

WSR 23-07-010
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed March 2, 2023, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-05-093.

Title of Rule and Other Identifying Information: Chapter 16-401 WAC, Nursery inspection fees and chapter 16-470 WAC, Quarantine—Agricultural pests. The Washington state department of agriculture (WSDA) is proposing restructuring, increasing, and consolidating fees for inspections requested by stakeholders, nursery licenses fees, nematode laboratory fees, and plant pathology laboratory fees. WSDA is also proposing revising the language in these chapters to increase clarity and readability and to better serve industry inspection needs.

Hearing Location(s): On April 25, 2023, at 10:00 a.m. Microsoft Teams website link and phone number/access code. Join on your computer, mobile app, or room device [https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjQzYzFkOGMtOTMzMC00YzUwLWF1NjUtMzYyNzkzZTkzZWFl%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d, Meeting ID 277 702 634 883, Passcode 67e2SY; or call-in \(audio only\) +1 564-999-2000, Phone Conference ID 531 749 746#](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjQzYzFkOGMtOTMzMC00YzUwLWF1NjUtMzYyNzkzZTkzZWFl%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d, Meeting ID 277 702 634 883, Passcode 67e2SY; or call-in (audio only) +1 564-999-2000, Phone Conference ID 531 749 746#).

Date of Intended Adoption: May 2, 2023.

Submit Written Comments to: Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email wsdarulescomments@agr.wa.gov, fax 360-902-2092, by 5:00 p.m., April 25, 2023.

Assistance for Persons with Disabilities: Contact Deanna Painter, phone 360-902-2061, TTY 800-833-6388, email deanna.painter@agr.wa.gov, by April 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WSDA is proposing to amend the following fees:

Requested Services	Current Fee	Proposed Fee
Nursery, hourly rate	\$50.00	\$58.00
Nonnursery, hourly rate	\$62.50	\$72.50
Nursery additional certificates	\$8.25	\$20.00 - this will be a new flat rate for all nursery phytosanitary certificates
Nonnursery additional certificates	\$10.00	\$26.00 - this will be a new flat rate for all nonnursery phytosanitary certificates
Nursery compliance agreement	\$50.00	\$58.00
Nonnursery compliance agreement	\$62.50	\$72.50
Nursery stickers (250)	\$10.00	No change
Noncommercial phytosanitary certificate	\$10.00	\$20.00
Lab fee: Hourly rate	\$62.50	\$72.50
Lab fee: Nematode plant assay	\$38.00	\$48.00
Lab fee: Nematode soil assay	\$60.00	\$65.00
Lab fee: Karnal bunt, dwarf bunt, and flag smut	\$60.00	\$70.00
First free phytosanitary certificate	\$0.00	Fee repealed - all certificates will be charged at the new \$20/\$26 flat rate listed above

Requested Services	Current Fee	Proposed Fee
Nursery phytosanitary certificate 24 hours after inspection	\$24.50	Fee repealed - all certificates will be charged at the new \$20 flat rate listed above
Nonnursery phytosanitary certificate 24 hours after inspection	\$30.00	Fee repealed - all certificates will be charged at the new \$26 flat rate listed above
Fumigation lot per container	\$25.00	Fee repealed - will be charged under the new \$58/\$72.50 flat hourly rate
Nursery hourly rate nonbusiness	\$75.00	Fee repealed - program is no longer offering services during nonbusiness hours
Nonnursery hourly rate nonbusiness	\$93.75	Fee repealed - program is no longer offering services during nonbusiness hours
Postentry quarantine site approval	\$125.00	Fee repealed - will be charged under the new \$58/\$72.50 flat hourly rate

Nursery Licenses	Current Fee	Proposed Fee
Retailer A	\$52.50	\$67.20
Retailer B	\$115.00	\$147.20
Retailer C	\$228.00	\$292.00
Wholesale A	\$115.00	\$147.20
Wholesale B	\$228.00	\$292.00
Exempt organization (plant sale) permit	\$10.00	\$20.00

Reasons Supporting Proposal: WSDA's plant services program facilitates agricultural trade and ensures consumer protection by providing accurate and reliable inspection, testing, and certification of agricultural plant products, and serves on the front line of defense against the introduction and spread of plant pests and diseases. Some of the services provided by the program include the inspection, sampling, and testing of a wide variety of agricultural commodities for export and issuing export certificates that allow the commodity to enter another state or country. The program also provides regulatory inspection of licensed nurseries, conducting hundreds of physical and virtual inspections annually to ensure plants for sale meet Washington's quarantine requirements and are free of pests and diseases. Over 5,000 nurseries pay an annual licensing fee based on the value of plant sales. These fees are the primary funds supporting the nursery inspection program. The plant services program also maintains an official nematode laboratory in Prosser that tests a number of exported agricultural commodities for quarantine species of nematodes and provides testing services to WSDA's seed certification program as well.

WSDA's plant pathology and molecular diagnostics lab (PPMDL) and nematology lab provide a number of testing services necessary for both domestic and international export of many plants. Diagnostic services are also available, primarily on agricultural crops, but also nursery stock and some other hosts. The laboratories participate in plant disease surveys in cooperation with the United States Department of Agriculture (USDA) and other agencies. These activities directly support the agricultural industry by keeping unwanted pests out of Washington, protecting growers and the natural environment, and facilitating the movement of agricultural products.

Fees for these programs were last increased in 2015; however, cost projections indicate that at the current rates, the programs will not have enough revenue to meet operating expenses within the next year. There has been an 11 percent increase in employee salaries and benefits since 2015. In addition, the agency overhead cost has recently increased from 16.4 percent to 24.6 percent. For 2023, the Washing-

ton Federation of State Employees (WFSE) has negotiated an additional 10 percent salary increase for the environmental specialist job classification, which will affect all 11 plant services inspectors and the scientific technician position in the PPMDL. Similar salary increases will be necessary for the associated program supervisors and managers to prevent salary compression or inversion. Expenses for vehicles and other costs associated with providing services have increased as well. An additional inspector was added to the plant services program in 2021, utilizing 60 percent grant funding to enable online enforcement of plant quarantines, something the industry has greatly encouraged WSDA to undertake. Current fees in rule are well below competitive rates and do not allow for additional staff to be hired to meet demand. Additionally, some of the current fees charged for services are not adequate to cover the costs of providing such services.

RCW 17.24.131 authorizes WSDA to charge a fee for requested services and dictates that the fee charged shall, as closely as practical, cover the cost of the service rendered, including the salaries and expenses of the personnel involved. Increasing fees is necessary to cover the costs of services rendered and to maintain the financial stability of the programs so that the program may continue to meet current demand and provide valuable services to businesses across the state.

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

Statute Being Implemented: Chapters 15.13, 15.14, and 17.24 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Scott Brooks, 1111 Washington Street S.E., Olympia, WA 98504, 360-485-1235.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5) (a) (i).

Scope of exemption for rule proposal:

Is not exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

Chapter 16-401 WAC, Nursery inspection fees and

Chapter 16-470 WAC, Quarantine—Agricultural pests plant services and pest program fee increase

February 24, 2023

SECTION 1: Describe the proposed rule, including: A brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Overview and Background: WSDA plant services program facilitates agricultural trade and ensures consumer protection by providing accurate and reliable inspection, testing, and certification of agricultural plant products and serves on the front line of defense against the introduction and spread of plant pests and diseases. Some of the services provided by the program include the inspection, sampling, and

testing of a wide variety of agricultural commodities for export and issuing export certificates that allow the commodity to enter another state or country. The program also provides regulatory inspection of licensed nurseries, conducting hundreds of physical and virtual inspections annually to ensure plants for sale meet Washington's quarantine requirements and are free of pests and diseases. Over 5,000 nurseries pay an annual licensing fee based on the value of plant sales. These fees are the primary funds supporting the nursery inspection program. The plant services program also maintains an official nematode laboratory in Prosser that tests a number of exported agricultural commodities for quarantine species of nematodes and provides testing services to WSDA's seed certification program as well.

WSDA's PPMDL and nematology lab provide a number of testing services necessary for both domestic and international export of many plants. Diagnostic services are also available, primarily on agricultural crops, but also nursery stock and some other hosts. The laboratories participate in plant disease surveys in cooperation with USDA and other agencies. These activities directly support the agricultural industry by keeping unwanted pests out of Washington, protecting growers and the natural environment, and facilitating the movement of agricultural products.

Fees for these programs were last increased in 2015; however, cost projections indicate that at the current rates, the programs will not have enough revenue to meet operating expenses within the next year. There has been an 11 percent increase in employee salaries and benefits since 2015. In addition, the agency overhead cost has recently increased from 16.4 percent to 24.6 percent. For 2023, WFSE has negotiated an additional 10 percent salary increase for the environmental specialist job classification, which will affect all 11 plant services inspectors and the scientific technician position in the PPMDL. Similar salary increases will be necessary for the associated program supervisors and managers to prevent salary compression or inversion. Expenses for vehicles and other costs associated with providing services have increased as well. An additional inspector was added to the plant services program in 2021, utilizing 60 percent grant funding, to enable online enforcement of plant quarantines, something the industry has greatly encouraged WSDA to undertake. Current fees in rule are well below competitive rates and do not allow for additional staff to be hired to meet demand. Additionally, some of the current fees charged for services are not adequate to cover the costs of providing such services. RCW 17.24.131 authorizes WSDA to charge a fee for requested services and dictates that the fee charged shall, as closely as practical, cover the cost of the service rendered, including the salaries and expenses of the personnel involved. Increasing fees is necessary to cover the costs of providing services and to maintain the financial stability of the programs, so that the programs may continue to meet current demand and provide valuable services to businesses across the state.

If fees are not increased, the programs will need to implement a reduction in force resulting in delayed inspection and testing response time. This could delay exports or cause businesses to cancel orders. There are no other local alternatives to certify export inspections. USDA provides minimal inspections, similar to the services provided by WSDA at a rate four times higher, but does not have the personnel to provide this service to Washington state industries currently.

Proposed Rule Amendments:

Table 1.1 - WSDA proposed fee changes.

Requested Services	Current Fee	Proposed Fee
Nursery, hourly rate	\$50.00	\$58.00
Nonnursery, hourly rate	\$62.50	\$72.50
Nursery additional certificates	\$8.25	\$20.00 - this will be a new flat rate for all nursery phytosanitary certificates
Nonnursery additional certificates	\$10.00	\$26.00 - this will be a new flat rate for all non-nursery phytosanitary certificates
Nursery compliance agreement	\$50.00	\$58.00
Nonnursery compliance agreement	\$62.50	\$72.50
Nursery stickers (250)	\$10.00	No change
Noncommercial phytosanitary certificate	\$10.00	\$20.00
Lab fee: Hourly rate	\$62.50	\$72.50
Lab fee: Nematode plant assay	\$38.00	\$48.00
Lab fee: Nematode soil assay	\$60.00	\$65.00
Lab fee: Karnal bunt, dwarf bunt, and flag smut	\$60.00	\$70.00
First free phytosanitary certificate	\$0.00	Fee repealed - all certificates will be charged at the new \$20/\$26 flat rate listed above
Nursery phytosanitary certificate 24 hours after inspection	\$24.50	Fee repealed - all certificates will be charged at the new \$20 flat rate listed above
Nonnursery phytosanitary certificate 24 hours after inspection	\$30.00	Fee repealed - all certificates will be charged at the new \$26 flat rate listed above
Fumigation lot per container	\$25.00	Fee repealed - will be charged under the new \$58/\$72.50 flat hourly rate
Nursery hourly rate nonbusiness	\$75.00	Fee repealed - program is no longer offering services during nonbusiness hours
Nonnursery hourly rate nonbusiness	\$93.75	Fee repealed - program is no longer offering services during nonbusiness hours
Postentry quarantine site approval	\$125.00	Fee repealed - will be charged under the new \$58/\$72.50 flat hourly rate

Table 1.2 - Nursery license fee increases.

Nursery Licenses	Current Fee	Proposed Fee
Retailer A	\$52.50	\$67.20
Retailer B	\$115.00	\$147.20
Retailer C	\$228.00	\$292.00
Wholesale A	\$115.00	\$147.20
Wholesale B	\$228.00	\$292.00
Exempt organization (plant sale) permit	\$10.00	\$20.00

Probable Compliance Requirements: Probable compliance requirements include paying the fee associated with the service requested from the program under the new fee structure.

Required Professional Services: The proposed rule amendment does not require businesses to obtain professional services to comply.

SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table 2.1 - Number of businesses in each industry that requested services, or a combination of services and nursery licenses, that will need to comply with the proposed fee increases.

NAICS Code and Business Description	Number of Impacted Businesses	*Minor Cost Threshold = 1 Percent of Average Annual Payroll	**Minor Cost Threshold = 0.3 Percent of Average Annual Revenue
11121 Potato Farming	3	\$8,909.99	\$3,719.74
111219 Other Vegetable (except Potato) and Melon Farming	2	\$3,503.04	\$11,395.89
111332 Grape Vineyards	1	\$5,461.08	\$421.79
111334 Berry (except Strawberry) Farming	4	\$3,443.84	\$7,629.83
111419 Other Food Crops Grown Under Cover	1	\$3,263.61	\$3,047.66
111421 Nursery and Tree Production	19	\$5,428.08	\$2,313.03
111422 Floriculture Production	2	\$7,268.96	\$718.29
111940 Hay Farming	5	\$1,388.23	\$3,642.77
111998 All Other Miscellaneous Crop Farming	22	\$11,782.08	\$3,518.45
112420 Goat Farming	1	\$616.78	\$394.15
113210 Forest Nurseries and Gathering of Forest Products	1	\$3,388.35	\$11,743.52
113310 Logging	2	\$5,055.83	\$5,119.28
115112 Soil Preparation; Planting; and Cultivating	2	\$1,825.96	\$1,852.47
115113 Crop Harvesting; Primarily by Machine	1	\$2,993.41	\$7,230.77
115310 Support Activities for Forestry	5	\$4,052.07	\$2,312.78
236115 New Single-Family Housing Construction (except For-Sale Builders)	3	\$1,919.03	\$2,508.04
311423 Dried and Dehydrated Food Manufacturing	1	\$61,114.22	\$10,623.24
311999 All Other Miscellaneous Food Manufacturing	2	\$12,992.65	\$28,280.31
312120 Breweries	2	\$2,803.58	\$3,085.32
312130 Wineries	1	\$3,905.58	\$3,560.33
321114 Wood Preservation	1	\$28,030.55	\$54,514.03
321214 Truss Manufacturing	1	\$23,341.04	\$28,620.35
321912 Cut Stock; Resawing Lumber; and Planing	1	\$12,964.02	\$158,300.26
321918 Other Millwork (including flooring)	1	\$12,174.46	\$12,312.59
321999 All Other Miscellaneous Wood Product Manufacturing	1	\$4,963.32	\$10,315.61
325312 Phosphatic Fertilizer Manufacturing	1	Data not available	\$303,827.12
325411 Medicinal and Botanical Manufacturing	1	\$10,872.12	\$11,272.08
325412 Pharmaceutical Preparation Manufacturing	1	\$10,463.92	\$45,550.97
333414 Heating Equipment (except Warm Air Furnaces) Manufacturing	1	\$29,772.98	\$41,248.51
339920 Sporting and Athletic Goods Manufacturing	1	\$11,837.93	\$15,210.21

NAICS Code and Business Description	Number of Impacted Businesses	*Minor Cost Threshold = 1 Percent of Average Annual Payroll	**Minor Cost Threshold = 0.3 Percent of Average Annual Revenue
339992 Musical Instrument Manufacturing	1	\$4,387.84	\$2,045.76
339999 All Other Miscellaneous Manufacturing	3	\$4,522.90	\$9,874.17
423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers	19	\$13,394.11	\$38,355.14
423830 Industrial Machinery and Equipment Merchant Wholesalers	1	\$8,940.67	\$16,393.09
423990 Other Miscellaneous Durable Goods Merchant Wholesalers	3	\$2,245.72	\$9,143.34
424480 Fresh Fruit and Vegetable Merchant Wholesalers	5	\$15,570.97	\$47,928.58
424490 Other Grocery and Related Products Merchant Wholesalers	3	\$7,269.70	\$25,663.43
424510 Grain and Field Bean Merchant Wholesalers	4	\$10,906.60	\$53,558.90
424590 Other Farm Product Raw Material Merchant Wholesalers	4	\$3,948.77	\$7,750.68
424910 Farm Supplies Merchant Wholesalers	12	\$10,501.05	\$35,044.58
424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers	40	\$4,165.54	\$6,155.64
424990 Other Miscellaneous Nondurable Goods Merchant Wholesalers	6	\$2,136.61	\$7,559.52
444110 Home Centers	2	\$71,135.41	\$197,164.73
444190 Other Building Material Dealers	2	\$8,788.86	\$10,571.42
444240 Nursery, Garden Center, and Farm Supply Retailers	49	\$4,675.20	\$3,798.35
445110 Supermarkets and Other Grocery Retailers (except Convenience Retailers)	1	\$24,632.97	\$39,505.18
445230 Fruit and Vegetable Markets	2	\$2,435.71	\$2,220.48
445299 All Other Specialty Food Stores	1	\$5,718.67	\$3,009.59
446191 Food (Health) Supplement Stores	1	\$2,540.74	\$4,703.76
452319 All Other General Merchandise Stores	1	\$11,230.73	\$2,005.00
453110 Florists	9	\$1,791.59	\$548.01
453310 Used Merchandise Stores	1	\$2,922.52	\$549.61
453910 Pet and Pet Supplies Stores	1	\$6,671.64	\$5,721.20
453998 All Other Miscellaneous Store Retailers (except Tobacco Stores)	3	\$3,299.06	\$4,863.58
454390 Other Direct Selling Establishments	1	\$4,034.18	\$2,740.36
488510 Freight Transportation Arrangement	8	\$11,020.17	\$18,996.34
493110 General Warehousing and Storage	1	\$44,702.01	\$7,289.16
493120 Refrigerated Warehousing and Storage	1	\$27,460.90	\$22,553.32
541320 Landscape Architectural Services	1	\$4,874.31	\$906.94
541410 Interior Design Services	1	\$1,662.96	\$935.22
541611 Administrative Management and General Management Consulting Services	2	\$8,171.09	\$1,726.78
541618 Other Management Consulting Services	3	\$5,848.69	\$7,603.18
541690 Other Scientific and Technical Consulting Services	1	\$2,707.38	\$2,264.27

NAICS Code and Business Description	Number of Impacted Businesses	*Minor Cost Threshold = 1 Percent of Average Annual Payroll	**Minor Cost Threshold = 0.3 Percent of Average Annual Revenue
541715 Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology)	1	\$28,877.62	\$18,750.67
541940 Veterinary Services	1	\$7,929.73	\$4,572.56
541990 All Other Professional, Scientific, and Technical Services	1	\$6,907.62	\$3,992.71
561499 All Other Business Support Services	3	\$11,413.97	\$8,117.81
561730 Landscaping Services	6	\$2,131.66	\$798.41
611310 Colleges, Universities, and Professional Schools	3	\$107,981.59	\$17,202.82
621330 Offices of Mental Health Practitioners (except Physicians)	1	\$3,726.60	\$589.78
624410 Child Care Services	1	\$2,991.80	\$1,014.95
721214 Recreational and Vacation Camps (except Campgrounds)	1	\$2,649.84	\$784.05
722410 Drinking Places (Alcoholic Beverages)	2	\$1,386.88	\$1,376.99
722515 Snack and Nonalcoholic Beverage Bars	1	\$2,722.49	\$2,307.40
813910 Business Associations	1	\$3,602.65	\$3,919.65
813920 Professional Organizations	1	\$4,506.82	\$2,018.74

* Data source: 2020 Employment security department

** Data source: 2020 Department of revenue

The table above includes industries in which businesses requested services or a combination of services and nursery licenses, but it does not include industries that only purchased nursery licenses. Businesses in an additional 189 industries purchased nursery licenses without any other services. For these 189 industries, WSDA will use a minor cost threshold of \$100, which is the minimum stated cost for "minor costs" as defined in RCW 19.85.020(2).

For many of the businesses in industries represented in the table above, such as goat farming, child care services, drinking places, etc., the services requested from the programs are rare and a very small portion of their business.

SECTION 3: Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: Cost of equipment, supplies, labor, professional services, and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

The proposed amendments restructure, increase, and consolidate fees for inspections requested by stakeholders, nursery license fees, nematode laboratory fees, and plant pathology laboratory fees. The proposed changes will not cause businesses to lose sales or decrease their revenue; however, they will increase fees for most businesses. Whether a business experiences increased costs due to this depends on what services a business uses and the frequency of that usage. For instance, businesses that have a large number of phytosanitary certificates issued will generally see a greater cost increase than those who only purchase a nursery license. There will be no increased cost for businesses to comply with the proposed rule in terms of costs for equipment, supplies, labor, professional services, or administrative

costs. Compliance with the proposed rule amendments will not cause businesses to lose sales or revenue.

Table 3.1 shows the average cost differences for requested services fees and nursery license fees (if applicable) that small businesses will pay under the proposed fee increases versus the current fee structure.

Table 3.2 shows the average cost differences for requested services fees and nursery license fees (if applicable) that large businesses will pay under the proposed fee increases versus the current fee structure.

Table 3.3 shows the cost differences between the current nursery license fees and the proposed nursery license fees. One hundred eighty-nine businesses that purchase nursery licenses, without any other services, will see a fee increase that ranges from \$10.00 for an exempt organization to \$64.00 for a larger wholesale operation.

Table 3.1 - Cost difference averages for current fee structure versus the proposed fee changes for small businesses.

Small Business NAICS Code and Description	Small Business Current Fee Average	Small Business Proposed Fee Average	Difference Between Current versus Proposed Fees
11121 Potato Farming	\$181.58	\$213.25	\$31.67
111219 Other Vegetable (except Potato) and Melon Farming	\$114.50	\$151.50	\$37.00
111332 Grape Vineyards	\$31.25	\$145.60	\$114.35
111334 Berry (except Strawberry) Farming	\$2,236.13	\$3,056.00	\$819.88
111421 Nursery and Tree Production	\$694.09	\$999.94	\$305.84
111422 Floriculture Production	\$135.63	\$164.23	\$28.60
111940 Hay Farming	\$2,351.15	\$3,555.95	\$1,204.80
111998 All Other Miscellaneous Crop Farming	\$1,606.71	\$2,135.16	\$528.45
112420 Goat Farming	\$115.00	\$147.20	\$32.20
115112 Soil Preparation; Planting; and Cultivating	\$965.50	\$1,155.61	\$190.11
115113 Crop Harvesting; Primarily by Machine	\$250.00	\$290.00	\$40.00
115310 Support Activities for Forestry	\$768.85	\$948.25	\$179.40
236115 New Single-Family Housing Construction (except For-Sale Builders)	\$304.67	\$456.82	\$152.15
311999 All Other Miscellaneous Food Manufacturing	\$31.25	\$36.25	\$5.00
312120 Breweries	\$1,343.75	\$1,505.00	\$161.25
321114 Wood Preservation	\$1,343.75	\$1,558.75	\$215.00
321214 Truss Manufacturing	\$531.25	\$616.25	\$85.00
325411 Medicinal and Botanical Manufacturing	\$31.25	\$36.25	\$5.00
333414 Heating Equipment (except Warm Air Furnaces) Manufacturing	\$62.50	\$70.00	\$7.50
339920 Sporting and Athletic Goods Manufacturing	\$31.25	\$36.25	\$5.00
339992 Musical Instrument Manufacturing	\$1,250.00	\$1,450.00	\$200.00
339999 All Other Miscellaneous Manufacturing	\$187.50	\$217.50	\$30.00

Small Business NAICS Code and Description	Small Business Current Fee Average	Small Business Proposed Fee Average	Difference Between Current versus Proposed Fees
423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers	\$1,197.12	\$1,404.96	\$207.85
423830 Industrial Machinery and Equipment Merchant Wholesalers	\$156.25	\$181.25	\$25.00
423990 Other Miscellaneous Durable Goods Merchant Wholesalers	\$2,377.50	\$2,755.50	\$378.00
424480 Fresh Fruit and Vegetable Merchant Wholesalers	\$197.00	\$244.75	\$47.75
424490 Other Grocery and Related Products Merchant Wholesalers	\$1,147.50	\$1,257.50	\$110.00
424510 Grain and Field Bean Merchant Wholesalers	\$1,360.63	\$1,587.13	\$226.50
424590 Other Farm Product Raw Material Merchant Wholesalers	\$7,496.88	\$9,936.38	\$2,439.50
424910 Farm Supplies Merchant Wholesalers	\$2,047.36	\$3,023.38	\$976.02
424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers	\$1,694.01	\$2,240.44	\$546.43
424990 Other Miscellaneous Nondurable Goods Merchant Wholesalers	\$277.83	\$336.25	\$58.42
444110 Home Centers	\$606.00	\$702.00	\$96.00
444220 Nursery; Garden Center; and Farm Supply Stores	\$563.27	\$736.27	\$173.00
445230 Fruit and Vegetable Markets	\$140.63	\$163.13	\$22.50
445299 All Other Specialty Food Stores	\$3,935.00	\$4,330.00	\$395.00
446191 Food (Health) Supplement Stores	\$93.75	\$108.75	\$15.00
452319 All Other General Merchandise Stores	\$1,093.75	\$1,268.75	\$175.00
453110 Florists	\$1,075.19	\$1,276.91	\$201.71
453310 Used Merchandise Stores	\$38.00	\$48.00	\$10.00
453998 All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$333.33	\$386.67	\$53.33
454390 Other Direct Selling Establishments	\$50.00	\$58.00	\$8.00
488510 Freight Transportation Arrangement	\$873.54	\$1,081.39	\$207.86
493110 General Warehousing and Storage	\$114.00	\$144.00	\$30.00
493120 Refrigerated Warehousing and Storage	\$646.00	\$816.00	\$170.00
541320 Landscape Architectural Services	\$228.00	\$292.00	\$64.00
541618 Other Management Consulting Services	\$379.50	\$440.00	\$60.50
541940 Veterinary Services	\$62.50	\$72.50	\$10.00
561499 All Other Business Support Services	\$553.08	\$663.75	\$110.67
561730 Landscaping Services	\$398.58	\$534.58	\$136.00
621330 Offices of Mental Health Practitioners (except Physicians)	\$93.75	\$105.00	\$11.25
721214 Recreational and Vacation Camps (except Campgrounds)	\$187.50	\$217.50	\$30.00
722410 Drinking Places (Alcoholic Beverages)	\$734.50	\$773.00	\$38.50
813910 Business Associations	\$378.00	\$466.00	\$88.00
813920 Professional Organizations	\$843.75	\$978.75	\$135.00

Table 3.2 - Cost difference averages for current fee structure versus the proposed fee changes for large businesses.

Large Business NAICS Code and Description	Large Business Current Fee Average	Large Business Proposed Fee Average	Difference Between Current versus Proposed Fees
111421 Nursery and Tree Production	\$913.42	\$1,079.33	\$165.92
113310 Logging	\$625.00	\$725.00	\$100.00
311423 Dried and Dehydrated Food Manufacturing	\$267.50	\$361.00	\$93.50
311999 All Other Miscellaneous Food Manufacturing	\$38.00	\$48.00	\$10.00
321912 Cut Stock; Resawing Lumber; and Planing	\$750.00	\$870.00	\$120.00
339999 All Other Miscellaneous Manufacturing	\$9,067.75	\$14,230.00	\$5,162.25
423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers	\$2,302.13	\$3,058.96	\$756.83
424910 Farm Supplies Merchant Wholesalers	\$798.00	\$1,008.00	\$210.00
424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers	\$5,174.00	\$5,959.60	\$785.60
444220 Nursery; Garden Center; and Farm Supply Stores	\$327.50	\$399.00	\$71.50
488510 Freight Transportation Arrangement	\$9,122.75	\$11,045.75	\$1,923.00

Table 3.3 - Cost difference for current nursery license fees versus proposed nursery license fees.

Nursery Licenses	Current Fee	Proposed Fee	Difference Between Current versus Proposed Fee
Retailer A	\$52.50	\$67.20	\$14.70
Retailer B	\$115.00	\$147.20	\$32.20
Retailer C	\$228.00	\$292.00	\$64.00
Wholesale A	\$115.00	\$147.20	\$32.20
Wholesale B	\$228.00	\$292.00	\$64.00
Exempt organization (plant sale) permit	\$10.00	\$20.00	\$10.00

SECTION 4: Analyze whether the proposed rule may impose more-than-minor costs on businesses in the industry.

Current costs were compared with costs under the proposed rule amendments for businesses that paid fees in 2021. From this, WSDA was able to determine what the estimated cost would be for each business under the proposed fee changes if those businesses requested the exact same services as they did in 2021. Table 4.1 shows the largest cost increase to businesses for each industry and compares it to their minor cost threshold as mandated in RCW 19.85.030.

WSDA determined that the costs to a single business in the hay farming industry, NAICS code 111940, would exceed the minor cost threshold. However, the business that exceeded the threshold had requested an unusually high number of inspections due to selling a particular type of weed-free hay. The business is not expected to need the same level of service each year.

The proposed fee increase would not impose more-than-minor costs on any other business in any industry.

Table 4.1 - Largest cost increases to businesses compared to their industry's minor cost threshold.

NAICS Codes and Business Description	Largest Cost Increase for any Business	*Minor Cost Threshold
11121 Potato Farming	\$1,340.50	\$8,909.99
111219 Other Vegetable (except Potato) and Melon Farming	\$32.20	\$11,395.89
111332 Grape Vineyards	\$5.00	\$5,461.08
111334 Berry (except Strawberry) Farming	\$2,471.00	\$7,629.83
111421 Nursery and Tree Production	\$2,959.00	\$5,428.08
111422 Floriculture Production	\$32.20	\$7,268.96
111940 Hay Farming	\$5,018.00	\$3,642.77
111998 All Other Miscellaneous Crop Farming	\$4,245.00	\$11,782.08
112420 Goat Farming	\$32.20	\$616.78
113210 Forest Nurseries and Gathering of Forest Products	\$294.00	\$11,743.52
113310 Logging	\$100.00	\$5,119.28
115112 Soil Preparation; Planting; and Cultivating	\$310.21	\$1,852.47
115113 Crop Harvesting; Primarily by Machine	\$40.00	\$7,230.77
115310 Support Activities for Forestry	\$355.00	\$4,052.07
236115 New Single-Family Housing Construction (except For-Sale Builders)	\$247.45	\$2,508.04
311423 Dried and Dehydrated Food Manufacturing	\$93.50	\$61,114.22
311999 All Other Miscellaneous Food Manufacturing	\$10.00	\$28,280.31
312120 Breweries	\$506.75	\$3,085.32
312130 Wineries	\$427.50	\$3,905.58
321114 Wood Preservation	\$215.00	\$54,514.03
321214 Truss Manufacturing	\$85.00	\$28,620.35
321912 Cut Stock; Resawing Lumber; and Planing	\$120.00	\$158,300.26
321918 Other millwork (including flooring)	\$750.00	\$12,312.59
321999 All other miscellaneous wood product manufacturing	\$214.00	\$10,315.61
325312 Phosphatic Fertilizer Manufacturing	\$146.00	\$303,827.12
325411 Medicinal and Botanical Manufacturing	\$5.00	\$11,272.08
325412 Pharmaceutical preparation manufacturing	\$16.00	\$45,550.97
333414 Heating Equipment (except Warm Air Furnaces) Manufacturing	\$10.00	\$41,248.51
339920 Sporting and Athletic Goods Manufacturing	\$5.00	\$15,210.21
339992 Musical Instrument Manufacturing	\$200.00	\$4,387.84

NAICS Codes and Business Description	Largest Cost Increase for any Business	*Minor Cost Threshold
339999 All Other Miscellaneous Manufacturing	\$5,162.25	\$9,874.17
423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers	\$3,898.00	\$38,355.14
423830 Industrial Machinery and Equipment Merchant Wholesalers	\$25.00	\$16,393.09
423990 Other Miscellaneous Durable Goods Merchant Wholesalers	\$378.00	\$9,143.34
424480 Fresh Fruit and Vegetable Merchant Wholesalers	\$111.75	\$47,928.58
424490 Other Grocery and Related Products Merchant Wholesalers	\$350.50	\$25,663.43
424510 Grain and Field Bean Merchant Wholesalers	\$11,006.00	\$53,558.90
424590 Other Farm Product Raw Material Merchant Wholesalers	\$6,818.00	\$7,750.68
424910 Farm Supplies Merchant Wholesalers	\$4,449.00	\$35,044.58
424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers	\$2,762.95	\$6,155.64
424990 Other Miscellaneous Nondurable Goods Merchant Wholesalers	\$167.00	\$7,559.52
444110 Home Centers	\$180.00	\$197,164.73
444220 Nursery; Garden Center; and Farm Supply Stores	\$2,488.25	\$4,675.20
445110 Supermarkets and Other Grocery Retailers (except Convenience Retailers)	\$9,594.00	\$39,505.18
445230 Fruit and Vegetable Markets	\$118.75	\$2,435.71
445299 All Other Specialty Food Stores	\$395.00	\$5,718.67
446191 Food (Health) Supplement Stores	\$15.00	\$4,703.76
452319 All Other General Merchandise Stores	\$175.00	\$11,230.73
453110 Florists	\$691.00	\$1,791.59
453310 Used Merchandise Stores	\$10.00	\$2,922.52
453998 All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$110.00	\$4,863.58
454390 Other Direct Selling Establishments	\$8.00	\$4,034.18
488510 Freight Transportation Arrangement	\$1,923.00	\$18,996.34
493110 General Warehousing and Storage	\$30.00	\$44,702.01
493120 Refrigerated Warehousing and Storage	\$170.00	\$27,460.90
541320 Landscape Architectural Services	\$64.00	\$4,874.31
541618 Other Management Consulting Services	\$4,491.00	\$7,603.18
541690 Other Scientific and Technical Consulting Services	\$30.00	\$2,707.38
541715 Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology)	\$155.00	\$28,877.62
541940 Veterinary Services	\$10.00	\$7,929.73

NAICS Codes and Business Description	Largest Cost Increase for any Business	*Minor Cost Threshold
541990 All Other Professional, Scientific, and Technical Services	\$75.00	\$6,907.62
561499 All Other Business Support Services	\$146.00	\$11,413.97
561730 Landscaping Services	\$436.25	\$2,131.66
611310 Colleges, Universities, and Professional Schools	\$294.00	\$107,981.59
621330 Offices of Mental Health Practitioners (except Physicians)	\$15.00	\$3,726.60
624410 Child Care Services	\$20.00	\$2,991.80
721214 Recreational and Vacation Camps (except Campgrounds)	\$365.18	\$2,649.84
722410 Drinking Places (Alcoholic Beverages)	\$69.00	\$1,386.88
813910 Business Associations	\$88.00	\$3,919.65
813920 Professional Organizations	\$135.00	\$4,506.82

* Of the minor cost thresholds listed for each NAICS code in Table 2.1, the higher minor cost threshold was used for comparison. Of the 189 industries that request nursery licenses without additional services, the lowest minor cost threshold amount used for this analysis is \$100.00 per RCW 19.85.020(2). The largest nursery fee increase will be applied to group Wholesale B at \$64.00, which means that there will not be any businesses that exceed the minor cost threshold if they only purchase nursery licenses.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

RCW 19.85.040(1) requires WSDA to compare the cost of compliance for small businesses with the cost of compliance for the 10 percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs: (a) Cost per employee; (b) cost per hour of labor; or (c) cost per \$100 of sales. WSDA used the cost per employee method to determine if the proposed fee increase will have a disproportionate impact on small businesses. Since the proposed rule amendment affects multiple industry classifications, the costs are analyzed separately for each NAICS code.

Table 5.1 shows the average cost per employee for large and small businesses by NAICS code. The average cost increase was divided by the average number of employees in each NAICS code (small and large businesses calculated separately). WSDA was not able to determine employee numbers for all businesses which paid fees in 2021. Of the 194 small businesses analyzed, WSDA was able to determine employee information for 154 of them. Of the 19 large businesses analyzed, WSDA was able to determine employee information for 11 of them.

Small businesses in the following NAICS classifications are expected to be disproportionately impacted by the proposed amendments: 111421 Nursery and Tree Production; 423310 Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers; 424930 Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers; and 444220 Nursery, Garden Center, and Farm Supply Stores. Those industries are highlighted in Table 5.1 below.

There are no large businesses impacted by this rule in the following classifications: 11121 Potato Farming; 111219 Other Vegetable (except Potato) and Melon Farming; 111332 Grape Vineyards; 111334 Berry (except Strawberry) Farming; 111998 All Other Miscellaneous Crop Farming; 112420 Goat Farming; 115112 Soil Preparation, Planting, and Cultivating; 115113 Crop Harvesting, Primarily by Machine; 115310 Sup-

port Activities for Forestry; 236115 New Single-Family Housing Construction (except For-Sale Builders); 312120 Breweries; 321114 Wood Preservation; 321214 Truss Manufacturing; 325411 Medicinal and Botanical Manufacturing; 333414 Heating Equipment (except Warm Air Furnaces) Manufacturing; 339920 Sporting and Athletic Goods Manufacturing; 339992 Musical Instrument Manufacturing; 424480 Fresh Fruit and Vegetable Merchant Wholesalers; 424490 Other Grocery and Related Products Merchant Wholesalers; 424510 Grain and Field Bean Merchant Wholesalers; 424590 Other Farm Product Raw Material Merchant Wholesalers; 424910 Farm Supplies Merchant Wholesalers; 424990 Other Miscellaneous Nondurable Goods Merchant Wholesalers; 444110 Home Centers; 445230 Fruit and Vegetable Markets; 445299 All Other Specialty Food Stores; 446191 Food (Health) Supplement Stores; 452319 All Other General Merchandise Stores; 453110 Florists; 453998 All Other Miscellaneous Store Retailers (except Tobacco Stores); 488510 Freight Transportation Arrangement; 493110 General Warehousing and Storage; 493120 Refrigerated Warehousing and Storage; 541320 Landscape Architectural Services; 541618 Other Management Consulting Services; 541940 Veterinary Services; 561499 All Other Business Support Services; 561730 Landscaping Services; 721214 Recreational and Vacation Camps (except Campgrounds); 722410 Drinking Places (Alcoholic Beverages); 813910 Business Associations; and 813920 Professional Organizations. Since there are no large businesses in these classifications, the proposed fee increase is expected to disproportionately impact small businesses in these classifications.

There are no small businesses impacted by this rule in the following classifications: 113310 Logging; 311423 Dried and Dehydrated Food Manufacturing; 311999 All Other Miscellaneous Food Manufacturing; and 321912 Cut Stock, Resawing Lumber, and Planing. Since there are no small businesses in these classifications, the proposed fee increase is not expected to disproportionately impact small businesses in these classifications.

The current fee structure for nursery licenses is already designed to allow smaller businesses to pay less for their licenses while the costs for nursery licenses increase along with the gross business sales of the business. The proposed rule will not disproportionately impact any of the small businesses that only purchase nursery licenses, as the fees will increase by 28 percent across all pricing levels, which will not alter the tiered system that is already in place.

Table 5.1 - Average cost per employee for large and small businesses by NAICS category.

Business NAICS Code and Description	Average Difference Between Current versus Proposed Fees	Average Cost per Employee for Small Businesses	Average Cost per Employee for Large Businesses
11121 Potato Farming	\$11.87	\$0.90	*
111219 Other Vegetable (except Potato) and Melon Farming	\$25.50	\$3.70	*
111332 Grape Vineyards	\$3.75	\$3.27	*
111334 Berry (except Strawberry) Farming	\$774.27	\$102.48	*
111421 Nursery and Tree Production	\$113.35	\$30.58	\$1.77
111998 All Other Miscellaneous Crop Farming	\$349.58	\$132.11	*
112420 Goat Farming	\$21.00	\$10.73	*

Business NAICS Code and Description	Average Difference Between Current versus Proposed Fees	Average Cost per Employee for Small Businesses	Average Cost per Employee for Large Businesses
113310 Logging	\$75.00	*	\$0.69
115112 Soil Preparation; Planting; and Cultivating	\$167.61	\$27.16	*
115113 Crop Harvesting; Primarily by Machine	\$30.00	\$1.38	*
115310 Support Activities for Forestry	\$117.30	\$22.43	*
236115 New Single-Family Housing Construction (except For-Sale Builders)	\$135.47	\$38.04	*
311423 Dried and Dehydrated Food Manufacturing	\$69.90	*	\$0.09
311999 All Other Miscellaneous Food Manufacturing	\$3.75	*	\$0.19
312120 Breweries	\$161.25	\$6.45	*
321114 Wood Preservation	\$161.25	\$17.92	*
321214 Truss Manufacturing	\$63.75	\$1.70	*
321912 Cut Stock; Resawing Lumber; and Planing	\$90.00	*	\$1.71
325411 Medicinal and Botanical Manufacturing	\$3.75	\$0.83	*
333414 Heating Equipment (except Warm Air Furnaces) Manufacturing	\$7.50	\$0.94	*
339920 Sporting and Athletic Goods Manufacturing	\$3.75	\$1.67	*
339992 Musical Instrument Manufacturing	\$150.00	\$6.67	*
339999 All Other Miscellaneous Manufacturing	\$7.50	*	\$26.61
423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers	\$131.04	\$25.98	\$5.05
424480 Fresh Fruit and Vegetable Merchant Wholesalers	\$42.82	\$5.97	*
424490 Other Grocery and Related Products Merchant Wholesalers	\$45.00	\$22.00	*
424510 Grain and Field Bean Merchant Wholesalers	\$546.75	\$56.63	*
424590 Other Farm Product Raw Material Merchant Wholesalers	\$886.67	\$304.94	*
424910 Farm Supplies Merchant Wholesalers	\$62.75	\$195.20	*
424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers	\$463.36	\$39.03	\$2.85
424990 Other Miscellaneous Nondurable Goods Merchant Wholesalers	\$33.75	\$19.47	*
444110 Home Centers	\$76.00	\$16.00	*
444220 Nursery; Garden Center; and Farm Supply Stores	\$161.06	\$13.31	\$0.67
445230 Fruit and Vegetable Markets	\$15.00	\$2.50	*

Business NAICS Code and Description	Average Difference Between Current versus Proposed Fees	Average Cost per Employee for Small Businesses	Average Cost per Employee for Large Businesses
445299 All Other Specialty Food Stores	\$360.00	\$49.38	*
446191 Food (Health) Supplement Stores	\$11.25	\$3.75	*
452319 All Other General Merchandise Stores	\$131.25	\$175.00	*
453110 Florists	\$77.28	\$28.82	*
453998 All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$82.50	\$5.33	*
488510 Freight Transportation Arrangement	\$7.50	\$20.79	*
493110 General Warehousing and Storage	\$30.00	\$1.58	*
493120 Refrigerated Warehousing and Storage	\$170.00	\$28.33	*
541320 Landscape Architectural Services	\$41.40	\$21.33	*
541618 Other Management Consulting Services	\$58.00	\$6.72	*
541940 Veterinary Services	\$7.50	\$0.91	*
561499 All Other Business Support Services	\$30.00	\$15.81	*
561730 Landscaping Services	\$192.44	\$15.11	*
721214 Recreational and Vacation Camps (except Campgrounds)	\$22.50	\$6.00	*
722410 Drinking Places (Alcoholic Beverages)	\$23.50	\$4.28	*
813910 Business Associations	\$59.40	\$4.19	*
813920 Professional Organizations	\$101.25	\$67.50	*

* No businesses in size category for the specified NAICS code.
Data pertaining to the number of employees for all impacted businesses was obtained from Buzzfile.

SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced, provide a clear explanation of why.

WSDA has analyzed the impacts of the proposed rule as required by RCW 19.85.040 and has determined that there are disproportionate impacts to some small businesses in the following industries: 111421 Nursery and Tree Production, 423310 Lumber; Plywood; Millwork; and Wood Panel Merchant Wholesalers, 424930 Flower; Nursery Stock; and Florists' Supplies Merchant Wholesalers, and 444220 Nursery; Garden Center; and Farm Supply Stores, when comparing the average cost increases to small and large businesses in Table 5.1.

RCW 19.85.030(2) requires consideration of the following methods of reducing the impact of the proposed amendment on small businesses:

(a) *Reducing, modifying, or eliminating substantive regulatory requirements:* Any reduction, modification, or elimination of the regulatory requirements of the proposed rule amendment could increase the risk of the entry of unwanted pests and plant diseases into the state. This could potentially close international and domestic markets to some businesses in Washington state, leading to reductions in revenue.

(b) *Simplifying, reducing, or eliminating recordkeeping and reporting requirements:* There are no recordkeeping or reporting requirements associated with the proposed rule amendment.

(c) *Reducing the frequency of inspections:* Inspections directly support the agricultural industry by keeping unwanted pests and plant diseases out of Washington, protecting growers and the natural environment, and facilitating the movement of agricultural products. Generally, any reduction of the frequency of inspections could increase the risk of entry of an unwanted pest or plant disease into the state. However, the plant services program does collaborate with departments of agriculture in neighboring states to try to reduce the number of inspection and phytosanitary certifications needed to export plant material safely into those states when appropriate. For example, the program clarified with the Oregon department of agriculture that it will accept a single phytosanitary certificate for grapevine shipments from a nursery that covers a given time frame, like spring or fall. Previously, it required a phytosanitary certificate for each shipment and for a couple of businesses that added up to a lot of phytosanitary certificates (and a large expense) over the course of the season. This new approach will reduce costs for the nurseries involved going forward.

(d) *Delaying compliance timetables:* Delaying compliance timetables is not a viable option, as cost projections indicate that at the current rates, the programs will not have enough revenue to meet operating expenses within the next year. There has been an 11 percent increase in employee salaries and benefits since 2015. Expenses for vehicles and agency overhead costs have increased as well. An additional inspector was added to the plant services program in 2021, utilizing 60 percent grant funding, to enable online enforcement of plant quarantines, something the industry has greatly encouraged WSDA to undertake. Current fees are well below competitive rates and do not allow for additional staff to be hired to meet demand. The current fees charged for services are not adequate to compensate the program for the costs of providing such services.

(e) *Reducing or modifying fine schedules for noncompliance:* Chapter 17.24 RCW specifies the penalty for violations of the chapter and rules adopted thereunder. Reducing or modifying fine schedules would involve a legislative change and is not part of this rule making.

(f) *Any other mitigation techniques including those suggested by small businesses or small business advocates:* Small businesses can request inspections be done when inspectors are in their area for other business, reducing time and mileage costs. All parties save on costs as they are prorated between businesses when multiple inspections can be done in one geographic area. The program also works with businesses that need frequent export services to establish a compliance agreement, when practical, that will reduce expenses throughout the year over what they would normally be paying under the fee schedule in rule.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule.

The proposal to increase fees was shared with the nursery [nursery] advisory committee, Christmas tree advisory committee, grapevine advisory committee, seed potato commission, grapevine foundation block advisory group, and fruit tree advisory committee. These groups have members that represent small businesses in their respective industries.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

No jobs are expected to be created or lost because of compliance with the proposed rule amendment.

A copy of the statement may be obtained by contacting Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, TTY 800-833-6388, email wsdarulescomments@agr.wa.gov.

March 2, 2023
Brad White
Assistant 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 following 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) <u>\$58.00</u>
(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)
Phytosanitary certificate issued for licensed nurseries	\$20.00
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 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 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
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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)), per-

mit 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 assessed 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))
<u>Each phytosanitary certificate issued to a nonnursery</u>	\$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.]