



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Department of Agriculture	<input checked="" type="checkbox"/> Permanent Rule
(1) Date of adoption: May 26, 1999	<input type="checkbox"/> Emergency Rule
	<input type="checkbox"/> Expedited Adoption
	<input type="checkbox"/> Expedited Repeal

(2) Purpose: Increase nursery inspection and license fees within the fiscal growth factors for both fiscal year 1999 and 2000.

(3) Citation of existing rules affected by this order:
 Repealed:
 Amended: 16-401-019, 16-401-020, 16-401-023, 16-401-025, 16-401-030, 16-401-040, 16-401-050
 Suspended:

(4) Statutory authority for adoption: Chapter 15.13 RCW and Chapter 15.14 RCW
 Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)
 Adopted under notice filed as WSR 99-07-126 on March 24, 1999 (date).
 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:

EXPEDITED REPEAL ONLY
 Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(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 or Expedited Repeal	Emergency Rules
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____*	<input type="checkbox"/> 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) Jim Jesernig	
Signature 	
Title Director	Date May 26, 1999

CODE REVISER USE ONLY

COORDINATOR'S OFFICE
STATE OF WASHINGTON

MAY 26 1999

TIME 9:18 AM

99-12034

**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	-----	Amended	-----	Repealed	-----
Federal rules or standards:	New	-----	Amended	-----	Repealed	-----
Recently enacted state statutes:	New	-----	Amended	-----	Repealed	-----

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

New	-----	Amended	-----	Repealed	-----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

New	<u>3</u>	Amended	<u>3</u>	Repealed	-----
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	<u>4</u>	Repealed	-----
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The number of sections adopted using:

Negotiated rule making:	New	-----	Amended	-----	Repealed	-----
Pilot rule making:	New	-----	Amended	-----	Repealed	-----
Other alternative rule making:	New	<u>4</u>	Amended	<u>7</u>	Repealed	-----

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-019 Schedule of fees and charges--Billing policies and procedures. (1) All billable services provided under chapter 15.13 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing service for established accounts. Accounts not paid-in-full within thirty days of billing (~~shall be~~) are considered delinquent.

(2) All delinquent accounts (~~shall be~~) are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(3) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system (~~shall be~~) is twenty dollars. All billable services of less than twenty dollars (~~shall be~~) are due and payable-in-full at the time that service is rendered.

(4) No person with an account ninety days or more in arrears (~~shall~~) will receive service except on the basis of payment in full at the time service is rendered. Such accounts (~~shall~~) will not be restored to monthly billing status until all past due accounts are paid-in-full. Such accounts may be subject to legal action for collection.

(5) Accounts that become ninety days or more in arrears twice within a five-year period may be subject to a permanent requirement (~~to payment in full~~) for payment in full at the time service is provided.

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-020 Schedule of fees and charges--Facility inspection--Effective June 30, 1999. (1) Any plant material at a location licensed as a nursery dealer under chapter 15.13 RCW (~~shall be~~) is subject to regulatory inspections. A nursery inspection (~~certificate shall~~) report will be issued, without additional charge except as provided in subsection (2) of this section, stating the results of the inspection.

(2) A fee may be charged for repeated, subsequent inspections of license locations where plant material does not meet the requirements set forth in chapter 15.13 RCW: Provided, That the

license location (~~((shall be))~~) is subject to no more than two paid inspections each license period. Fees (~~((shall be))~~) are assessed on the basis of the time required for the inspection at the applicable hourly rate provided in WAC 16-401-025.

NEW SECTION

WAC 16-401-021 Schedule of fees and charges--Facility inspection--Effective July 1, 1999. (1) Any plant material at a location 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.

(2) A fee may be charged for repeated, subsequent inspections of license locations where plant material does not meet the requirements set forth in chapter 15.13 RCW: Provided, That the license location is subject 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 WAC 16-401-026.

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-023 Schedule of fees and charges--Establishing hourly rates. (1) Requested services (~~((shall be))~~) are provided at (~~((an))~~) the applicable hourly rate (~~((and an overtime rate))~~). The (~~((overtime))~~) nonbusiness hourly rate (~~((shall apply))~~) applies for service provided before 8:00 a.m. or after 5:00 p.m. during the work day and for all services provided on Saturday, Sunday, or 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) The (~~((minimum))~~) hourly charge is assessed (~~((shall be one hour. Additional charges shall be))~~) in one-half hour increments (~~((prospectively))~~).

(4) Persons requesting service with less than twenty-four hours notice (~~((on a weekend or holiday, or before 8:00 a.m. or after 5:00 p.m.,))~~) during nonbusiness hours may be subject to a (~~((call back))~~) charge of two additional hours at the (~~((overtime))~~) nonbusiness hourly rate, (~~((in addition to all other charges,))~~) if

the department is (~~actually~~) required to pay call back to the employee(s) providing the requested service.

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-025 Schedule of fees and charges--Applicable rates and charges--Effective June 30, 1999. The following rates for requested inspection services shall apply:

- (1) Hourly rate (~~,~~ per hour \$ 25.00
- ~~(2) Overtime rate, per hour \$ 32.00~~
- ~~(3)) (a) Business hours \$ 26.05~~
- ~~(b) Nonbusiness hours (see WAC 16-401-023) \$ 33.34~~

(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 pro-rated among applicants if more than one applicant is provided service during a work day or trip when mileage and/or per diem are applicable.

~~((4))~~ (3) Inspections for phytosanitary certification, including growing season field inspections, (~~shall be~~) 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 (~~organization~~) 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 16-401-040 (1) (b) or (2) (a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-040 (1) (c) or (2) (b), (~~shall be~~) are without charge.

(a) There (~~shall be~~) 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 \$ (~~12.00~~) 12.50

(c) Additional phytosanitary certificates \$ (~~4.00~~) 4.10 ea.

~~((5))~~ (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.) (~~shall be performed~~) is charged at the applicable hourly rate.

(a) (~~All certificates must be issued at the time of inspection.~~

~~(b) For the first certificate,))~~ There is no additional charge

for the first certificate.

- ~~((c))~~ (b) Additional certificates \$ ~~((4.00))~~ 4.10 ea.
- ~~((6))~~ (5) Inspections for garden brown snail certification or other miscellaneous inspection certification (~~shall be~~) are charged at the applicable hourly rate.
 - (a) For the first certificate no additional charge
 - (b) For additional certificates \$ ~~((4.00))~~ 4.10 ea.
- ~~((7))~~ (6) Witnessing and certification of fumigation (~~shall be~~) is charged at the applicable hourly rate, plus a per lot or container fee of \$ ~~((10.00))~~ 10.42
- ~~((8))~~ (7) For 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 \$ ~~((5.00))~~ 5.21

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate, per WAC 16-401-025(~~shall be applied~~) applies. One certificate for one service (~~shall be~~) is issued at no charge. Additional certificates (~~will be~~) are issued at the \$~~((4.00))~~ 4.10 rate.

NEW SECTION

WAC 16-401-026 Schedule of fees and charges--Applicable rates and charges--Effective July 1, 1999. The following rates apply for requested inspection services:

- (1) Hourly rate
 - (a) Business hours \$ 26.90
 - (b) Nonbusiness hours (see WAC 16-401-023) \$ 34.40
- (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 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

..... \$ 12.90

(c) Additional phytosanitary certificates . . . \$ 4.20 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 \$ 4.20 ea.

(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 \$ 4.20 ea.

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

..... \$ 10.75

(7) For 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 \$ 5.35

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate, per WAC 16-401-026, applies. One certificate for one service is issued at no charge. Additional certificates are issued at the \$4.20 rate.

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-030 Schedule of fees and charges--Miscellaneous charges--Effective June 30, 1999. The following rates for miscellaneous charges on requested inspections (~~shall~~) apply.

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

(2) (~~Fee for special handling service (i.e., federal express, air parcel post or air freight)~~ \$3.50

(3) ~~Fee for facsimile transmission of documents, per document~~ \$3.50

(4) ~~Additional copies of certificates, per copy~~ \$.20

(5) ~~Other requested office services, not specifically provided(, shall be)~~ for, are charged a fee based on the portion of an hour at the applicable hourly rate in WAC 16-401-025 (~~necessary to perform the service~~).

(6) ~~(3)~~ (3) Nursery stickers and nursery stock inspection(~~+~~) --certificate tags:

(a) In lots of 250 \$ ~~((5.00))~~ 5.21 per lot
 (b) Less than 250 (minimum 10) \$ ~~((.25))~~ .26 each
~~((7))~~ (4) Authorization by the department to preprint
 Washington nursery stock inspection certificates on shipping
 containers, yearly authorization fee or renewal
 \$ ~~((25.00))~~ 26.05

NEW SECTION

WAC 16-401-031 Schedule of fees and charges--Miscellaneous charges--Effective July 1, 1999. The following rates for miscellaneous charges on requested inspections shall apply.

- (1) Postage, special handling services and other miscellaneous costs exceeding five dollars are charged 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 WAC 16-401-026.
- (3) Nursery stickers and nursery stock inspection certificate tags:

(a) In lots of 250 \$ 5.35 per lot
 (b) Less than 250 (minimum 10) \$ 0.26 each
 (4) Authorization by the department to preprint Washington nursery stock inspection certificates on shipping containers, yearly authorization fee or renewal \$ 26.90

AMENDATORY SECTION (Amending Order 4016, filed 12/1/92, effective 1/1/93)

WAC 16-401-040 Nursery dealer license fees--Effective June 30, 1999. ~~((As provided in chapter 15.13 RCW, the director of agriculture hereby establishes the following schedule of))~~ Annual license fees ((which shall)), as established below, must accompany ((the)) an application for nursery dealer license((:))

- (1) Retail nursery dealer license fee:
 - (a) ~~((For))~~ Gross business sales of horticultural plants and turf less than two thousand five hundred dollars((, the license fee shall be thirty-five dollars.)) \$ 36.46
 - (b) ~~((For))~~ Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars((, the license fee shall be seventy-five dollars.)) \$ 78.14
 - (c) ~~((For))~~ Gross business sales of horticultural plants and turf of fifteen thousand dollars or more((, the license fee shall be one hundred fifty dollars.)) \$156.30

~~((d) Retail nursery dealer license fee increases shall become effective January 1, 1993.))~~

(2) Wholesale nursery dealer license fee:
(a) ~~((For))~~ Gross business sales of horticultural plants and turf less than fifteen thousand dollars ~~((, the license fee shall be seventy five dollars.))~~ \$ 78.14

(b) ~~((For))~~ Gross business sales of horticultural plants and turf of fifteen thousand dollars or more ~~((, the license fee shall be one hundred fifty dollars.))~~ \$156.30

~~((c) Wholesale nursery dealer license fee increases shall become effective January 1, 1993.))~~

(3) As provided in RCW ~~((15.13.280 there is hereby established))~~ 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 ~~((to be used solely to support research projects recommended by the nursery advisory committee and of general benefit to the nursery industry))~~ , is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270, per permit \$ ~~((5.00))~~ 5.21

NEW SECTION

WAC 16-401-041 Nursery dealer license fees--Effective July 1, 1999. 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, per permit \$ 5.35

WAC 16-401-050 Annual assessment--Fruit tree material. As provided in RCW 15.13.310, (~~the director of agriculture hereby establishes~~) an annual assessment of one percent on the gross sale price of the wholesale market value for all fruit trees, fruit tree related ornamental trees, fruit tree seedlings, fruit tree rootstock, and all other rootstock used for fruit tree propagation produced in Washington, and sold within the state or shipped from the state by any licensed nursery dealer, is established.