



# RULE-MAKING ORDER

**JR-103 (June 2004)**  
**(Implements RCW 34.05.360)**

**Agency:** Dept. of Agriculture

- Permanent Rule**  
 **Emergency Rule**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) July 1, 2007 (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 rulemaking order amends chapter 16-401 WAC, Nursery Inspection Fees, by increasing the nursery inspection fees and the permit fee for businesses exempted from a nursery dealer's license by no more than the OFM fiscal growth factor for fiscal year 2008 (5.53%).

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: WAC 16-401-027 and 041  
 Suspended:

**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 07-07-105 on March 19, 2007.  
 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 3, 2007

**NAME (TYPE OR PRINT)**

Valoria H. Loveland

**SIGNATURE**

*Valoria H. Loveland*

**TITLE**

Director

**CODE REVISER USE ONLY**

MAY 3 2007

07-11-011

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:**

<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>2</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>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>2</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 06-15-043, filed 7/11/06, effective 8/11/06)

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

<b>(1) Fee or Charge:</b>	
Hourly rate--business hours	\$ <del>((33.00))</del> <u>34.80</u>
Hourly rate--nonbusiness hours	\$ <del>((42.15))</del> <u>44.45</u>
Certificate issued at time of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$ <del>((15.70))</del> <u>16.55</u>
Additional certificates	\$ <del>((4.95))</del> <u>5.20</u>
Fumigation lot or container fee	\$ <del>((13.10))</del> <u>13.80</u>
Certificate of plant health for noncommercial movement	\$ <del>((6.45))</del> <u>6.80</u>
Compliance agreement	\$ <del>((33.00))</del> <u>34.80</u>
Inspection tags or stickers (lots of 250)	\$ <del>((6.45))</del> <u>6.80 per lot</u>
Inspection tags or stickers (minimum 10)	\$ <del>((0.28))</del> <u>0.29 each</u>

(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 06-15-043, filed 7/11/06, effective 8/11/06)

**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 . . . . . \$38.73

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is . . . . . \$82.99

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$166.00

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars . . . . . \$82.99

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$166.00

(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 . . . . . \$((6.35)) 6.70