



RUL MAKING ORDER
(RCW 34.05.360)

CR-103 (4/25/96)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: May 29, 1998

(2) Purpose: The purpose of this rule is to adjust the grain inspection fee schedule relative to overtime, hourly rates, and charges per hundredweight within the fiscal growth rate factors allowable under Initiative 601. Improvements were made to the format and layout of the document as well.

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

Repealed: 0
 Amended: 5
 Suspended: 0

(4) Statutory authority for adoption: RCW 22.09.790

Other Authority:

PERMANENT RULE ONLY

Adopted under notice filed as WSR 98-07-106 on March 18, 1998 (date).

Describe any changes other than editing from proposed to adopted version: Overtime and hourly rates will be increased by the fiscal growth rate factor for FY '98 only. Weekly averaging will not be eliminated.

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

- 31 days after filing
- Other (specify) _____*
- Immediately
- 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)
James M. Jesernig

Signature
James M. Jesernig

Title
Director

Date
5/29/98

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 29 1998

TIME 4:53 AM

WSR 98-12-058 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	_____	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	_____	Amended	<u>5</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>5</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	_____	Amended	<u>5</u>	Repealed	_____

AMENDATORY SECTION (Amending Order 5040, filed 4/20/94, effective 5/21/94)

WAC 16-212-030 General provisions for hourly charges.

(1) Straight time, rate per hour . . . (~~(\$24.50)~~) \$25.49

This hourly rate (~~shall be applied on any job where the fee is~~) will be applied in any situation where the fees generated are not sufficient to provide revenue (~~of \$24.50 per hour~~) equivalent to the published hourly rate, per employee, including applicable supervisory and clerical hours, and where no other hourly rate (~~or~~), fee, guarantee of expenses or contractual agreement exists or is specified in (~~the~~) this schedule of fees and charges. Whenever the lot size or workload is not of sufficient size to generate (~~\$24.50 per hour~~) revenue equivalent to the published hourly rate, per employee, an additional fee shall be assessed so that total revenue generated is equal to the (~~\$24.50 rate~~) published hourly rate, per employee: *Provided*, That such revenue insufficiency may be established on the basis of the average hourly revenue generated at the worksite over the Monday through Sunday work week, upon written request of the applicant for service. In the absence of such request, fees shall be assessed on a daily basis.

(2) Overtime, and night shift rate per hour . . . (~~(\$6.40)~~) \$6.65

Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of (~~(\$6.40)~~) \$6.65 per hour, per employee, including applicable supervisory and clerical hours, shall be charged in addition to the regular inspection and weighing fees.

(a) Requests for service on Saturdays, Sundays, or holidays, or for work shifts other than (~~8:00 a.m. to 5:00 p.m.~~) the inspection office's established standard workday hours, Monday through Friday, must be received by the inspection office no later than (~~4:00 p.m.~~) two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the requested service. When the request is not received (~~by 4:00 p.m.~~) within the established time frames, service will be provided where personnel are available, but an additional fee of (~~(\$4.25)~~) \$4.42 per hour, per employee, will be assessed for (~~that shift~~) the hours of the requested service.

(b) Requests for service which (~~is~~) are beyond the scope or volume normally provided at an inspection site must be received by the inspection office no later than (~~4:00 p.m.~~) two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the date of the requested service in order for the department to guarantee to have adequate staff available to perform the service.

(c) Whenever an employee is ~~((called from home after regular working))~~ notified after leaving the worksite to return to a worksite after the inspection office's established standard workday hours, or on a Saturday, Sunday or holiday, ((a minimum of)) two additional hours ((shall)) per employee, will be charged at the rate of (((\$10.70 per hour)) \$11.10 per hour and added to other fees charged.

(d) Scheduled night shifts.

~~((At all designated inspection points, for night shifts, Monday through Friday (usually from 6:00 p.m. to 3:00 a.m.) that are, or will be, continuous for a period of one month or longer, with only an occasional work stoppage, additional overtime fees per hour will not apply.))~~

(i) The department ~~((shall))~~ must be given at least seven calendar days notice, in writing, to establish a scheduled night shift. If the full seven-day notice is not given, a fee of ~~(((\$6.40))~~ \$6.65 per hour, per employee ~~((shall))~~ will be assessed until the seven day notice period has elapsed.

(ii) The department shall be given at least twenty-one calendar days' notice, in writing, of cancellation of any scheduled night shift operation. If ~~((such))~~ the full twenty-one day notice is not given, a fee of ~~(((\$6.40))~~ \$6.65 per hour, per employee, ~~((shall))~~ will be assessed for each hour under the regular night shift schedule that would have been worked until the twenty-one day notice period has elapsed.

(3) Standby rate per hour . . . ~~(((\$26.80))~~ \$27.85

Whenever a service is requested before or after ~~((working hours))~~ the inspection office's established standard workday, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, ((a minimum of)) four hours at the standby rate of (((\$26.80)) \$27.85 per hour, per employee, shall be charged. Additional charges at the standby rate per hour, per employee shall be assessed for all hours over four that continue to be staffed at the request of the applicant. Whenever a service is requested before or after working hours, Monday through Friday or anytime on a Saturday, Sunday or holiday, and a cancellation of ((such)) the request is not received ((by 4:00 p.m.)) two hours prior to the inspection office's established daily closing time of the last regularly scheduled working day prior to the requested service, the four hour standby charge ((shall)) per employee, will be ((applied)) assessed.

(4) Guarantee of expense. When a service is requested that requires assignment of personnel at a facility where the volume of work at the established fees ~~((may))~~ is not ~~((be))~~ adequate to pay the cost of providing the service, a guarantee of the expense of providing the service ~~((may be))~~ is required. These facilities may enter into agreement with the department at guaranteed staffing levels and negotiated minimum hours and unit fees.

(5) Official commercial inspection services may be provided, on-site, at the applicant's request. When appropriate space, equipment and security can be provided, the program is able to provide appropriate licensed personnel, and a guarantee of expense can be negotiated.

AMENDATORY SECTION (Amending Order 5040, filed 4/20/94, effective 5/21/94)

WAC 16-212-060 Official inspection and/or weighing fees under the United States Grain Standards Act.

- (1) Combination inspection and weighing fees. Ships, barges, unit trains and transfers of bulk grain.
 - (a) From vessel to elevator, per ton\$ 0.128
 - (b) Bin transfers, per ton\$ 0.128
 - (c) From elevator to vessel, per ton\$ 0.128
 - (d) From railcars of a unit train, sampled by diverter samplers, batch weighed and inspected under the subplot inspection plan in units of not less than five cars, per ton\$ 0.128

(2) Inspection only of railroad boxcars, open hopper type cars, original inspection. Sampling only services are available at the inspection only rates shown in this fee schedule.

(a) ~~((When))~~ Carlots sampled by United States Department of Agriculture approved ~~((mechanical belt, spout or leg))~~ diverter type mechanical samplers, per car ~~((batch grades up to a maximum of 5 car units are charged at the per car rate))~~\$ 15.50
Batch grades may contain up to the maximum number of cars allowable under Federal Grain Inspection Service regulations/instructions. The per car sampling charge will be assessed for each car included in the batch grade.

(b) When sampled by United States Department of Agriculture approved grain trier, original and subsequent original inspections, per car\$ 24.50

(3) Inspection only of trucks, per truck\$ 15.00

(4) Reinspections of railroad boxcars, open-type cars, covered hopper-type cars, ship subplot samples, barge lots, truck lots, and submitted samples.

(a) When based on an official file sample, per reinspection\$ 9.00

(b) When based on a new sample, for railcars, only, per reinspection\$ 24.00

(c) When based on a new sample, for trucks, per reinspection\$ 15.00

(d) FGIS approved per factor reinspections will be provided at the applicable file sample or new sample rate listed in this section.

(5) Submitted samples,
(b) Standardized grains, except canola per inspection.....\$ 7.50

(b) Canola, per inspection\$ 13.75

(6) Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of canola, identical to the fees assessed by the Federal Grain Inspection Service.

(7) Factor analysis and/or certification.

(a) Nongrade determining factors added to existing certificates, or requested on ship subplot analyses, that do not affect the grade: per factor\$ 2.50

~~((Provided, That on))~~ Submitted sample certificates of grade for ((wheat and)) barley may show, on request, dockage to the nearest one-tenth percent ((will be shown in remarks section and,

~~for wheat~~) without additional charge. Submitted sample certificates of grade for wheat may show, on request, foreign material (~~shown on the factor line, when it is not a grading~~) when it is not a grade determining factor, without additional charge.

(b) Factor certification only (maximum of (~~two factors~~) one factor), per certificate.....(~~\$3.00~~) \$ 2.50

(i) Additional factors added to a factor certificate, per factor.....\$ 2.50

(A maximum of \$7.50 will be charged for (~~grading factors only~~) factor only certification.)

(ii) When submitted samples are not of sufficient size to provide official grade analysis, obtainable factors will be provided, upon request of the applicant, at the factor only rate.

(8) Official (~~(NIRR or NIRT protein)~~) analysis of constituents (protein, oil, etc.) by near-infrared transmittance.

(a) (~~(Protein and/or oil analysis)~~) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities when in conjunction with official inspection for grade, per test\$ 6.25

(b) (~~(Protein and/or oil only)~~) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities when not in conjunction with official inspection for grade, per test\$ 8.50

When based on official sample (including new sample reinspection) add the applicable sampling charges.

(c) (~~(Protein and/or oil only)~~) Official constituent analysis of wheat, soybeans, or other FGIS approved commodities: Submitted sample or reinspection based on official file sample\$ 8.50

(9) Inspection of (~~sacked~~) bagged grain (~~(at inspection points)~~), per cwt...(~~\$ 0.06~~) \$0.0624 effective June 30, 1998; \$0.065 effective July 1, 1998.

(10) Checkloading (~~sacked~~) bagged grain, per (~~employee-hour~~) hour, per employee...(~~\$24.50~~) \$25.49

(11) Waxy corn determination, on request, per determination\$ 12.75

(12) (~~(Aflatoxin testing fees)~~) FGIS approved mycotoxin testing.

(a) Screening or quantitative testing determinations, based on official sample, except thin layer chromatography, per test ... \$ 37.50

(b) Submitted samples, screening or quantitative determinations, except thin layer chromatography, per test...(~~\$24.50~~) \$25.49

(c) Reinspection, based on official file, screening or quantitative, except thin layer chromatography, per test...(~~\$24.50~~) \$25.49

(d) Reinspection, based on a new sample, screening or quantitative, except thin layer chromatography, per test . . . \$ 37.50

(e) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service

(13) Stowage examinations - ships, barges, or vessels.

(a) Per stowage space (~~and/or~~) or tank, or return to stowage space or tank, per examination\$ 24.00

- (b) Initial inspection, minimum charge\$120.00
- (c) Subsequent inspections, minimum charge\$ 72.00
- (d) ~~((Stowage examinations will be made on ships or vessels~~

~~at anchor in midstream when requested.~~
~~(i) It is the responsibility of the applicant to provide safe transportation by licensed tug or water taxi to and from the vessel.~~

~~(ii) A minimum of two hours of regular time at \$24.50 per hour (one inspector) for general cargo vessels and a minimum of four hours of regular time at \$24.50 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.~~

~~(iii) Inspections can only be made at the convenience of the grain inspection office,, during daylight hours, under safe working conditions, when weather conditions permit.~~

~~(iv) Inspections can only be made within the area of the designated tidewater grain inspection office.~~

~~(v) A ship's or vessel's officer or company agent shall accompany the licensed shiphold inspector(s).)) Travel time, two hour minimum, per hour, per employee...\$25.49~~

Note: Stowage examinations may be conducted on vessels at anchor, at the convenience of the designated grain inspection area office, on request. Inspections at anchor will be made during daylight hours only, and only under safe working and weather conditions. The applicant is responsible for providing safe transportation to and from the vessel by licensed tug or water taxi. Two vessel or ship's agent representatives will be provided to accompany each inspector providing stowage exam services. Tanker inspections may require additional inspection personnel. When appropriate, hourly and/or minimum charges listed in the fee schedule will be assessed to the inspection and travel time charges shown in this section.

(e) A minimum of four hours per inspector at the applicable overtime rate shall also be assessed on Saturdays, Sundays, or holidays.

(14) Other stowage examinations.

(a) Sea van-type containers (when checkloading is not required)\$ 8.10

(b) Railroad cars, trucks and other containers, not in conjunctions with loading, per container\$ 8.10

~~(15) ~~((Checktesting of diverters and mechanical samplers, per employee hour\$ 24.50~~~~

Diverter-type samplers, per hour, per employee ...\$25.49

(16) Ship samples:

(a) Ship composite samples. (i) Initial set of samples to applicant (maximum of three samples)no charge

(ii) Additional samples or samples at the request of other interested parties, per sample (two sample minimum when not requested with initial set).....\$ 5.25

~~(b) Ship samples on a subplot basis, per sample ...\$5.25))~~

(17) Weighing services.

(a) Class X weighing services.

(i) From railroad boxcars, open or covered hopper-type cars (without inspection required) or vessels to elevator (grain only), per ton\$ 0.107

- (ii) From elevator to boxcars, open or covered hopper-type cars, barges (without inspection)required) or vessels (without inspection, grain only), per ton\$ 0.107
- (iii) Bin transfers (grain only), per ton\$ 0.107
- (iv) Trucks, per truck or weight lot\$ 7.50
- (b) Class Y weighing services, per ((~~employee-hour~~ ...\$24.50)) hour, per employee ...\$25.49
- (c) Checkweighing of ((~~sacked grain, per employee-hour~~)) bagged grain, per hour, per employee...\$25.49
- (d) Scale certification/checktesting of official weighing scales.
 - (i) Weights and measures scale specialist, per employee-hour\$ 33.75
 - (ii) Grain inspection personnel, per ((~~employee-hour~~ ...\$24.50)) hour, per employee ...\$25.49

AMENDATORY SECTION (Amending Order 5040, filed 4/20/94, effective 5/21/94)

WAC 16-212-070 Official services under the Agricultural Marketing Act of 1946.

- (1) Inspection or analysis of graded and nongraded commodities.
 - (a) Inspection of bagged commodities at inspection points, per cwt ...((~~\$0.06~~)) \$0.0624 effective June 30, 1998; \$0.065 effective July 1, 1998.
 - (b) Bulk commodity inspection at inspection points, per ton. . . \$ 0.30
 - (c) Minimum charge for bulk or bagged commodities (one hour) ...((~~\$24.50~~))\$25.49
 - (d) Submitted sample inspection, per sample\$ 13.75
 - (2) Weighing and combination inspection/weighing services for bulk commodities.
 - (a) Weighing only, other than grain, per ton\$ 0.117
 - (b) Combination inspection/weighing of bulk commodities under federal grade standards, state standards, or for factor determinations, per ton ...\$ 0.128
 - (c) Weigh grain by-products into portable containers including fitness examination of the container, weigh and sample the by-product (thirty ton maximum)\$ 15.00
 - (3) Factor analysis.
 - (a) Moisture only\$ 5.25
 - (b) Additional factors, the determination of which are not required to establish grade, or otherwise not required by regulation, added to an existing certificate, per factor . \$ 2.50
 - (c) Certification, factor only (maximum two factors), per certificate.....\$ 3.00
 - (d) Additional factors added to factor certificate, per factor\$ 2.50
- (A maximum of \$13.75 will be charged for grading factors only.)
- (e) Analysis of rapeseed ((~~for official factor~~)), mustard seed, confectionary sunflower seed, safflower seed, or other commodities with established FGIS factor only inspection procedures, per certificate . \$ 13.75

(f) ~~((If official inspection is required for rapeseed, the applicable sampling only fee shall be assessed in addition to the factor analysis fee.))~~

Sampling only fees identified in subsection (4) (a) and (b) of this section will be assessed in addition to the factor analysis fees for rapeseed, mustard seed, confectionary sunflower seed, safflower seed, or other commodities with established FGIS factor only inspection procedures when official sampling is requested.

- (4) Sampling only, bulk commodities.
 - (a) Trucks or containers, per carrier\$ 15.00
 - (b) Boxcars, open or covered hopper-type cars, per car...\$ 24.00

(5) Processed commodity and defense personnel support center (DPSC) inspection fees.

(a) Per ~~((employee hour, two hour minimum...\$24.50))~~ hour per employee, two hour minimum, . . .25.49

(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the Federal Grain Inspection Service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.

- (6) Sanitation inspections,
 - (a) Initial inspectionno charge
 - (b) Reinspections, four hour minimum, per ~~((employee-hour...\$24.50))~~ hour, per employee...\$25.49

(7) Stowage examinations under the Agricultural Marketing Act ~~((shall be subject to the rates, restrictions, and conditions cited in))~~ will be provided as per WAC 16-212-060 (13) and (14).

- (8) Mycotoxin testing fees.
 - (a) Screening or quantitative testing determinations, except thin layer chromatography, per test\$ 37.50
 - (b) Thin layer chromatography determinations will be assessed a rate identical with the fees charged by the Federal Grain Inspection Service.

- (9) Falling numbers determinations, per determination . . . \$ 12.75
- Liquefaction number, per determination\$ 0.50

AMENDATORY SECTION (Amending Order 5040, filed 4/20/94, effective 5/21/94)

WAC 16-212-080 Miscellaneous fees.

- (1) Mailing of samples shall be charged at the actual mailing costs, minimum charge\$ 2.00
- (2) Fees for pickup of samples on routes established by the department, per sample\$ 0.60
- (3) Fees for services performed at places other than established grain and commodity inspection points.
 - (a) Travel time, per employee, will be charged at the applicable straight time or overtime rate from office to inspection point and return.

(b) (~~Car mileage will be charged at the current published department of general administration rates (WAC 82-28-080), except where suitable transportation is provided by the applicant.~~) Mileage will be charged at the current general administration private vehicle mileage reimbursement rate, except where suitable transportation is provided by the applicant. Mileage is assessed on a per call, door to door basis and will be charged in addition to all other inspection fees, hourly rates and applicable charges.

(c) If the travel is of sufficient duration to require payment of subsistence or per diem to the employee, an amount equal to the established subsistence and/or per diem rate (WAC 82-28-040 and 82-28-050) shall be assessed, except where applicable subsistence and lodging are furnished, or paid, by the applicant.

(d) Incidental costs of telephone, mailing, etc. shall be at the actual cost

(e) Facsimile transmissions, per page\$ 1.00

(4) Certificate charges for certificates under the United States Grain Standards Act or the Agricultural Marketing Act of 1946.

(a) Divided original certificates, per certificate \$ 1.50

(b) Extra copies of inspection, protein, weight, falling number, commodity or aflatoxin certificates, per copy..... \$ 3.00

(5) Phytosanitary certificates

(a) When performed in conjunction with official inspection, per certificate. . . \$6.75

(b) When performed without official inspection, add sampling fee, per hour (~~=\$24.50~~), per employee. . . \$25.49

(6) Timely payment. Payment of fees and charges is due within thirty days after the date of the statement.

(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.

AMENDATORY SECTION (Amending Order 5040, filed 4/20/94, effective 5/21/94)

WAC 16-212-082 Fees for services performed under state regulation.

(1) (~~Inspection of cultivated buckwheat and safflower under Washington state standards shall be at the rate applicable of the same type of sample under the fees for services under the United States Grain Standards Act.~~) Inspection of commodities under state of Washington standards or other state, national, or international standards or criteria specified by the applicant, except as noted in this section.

(a) Cultivated buckwheat, safflower, submitted sample inspection for factors or grade, per sample ..\$ 7.50

(b) Rapeseed (except Canola), other commodities not listed above; inspection under Washington state standards or other specified standards or criteria, submitted sample inspection for factors or grade, per sample\$ 13.50

(c) Sample only fees will be assessed at the rates shown in WAC 16-212-070 (4) (a) and (b) and will be assessed in addition to the sample inspection fee when lot inspection is requested.

(d) Inspection of bagged commodities per cwt...\$0.0624 effective June 30, 1998; \$0.065 effective July 1, 1998.

(e) Combination inspection and weighing fees assessed at the rates shown in WAC 16-212-060 (1) (a), (b), (c), and (d).

(2) Cracked corn, corn screenings, and mixed grain screenings ((shall)) will be inspected and/or weighed ((under the tonnage rate applicable for standardized grains a per)) at applicable rates shown in WAC 16-212-060.

(3) Unofficial ((NIRR or NIRT) protein analysis, per unit...\$6.25)) analysis of constituents (protein, oil, etc.) by near-infrared transmittance provided at the applicable rates shown in WAC 16-212-060.

(4) ((Rapeseed (except canola) inspection under state standards.

(a) Submitted sample for factors or grade, per sample\$ 13.75

(b) When sampled by official personnel, add applicable sampling only fee.

(c) Export inspection and weighing in bulk, per ton\$ 0.128

(d) Inspection of bagged rapeseed, per cwt.\$ 0.06

(e) Fees for laboratory determination of erucic acid and/or glucosinolate and/or oil content will be identical to the fees assessed by the Federal Grain Inspection Service.)) Fees for laboratory analysis of commodities covered by this section, or for the analysis of constituents or conditions of grains or commodities inspected under WAC 16-212-060 or 16-212-070 not provided for in the official standards will be assessed at the current rates established by the federal, state or private laboratory providing the analysis. These fees will be assessed in addition to all other inspection and sampling fees, hourly rates and applicable charges.

Note: This fee is applied in addition to the inspection fee for grading under state standards.

(5) For other laboratory analysis not identified herein, a fee will be assessed for each test or analysis identical with the amount charged by USDA or Washington state agency laboratories.