



RULE-MAKING ORDER
(RCW 34.05.360)

Adm. Order 5095

CR-103 (7/23/95)

Agency: Washington State Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: April 30, 1996

(2) Purpose: To raise hourly and overtime inspection activity fees within the fiscal growth factor. Current hourly and overtime fees are below actual costs at providing service.

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

- Repealed:
- Amended: 16-400-040, 100, 210
- Suspended:

(4) Statutory authority for adoption: Chapter 15.17 RCW

Other Authority:

PERMANENT RULE ONLY

Adopted under notice filed as WSR 96-05-071 on February 21, 1996 (date).

Describe any changes other than editing from proposed to adopted version: The Department will not be adopting the fee increase as proposed for sanitary and quarantine certificate charges. The fee will remain \$6.00 as found in WAC 16-400-100(a) and (b).

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 96-02-036 on 12-27-95 (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: The fee increases are within the fiscal growth factor for fiscal years 1996 and 1997.

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify)*:

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required.)

Emergency Rules

- Immediately
- Later (specify):

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 30 1996

TIME: 2:50
WSR 96-05-071 AM-PM

Name (Type or Print)
James M. Jesernig

Signature
James M. Jesernig

Title
Director

Date
April 30, 1996

**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	-----

*(current calendar year)

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	Repealed	-----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

New	-----	Amended	-----	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	-----	Amended	<u>3</u>	Repealed	-----

AMENDATORY SECTION (Amending Order 2001, filed 3/31/89)

WAC 16-400-040 Grade and condition certificates--Vegetables.

Charges for grade and condition certificates for all vegetables shall be:

(1) The minimum charge for all vegetables shall be nine dollars.

(2) Charges for grade and condition certificates for fresh market vegetables in containers--wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins or in bags per cwt. or fraction thereof:

(a) For federal-state certification:

Asparagus	21¢
Cantaloupes, and corn	12.5¢
Onions	8¢
Potatoes, and seed potatoes	6¢
Processing potatoes	6¢
Complete inspection (rate shall be reduced for level of service required)	
Tomatoes	19¢

(b) For state certification:

Asparagus	19¢
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(3) Inspection fees for cabbage, carrots, cauliflower, celery, cucumbers, lettuce, rhubarb, rutabagas, squash, watermelons, etc., shall be at the hourly rate of twenty-one dollars beginning June 1, 1996, and twenty-one dollars and fifty cents beginning July 1, 1996.

(4) Inspection for quality, condition, and/or size determination, whether in bulk or in containers, for all vegetables for processing, except potatoes, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate, but not less than the minimum certificate charge of nine dollars.

AMENDATORY SECTION (Amending Order 2031, filed 4/11/90, effective 5/12/90)

WAC 16-400-100 Certificates. Certificate charges shall be in accordance with the following provisions:

(1) Consolidation certificates shall be charged as specified in WAC 16-400-010 and 16-400-040 and shall have an additional charge of three dollars for each additional local lot.

(2) Condition certificate charges shall be two-thirds of the grade and condition certificates with the following exceptions:

(a) Previously inspected lots shall have a minimum charge of nine dollars.

(b) When the lot has had no prior inspection for quality or grade and it is requested that the certificate carry out-bound car, truck, or state lot number, the grade and condition certificate schedule shall apply.

(c) Out-of-state products reported on state certificates shall be charged on the applicable grade and condition certificate schedule, except there shall be an hourly charge of twenty-one dollars beginning June 1, 1996, and twenty-one dollars and fifty cents beginning July 1, 1996.

(d) For lots of controlled atmosphere storage apples which were previously certified, a state condition certificate or quality control inspection may be issued without additional charge.

(3) Car hook-up, loading or unloading certificate shall be charged at the rates specified in subsection (2)(a) of this section.

(4) Sanitary and quarantine certificate charges for fruits and vegetables shall be:

(a) Six dollars for the issuance of a certificate, plus the hourly rates specified in WAC 16-400-210 (1)(a) when the shipment is not covered by federal-state or state certificates.

(b) Six dollars per set when the shipment is covered by federal-state or state certificates.

(5) Container weight, or checkloading certificates shall be charged at the rates specified in WAC 16-400-210 (1)(a).

(6) Federal-state certification shall meet the criteria for sampling as established by United States Department of Agriculture, Agricultural Marketing Service. When the federal-state inspector or inspector's aide must physically obtain samples from lots blocked out for loading or from lots in storage, charges of seven and one-half cents per cwt. shall be made in addition to inspection fees. When assistance is provided by the applicant's personnel, charges for sampling shall be reduced accordingly.

AMENDATORY SECTION (Amending Order 5054, filed 7/28/94, effective 8/28/94)

WAC 16-400-210 Other charges. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of twenty-one dollars beginning June 1, 1996, and twenty-one dollars and fifty cents beginning July 1, 1996.

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of twenty-one dollars beginning June 1, 1996, and twenty-one dollars and fifty cents beginning July 1, 1996.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges--The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to twenty-~~(seven)~~ eight dollars beginning June 1, 1996, and twenty-nine dollars beginning July 1, 1996.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February).

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage--Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents--Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies--Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment--Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification--Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee--The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: *Provided*, That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method; \$.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards.