



RULE-MAKING ORDER

R-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Agriculture

Permanent Rule
 Emergency Rule

Effective date of rule:
Permanent Rules
 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:
Emergency Rules
 Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If Yes, explain:

Purpose: This rule making order adopts amendments to chapter 16-390 WAC (WSDA Fruit and Vegetable Inspection Districts, Inspection Fees and Other Charges) that increase the following fees in excess of the Office of Financial Management fiscal growth rate factor:

- All cwt. fees
- The minimum charge for a certificate of compliance (WAC 16-390-150(4)(a))
- The field or orchard per acre inspection fee (WAC 16-390-220(1))

The department is also adopting a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc (WAC 16-390-020(3)).

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 16-390-020; WAC 16-390-030; WAC 16-390-150; and WAC 16-390-220
Suspended: None

Statutory authority for adoption: Chapter 15.17 RCW; Chapter 25, Laws of 2003, 1st Special Session, Section 309(2)

Other authority: Chapter 34.05 RCW

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-07-155 on March 23, 2005.
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- 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.
- 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:

Date adopted: May 26, 2005

NAME (TYPE OR PRINT)
Valoria H. Loveland

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 26 2005

TIME 1141 AM
WSR 05-12-054 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	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

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

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

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

New	0	Amended	0	Repealed	0
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The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	0	Amended	4	Repealed	0

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-020 What are the fees for grade and condition certificates for fruit? WSDA fees for grade and condition certificates for all fruits are:

(1) A minimum charge of sixteen dollars.

(2) The fees for **federal-state or state grade and condition certificates** of all fresh market apples, pears, and soft fruits in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Fruit	Fees per CWT or Fraction Thereof
Apples <u>on-line for domestic shipping, CA, etc.</u>	\$(0.155)) 0.17
Apples for export	\$0.17
Apricots, cherries, nectarines ((and)), peaches, plums, prunes, other soft fruits, grapes and berries	\$(0.24)) 0.23
Pears	\$(0.12)) 0.17
((Plums, prunes, other soft fruits, grapes and berries)) Pears for export	\$(0.16)) 0.17

~~((3) The fees for **state grade and condition certification** of all fresh market apples, and pears that are in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:~~

Type of Fruit	Fees per CWT or Fraction Thereof
Apples	\$0.145
Pears	\$0.11))

~~(3) The department will give a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc. Packing of up to 4800 cwt per eight-hour shift, the normal inspection fee will be assessed, and every cwt of product above 4800 cwt for that same shift will be charged at \$0.12 cwt. Platform inspection fees will still apply (WAC 16-390-200).~~

(4) The department charges a fee of ~~((two))~~ three dollars ~~((and fifty cents))~~ per ton net weight (or fraction thereof) for all apples, pears, stone fruits, berries, and grapes in bulk or in containers that are inspected for processing.

(5) The department charges a fee of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars, when an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-030 What are the fees for grade and condition certificates for vegetables? WSDA fees for grade and condition certificates for all vegetables are:

- (1) A minimum charge of sixteen dollars.
- (2) The fees for **federal-state or state grade and condition certificates** for all fresh market vegetables in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Vegetables	Fees per CWT or Fraction Thereof
Asparagus	\$(0.21) <u>0.23</u>
Cantaloupes and corn	\$(0.125) <u>0.14</u>
Onions	\$(0.08) <u>0.09</u>
Potatoes	\$(0.06) <u>0.07</u>
In-state processing potatoes	\$(0.06) <u>0.08</u>
Complete inspection	Rate shall be reduced for the level of service required
Tomatoes	\$(0.19) <u>0.21</u>

~~((3) The fee for state grade and condition certification of all fresh market asparagus in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags is listed in the following table:~~

Type of Vegetable	Fee per CWT or Fraction Thereof
Asparagus	\$0.19

~~((4))~~ (3) For the inspection of vegetables not listed, the department charges a fee of thirty-two dollars per hour.

~~((5))~~ (4) The department charges a fee of ~~((two))~~ three dollars ~~((fifty cents))~~ per ton net weight (or fraction thereof) for the inspection of vegetables to be processed, whether in bulk or in containers.

~~((6))~~ (5) When an inspection is requested only to verify the

product, conveyance, markings, or other factors not related to quality, the department charges the rate of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-150 What requirements apply to shipping permits and certificates of compliance for fruits and vegetables? (1) Each shipment of apples, apricots, Italian prunes, peaches, pears, dark sweet cherries, Rainier cherries and asparagus must be covered by a shipping permit. All other sweet cherries, whether certified or not, must have a shipping permit indicating freedom from cherry fruit fly larvae.

(2) Shipments of apricots, cherries, peaches, prunes, and asparagus to processors do not require a shipping permit.

(3) A permit or certificate of compliance may be issued without additional charge if the lot is certified.

(4) If the lot has not been certified, a permit or certificate of compliance may be issued based upon the following charges:

(a) The minimum charge for a permit or certificate of compliance is ~~((two))~~ three dollars ~~((fifty cents))~~.

(b) Two-thirds of the rate for federal-state or state grade and condition certificates applies.

(c) A permit to ship apples and/or pears to a by-product plant outside the state is three dollars.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-220 What is the fee for a field or orchard inspection? The fee for field or orchard inspections made at the applicant's request to determine the presence or absence of disease or insect infestation, or for some other reason is:

(1) ~~((Two))~~ Three dollars ~~((and fifty cents))~~ per acre or fraction thereof; or

(2) At the platform inspection rate specified in WAC 16-390-200(1).