



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Dept. of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: October 22, 2003

(2) Purpose: This rulemaking order amends the following sections of rule by repealing fee schedules that were only in effect for one day (June 30, 2003) and were superceded on July 1, 2003 by the current fee schedules: WAC 16-328-011, Strawberry plant certification fees; WAC 16-333-041, Caneberry certification fees; WAC 16-401-027, Schedule of fees and charges -- Applicable rates and charges; WAC 16-401-041, Nursery dealer license fees; WAC 16-470-912, Schedule of fees and charges -- Applicable rates and charges; and WAC 16-470-917, Schedule of fees and charges -- Fees for post entry inspection services.

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

Repealed:
 Amended: WAC 16-328-011, 16-333-041, 16-401-027, 16-401-041, 16-470-912, 16-470-917
 Suspended:

(4) Statutory authority for adoption: Chapter 15.13, 15.14, 17.24, & 34.05 RCW

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 03-17-075 on August 19, 2003.
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:

(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) _____*

Emergency Rules

- 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)
Valoria H. Loveland

Signature
Valoria H. Loveland

Title: Director Date: October 22, 2003

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 22 2003

1005

TIME _____ PM

WSR 03-21-166

(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>6</u>	Repealed	<u>0</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>6</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>6</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 03-10-080, filed 5/6/03, effective 6/30/03)

WAC 16-328-011 Strawberry plant certification fees. The strawberry plant certification fees are as follows:

	((Effective until June 30, 2003	Effective July 1, 2003
Application fee	\$136.34	\$140.70
Hourly inspection rate	\$27.26))	\$28.10

(1) Certification application fee. The applicant must furnish all information requested on the application for inspection, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection or testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications for inspection must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington, 98504-2560 by June 15 of each year and be accompanied by the application fee.

(2) Inspection fees. The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

AMENDATORY SECTION (Amending WSR 03-10-081, filed 5/6/03, effective 6/30/03)

WAC 16-333-041 Caneberry certification fees. The caneberry certification fees are as follows:

	((Effective until June 30, 2003	Effective July 1, 2003
Application fee	\$136.34	\$140.70
Hourly inspection rate	\$27.26))	\$28.10

(1) Certification application fee. The applicant must furnish all information requested on the application form furnished by the department, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection and testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington 98504-2560 by May 15 each year and be accompanied by the application fee.

(2) Inspection fees. The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

AMENDATORY SECTION (Amending WSR 03-10-083, filed 5/6/03, effective 6/30/03)

WAC 16-401-027 Schedule of fees and charges--Applicable rates and charges. The following rates apply for requested inspection services:

(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 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.

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

(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.

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

(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.

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.

AMENDATORY SECTION (Amending WSR 03-10-083, filed 5/6/03, effective 6/30/03)

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, 2003 \$5.83~~

~~(b)) Effective July 1, 2003 \$6.00~~

AMENDATORY SECTION (Amending WSR 03-10-082, filed 5/6/03, effective 6/30/03)

WAC 16-470-912 Schedule of fees and charges--Applicable fees and charges. (1) Hourly rate.

	((Effective until June 30, 2003	Effective July 1, 2003
Hourly rate - business hours	\$29.33	\$30.20
Hourly rate - nonbusiness hours	\$37.49))	\$38.60

(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

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+ samples
virus (ELISA)	At cost	At cost	\$9.70 ea	\$4.85 ea	\$2.84 ea
bacteria	38.83 ea	37.49 ea	35.17 ea	33.98 ea	33.98 ea
fungus	41.05 ea	35.17 ea	33.98 ea	32.84 ea	30.47 ea
nematode	30.47 ea	28.09 ea	25.77 ea	25.71 ea	23.44 ea

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

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

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) 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 03-10-082, filed 5/6/03, effective 6/30/03)

WAC 16-470-917 Schedule of fees and charges--Fees for post entry inspection services. (1) Post entry site inspection and/or permit review and approval:

~~((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.