

WSR 23-11-012

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 5, 2023, 8:06 a.m., effective June 5, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-401 WAC, Nursery inspection fees and chapter 16-470 WAC, Quarantine—Agricultural pests. The department of agriculture (department) is restructuring, increasing, and consolidating fees for inspections requested by stakeholders, nursery license fees, nematode laboratory fees, and plant pathology laboratory fees. The department is also revising the language in these chapters to increase clarity and readability and to better serve industry inspection needs.

Citation of Rules Affected by this Order: Amending WAC 16-401-023, 16-401-027, 16-401-041, 16-470-905, 16-470-912, 16-470-917, and 16-470-921.

Statutory Authority for Adoption: RCW 15.13.260, 15.13.280, 15.14.015, and 17.24.131.

Adopted under notice filed as WSR 23-07-010 on March 2, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 3, 2023.

Derek I. Sandison
Director

OTS-4373.1

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

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~~) Services are generally available between 8:00 a.m. ((or after)) and 5:00 p.m. during the ((workday and for all services provided on Saturday, Sunday, or a)) workweek, except for on holidays listed in subsection (2) of this section.

(2) Holidays mean New Year's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving Day, the day immediately follow-

ing 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, with one-half hour being the minimum charge.

~~((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.))~~

[Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. WSR 03-10-083, § 16-401-023, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. WSR 99-12-034, § 16-401-023, filed 5/26/99, effective 6/26/99. Statutory Authority: [Chapter 15.13 RCW]. WSR 92-24-067 (Order 4016), § 16-401-023, filed 12/1/92, effective 1/1/93.]

AMENDATORY SECTION (Amending WSR 15-21-022, filed 10/13/15, effective 12/1/15)

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

(1) Fee or Charge:	
Hourly rate—business hours	(((\$50.00)) \$58.00
((Hourly rate—nonbusiness hours	\$75.00
Certificate issued at time of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$24.50
Additional certificates	\$8.25
Fumigation lot or container fee	(\$25.00))
<u>Phytopsanitary certificate issued for licensed nurseries</u>	<u>\$20.00</u>
Certificate of plant health for noncommercial movement	(((\$10.00)) <u>\$20.00</u>
Compliance agreement	(((\$50.00)) <u>\$58.00</u>
Inspection tags or stickers (lots of 250)	\$10.00 per lot

(2) Mileage at the established office of financial management rate ~~((schedule A))~~, per diem and other authorized travel expenses 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 phytopsanitary 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 also charge fees and/or surcharges for transmittal to federal agencies.

~~((7))~~) (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))~~ for a flat fee without charges for hourly rate, 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.))~~

[Statutory Authority: RCW 15.13.260, 15.13.280, 15.14.015, 17.24.131, and chapter 34.05 RCW. WSR 15-21-022, § 16-401-027, filed 10/13/15, effective 12/1/15. Statutory Authority: RCW 15.13.260, 15.13.280, 15.13.370, 15.14.015, chapter 34.05 RCW, and 2009 c 564. WSR 09-23-005, § 16-401-027, filed 11/5/09, effective 1/1/10. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. WSR 07-11-011, § 16-401-027, filed 5/3/07, effective 7/1/07; WSR 06-15-043, § 16-401-027, filed 7/11/06, effective 8/11/06; WSR 05-12-110, § 16-401-027, filed 5/31/05, effective 7/1/05; WSR 04-17-037, § 16-401-027, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. WSR 03-21-166, § 16-401-027, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. WSR 03-10-083, § 16-401-027, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. WSR 01-11-031, § 16-401-027, filed 5/8/01, effective 6/8/01.]

AMENDATORY SECTION (Amending WSR 15-21-022, filed 10/13/15, effective 12/1/15)

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))~~ \$2,500
. ~~(((\$52.50))~~ \$67.20

(b) Gross business sales of horticultural plants and turf between ~~((two thousand five hundred dollars and fifteen thousand dollars))~~
\$2,500 and \$15,000, the license fee is. ~~(((\$115.00))~~ \$147.20

- (c) Gross business sales of horticultural plants and turf of ~~((fifteen thousand dollars))~~ \$15,000 or more. . . . ~~(((\$228.00))~~ \$292.00
- (2) Wholesale nursery dealer license fee:
 - (a) Gross business sales of horticultural plants and turf less than ~~((fifteen thousand dollars))~~ \$15,000. . . . ~~(((\$115.00))~~ \$147.20
 - (b) Gross business sales of horticultural plants and turf of ~~((fifteen thousand dollars))~~ \$15,000 or more. . . . ~~(((\$228.00))~~ \$292.00
- (3) As provided in RCW 15.13.285, a surcharge of ~~((twenty))~~ 20 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
 ~~(((\$10.00))~~ \$20.00

[Statutory Authority: RCW 15.13.260, 15.13.280, 15.14.015, 17.24.131, and chapter 34.05 RCW. WSR 15-21-022, § 16-401-041, filed 10/13/15, effective 12/1/15. Statutory Authority: RCW 15.13.260, 15.13.280, 15.13.370, 15.14.015, chapter 34.05 RCW, and 2009 c 564. WSR 09-23-005, § 16-401-041, filed 11/5/09, effective 1/1/10. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. WSR 07-11-011, § 16-401-041, filed 5/3/07, effective 7/1/07; WSR 06-15-043, § 16-401-041, filed 7/11/06, effective 8/11/06; WSR 05-12-110, § 16-401-041, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapters 15.13, 15.14, 17.24 and 34.05 RCW. WSR 03-21-166, § 16-401-041, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 15.13, 15.14, and 34.05 RCW. WSR 03-10-083, § 16-401-041, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 15.13 and 15.14 RCW. WSR 01-11-031, § 16-401-041, filed 5/8/01, effective 6/8/01; WSR 99-12-034, § 16-401-041, filed 5/26/99, effective 6/26/99.]

OTS-4374.1

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

WAC 16-470-905 Schedule of fees and charges—Establishing hourly rates.

- (1) Requested services are provided at the applicable hourly rate except as provided in subsection ~~((+5))~~ (4) of this section. ~~((The hourly rate for nonbusiness hours applies for service provided before))~~ Services are generally available between 8:00 a.m. ((or af-ter)) and 5:00 p.m. during the ((workday and for all services provided on Saturday, Sunday, or)) workweek, except for on a holiday listed in subsection (2) of this section.
- (2) Holidays shall mean New Year's Day, Memorial Day, Juneteenth, 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) Charges are assessed in one-half hour increments, with one-half hour as a minimum.

(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 pay to the employee(s) providing the requested service.

(5)) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with one of the following characteristics:

(a) Projects requiring multiple periodic inspections and/or certificates; or

(b) Projects requiring field inspections of crops not regulated under chapter 15.13 or 15.14 RCW.

The rate charged shall not be less than the cost to the department of providing the services.

[Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 03-10-082, § 16-470-905, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapter 17.24 RCW. WSR 99-12-035, § 16-470-905, filed 5/26/99, effective 6/26/99; WSR 92-07-023, § 16-470-905, filed 3/10/92, effective 4/10/92.]

AMENDATORY SECTION (Amending WSR 15-21-022, filed 10/13/15, effective 12/1/15)

WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges. (1) Hourly rate(~~(-)~~) \$72.50

((Hourly rate - Business hours	\$62.50
Hourly rate - Nonbusiness hours	(\$93.75))

(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:

- (a) Nematode assay (plant material). (~~(\$38.00)~~) \$48.00
- (b) Nematode assay (soil). (~~(\$60.00)~~) \$65.00
- (c) Assay for dwarf bunt (TCK), Karnal bunt, flag smut (~~(\$60.00)~~) \$70.00

Note: Fee is for one sample for one specific organism, unless more than one organism 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)~~) 100 samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling, multiple phase test procedures, or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

[Statutory Authority: RCW 15.13.260, 15.13.280, 15.14.015, 17.24.131, and chapter 34.05 RCW. WSR 15-21-022, § 16-470-912, filed 10/13/15, effective 12/1/15. Statutory Authority: RCW 17.24.131, 2012 2nd sp.s. c 7, and chapter 34.05 RCW. WSR 12-22-028, § 16-470-912, filed 10/31/12, effective 12/1/12. Statutory Authority: RCW 17.24.021, 17.24.131, chapter 34.05 RCW, and 2009 c 564. WSR 09-23-006, §

16-470-912, filed 11/5/09, effective 1/1/10. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 07-11-012, § 16-470-912, filed 5/3/07, effective 7/1/07; WSR 06-15-044, § 16-470-912, filed 7/11/06, effective 8/11/06; WSR 05-12-111, § 16-470-912, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapters 17.24, 15.14, and 34.05 RCW. WSR 05-01-180, § 16-470-912, filed 12/21/04, effective 1/21/05. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 04-17-036, § 16-470-912, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. WSR 03-21-166, § 16-470-912, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 03-10-082, § 16-470-912, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. WSR 01-11-033, § 16-470-912, filed 5/8/01, effective 6/8/01.]

AMENDATORY SECTION (Amending WSR 15-21-022, filed 10/13/15, effective 12/1/15)

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 (~~(.)~~ ~~\$125.00~~ ~~(2)~~) and subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

~~((3))~~ (2) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

[Statutory Authority: RCW 15.13.260, 15.13.280, 15.14.015, 17.24.131, and chapter 34.05 RCW. WSR 15-21-022, § 16-470-917, filed 10/13/15, effective 12/1/15. Statutory Authority: RCW 17.24.131, 2012 2nd sp.s. c 7, and chapter 34.05 RCW. WSR 12-22-028, § 16-470-917, filed 10/31/12, effective 12/1/12. Statutory Authority: RCW 17.24.021, 17.24.131, chapter 34.05 RCW, and 2009 c 564. WSR 09-23-006, § 16-470-917, filed 11/5/09, effective 1/1/10. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 07-11-012, § 16-470-917, filed 5/3/07, effective 7/1/07; WSR 06-15-044, § 16-470-917, filed 7/11/06, effective 8/11/06; WSR 05-12-111, § 16-470-917, filed 5/31/05, effective 7/1/05; WSR 04-17-036, § 16-470-917, filed 8/10/04, effective 9/10/04. Statutory Authority: Chapters 15.13, 15.14, 17.24, and 34.05 RCW. WSR 03-21-166, § 16-470-917, filed 10/22/03, effective 11/22/03. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 03-10-082, § 16-470-917, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. WSR 01-11-033, § 16-470-917, filed 5/8/01, effective 6/8/01.]

AMENDATORY SECTION (Amending WSR 15-21-022, filed 10/13/15, effective 12/1/15)

WAC 16-470-921 Schedule of fees and charges—Miscellaneous fees. (1) Mileage at the established office of financial management rate (~~((schedule A))~~), per diem and other authorized travel expenses at actual cost, and travel time at the applicable hourly rate may be as-

sessed for requested inspections or post entry inspections that are not a part of a regular work schedule. Such charges may be prorated among applicants if more than one applicant is provided service during a workday or trip when per diem is applicable.

(2) Postage, special handling services and other miscellaneous costs exceeding five dollars will be charged back to the applicant at the actual cost.

(3) Certificates of inspection, phytosanitary certificates, and other official documents will be provided to the applicant subject to the charges and conditions established below:

Fee or Charge:	
((Certificate issued at time of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$30.00
Additional certificates	\$10.00
Fumigation lot or container fee	(\$25.00))
Each phytosanitary certificate issued to a nonnursery	\$26.00
Compliance agreement	(((\$62.50)) \$72.50

[Statutory Authority: RCW 15.13.260, 15.13.280, 15.14.015, 17.24.131, and chapter 34.05 RCW. WSR 15-21-022, § 16-470-921, filed 10/13/15, effective 12/1/15. Statutory Authority: RCW 17.24.131, 2012 2nd sp.s. c 7, and chapter 34.05 RCW. WSR 12-22-028, § 16-470-921, filed 10/31/12, effective 12/1/12. Statutory Authority: RCW 17.24.021, 17.24.131, chapter 34.05 RCW, and 2009 c 564. WSR 09-23-006, § 16-470-921, filed 11/5/09, effective 1/1/10. Statutory Authority: Chapters 17.24 and 34.05 RCW. WSR 03-10-082, § 16-470-921, filed 5/6/03, effective 6/30/03. Statutory Authority: Chapters 17.24 and 15.14 RCW. WSR 01-11-033, § 16-470-921, filed 5/8/01, effective 6/8/01. Statutory Authority: Chapter 17.24 RCW. WSR 99-12-035, § 16-470-921, filed 5/26/99, effective 6/26/99.]