - (b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$161.45
- (3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.
- (4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270.
  - (a) Effective until June 30, ((2001, per permit . . . . .  
~~-\$5.50~~) 2003 . . . . . \$5.83
  - (b) Effective July 1, ((2001, per permit . . . . . \$5.65))  
2003 . . . . . \$6.00

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-401-026                      Schedule of fees and charges--  
     Applicable rates and charges--  
     Effective June 30, 2001.
- WAC 16-401-031                      Schedule of fees and charges--  
     Miscellaneous charges--Effective  
     June 30, 2001.