



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: November 21, 2000

(2) Purpose: Amending the existing rules governing the certification of mint planting stock to reflect changes in industry and program practices and to comply with legislative mandates such as regulatory reform and use of clear and readable format.

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

Repealed: WAC 16-322-001
 Amended: WAC 16-322-010, -012, -015, -025, -035, -040, -045
 Suspended:

(4) Statutory authority for adoption: Chapter 15.14 RCW

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-20-090 on October 4, 2000 (date).
 Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

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

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

- | | |
|--|--|
| Permanent Rules
or Expedited Repeal | Emergency Rules |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____* | <input type="checkbox"/> Later (specify) |

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

Name (Type or Print)

Jim Jesernig

Signature

Title
Director

Date
November 21, 2000

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 21 2000

TIME 10:37 AM

WSR 00-23-095 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
-----	---------	----------

The number of sections adopted in the agency's own initiative:

New	Amended	<u>7</u>	Repealed	<u>1</u>
-----	---------	----------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	<u>7</u>	Repealed	<u>1</u>
-----	---------	----------	----------	----------

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>7</u>	Repealed	<u>1</u>

Chapter 16-322 WAC

CERTIFICATION OF MINT ((ROOTSTOCKS CERTIFICATION)) PLANTING STOCK

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-010 Mint ((rootstock)) planting stock certification--Applications and fees. (1) Mint planting stock may be designated as foundation stock, registered stock or certified stock if the planting stock and plants from which it has been propagated have been inspected, tested and determined to meet the requirements of this chapter.

(2) The applicant ((grower shall)) must furnish ((to the department)) all information ((pertinent to the operation of this program and shall give his consent to)) requested on the application for certification, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take ((material)) plants or plant parts from any planting for examination and/or testing. Application for inspection and testing of registered and certified stock ((shall)) must be filed with the ((department)) Washington State Department of Agriculture, Plant Services Program, P.O. Box 42560, Olympia, WA 98504-2560 by May 1 of each year, accompanied by a seventy-five dollar application fee. ((inspection fees shall be sixteen dollars per acre per growing season (with a minimum fee of eighty dollars)). Half of this fee is due with the application.

((2) Final fees shall be)) (3) Payment is due and payable upon completion of ((the last field inspection)) any service. Bill may be arranged subject to department policies and procedures.

((3) Certification may be withheld)) (4) The department will remove any applicant from the certification program for nonpayment of fees ((due)).

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-012 Definitions. (1) (~~"Mint rootstock" means stolons or rhizomes of mint plants.~~

~~(2) "Off-type" means not true-to-name.~~

~~(3) "Foundation rootstock" means rootstock originating from healthy clones. Small plantings of this stock will be maintained by the Washington State University.~~

~~(4) "Registered rootstock" means rootstock produced from foundation and registered rootstock and meeting the requirements as herein provided.~~

~~(5)) "Certified ((rootstock)) planting stock" means ((rootstock)) planting stock produced directly from registered ((rootstock and meeting the requirements as herein provided)) planting stock in compliance with this chapter.~~

~~((6)) (2) "Department" means the Washington state department of agriculture.~~

~~(3) "Foundation planting stock" means planting stock originating directly from healthy clones maintained by Washington State University or other equivalent sources approved by the department.~~

~~(4) "Mint flea beetle" means the insect Langitarsus ferrugineus.~~

~~(5) "Mint planting stock" means any plant or propagative plant part of the genus Mentha.~~

~~(6) "Mint root borer" means the insect Fumibotys fumalis.~~

~~(7) "Mint rust" means the disease caused by the fungal organism Puccinia menthae Pers.~~

~~(8) "Mint stem borer" means the insect Pseudogaris nigrina.~~

~~(9) "Noxious weed" means a plant that when established is highly destructive, competitive, or difficult to control by cultural or chemical practices.~~

~~(10) "Off-type" means appearing under visual examination to be different from the species or variety listed on the application for registration or certification, or exhibiting symptoms of a genetic or nontransmissible disorder.~~

~~(11) "Registered planting stock" means planting stock produced directly from foundation planting stock in compliance with this chapter.~~

~~(12) "Root knot nematode" means the nematode Meloidogyne hapla.~~

~~(13) "Root lesion nematode" means any nematode of the genus Pratylenchus.~~

~~(14) "Strawberry root weevil" means the insect Otiorhynchus ovatus.~~

~~(15) "Verticillium wilt" means the disease caused by the fungus Verticillium ((albo-atrum Reinke & Berth. variety Menthae Nelson.~~

~~(7) "Rootknot" means the disease caused by the rootknot nematode Meloidogyne, spp)) dahliae.~~

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-015 Requirements for the production of registered and certified mint rootstock. (1) ~~((Land requirements:~~

~~((a) For registered mint rootstock, land to be eligible shall not have grown mint and shall be free of noxious weeds. Due to the danger of root knot nematode, land that has been used for other vegetatively propagated crops such as potatoes, hops, etc., shall be avoided.~~

~~((b) For certified mint rootstock, land to be eligible shall not have grown uncertified mint.~~

~~((2) Isolation requirements:~~

~~((a) A field to be eligible shall)) Planting sites for production of certified or registered mint planting stock must be inspected and approved by the department at least thirty days prior to planting. At a minimum, land for a planting site must fulfill all of the following conditions:~~

~~((a) It must not have grown mint previously;~~

~~((b) It must be free of noxious weeds;~~

~~((c) It must be at least five thousand feet from any field((s)) infested with verticillium wilt of mint ((r)); and~~

~~((d) It must be at least one thousand feet from any mint field ((unless of equal standards, and it shall not be included in a farm operational unit which has a wilt infested field or grown on a farm which has previously grown uncertified mint)) not of equal standard.~~

~~((b)) (2) In all cases where ((an)) adjoining fields ((is)) are planted with ((a)) different species or ((variety)) varieties of mint, ((isolation between fields shall be)) the fields must be separated by a minimum of twenty feet ((separation)) to prevent mechanical mixing ((of rootstocks)) during harvesting and transport of ((the rootstocks)) mint planting stock.~~

~~((3) ((Plant requirements: Fields shall be planted with pure, living rootstock of foundation or registered planting rootstock.~~

~~((4) Miscellaneous requirements:~~

~~((a)) Soil borne insects, noxious weeds and nematodes ((shall)) must be controlled.~~

~~((b)) (4) Fields ((shall show evidence of control of noxious weeds and free from mint species of types other than those being grown for certification)) must be free of off-type mint plants.~~

~~((c) Evidence of)) (5) Roguing certified or registered mint fields without permission of the department ((may give cause for rejection of fields. When directed by the department, growers shall dig and immediately destroy all unhealthy and off-type plants)) is prohibited.~~

~~((d)) (6) Hay from registered planting stock fields may be harvested for oil ((. Provided, That all)) if the harvesting equipment is sterilized prior to entry into the registered field by steam cleaning ((r)) or by other ((approved)) methods ((under the supervision of)) approved by the department.~~

~~((e) The cooked hay shall be destroyed by burning.~~

~~((f)) (7) All sanitation methods and procedures ((shall)) must~~

be approved by the department.

~~((g) Irrigation))~~ (8) All sources of water ~~((proposed for use on the))~~ used to irrigate certified or registered planting stock fields ~~((and the water drainage on to such fields shall))~~ must be approved by the department.

~~((h))~~ (9) Harvesting equipment ~~((shall))~~ must be sterilized by steam cleaning, or other approved methods before being used on another lot or farm.

~~((i) Pasturing of livestock on mint rootstock fields shall not be permitted with the exception of weeding animals and fowl.))~~

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-025 Mint ~~((rootstock field))~~ planting stock inspections. (1) ~~((At least))~~ The department will conduct a minimum of two field inspections ~~((and as many more as are deemed))~~ of registered and certified mint planting stock at times when plants are likely to express symptoms or damage from verticillium wilt, mint root borer, mint flea beetle, mint stem borer, strawberry root weevil, root knot nematode and root lesion nematode. Additional inspections and tests may be conducted if they are judged necessary by the department ~~((shall be made each year. It is the duty of the grower, before cutting mint hay, to notify the department so the proper inspections can be made. Certification may be denied if mint is harvested from a field before proper inspection has been completed))~~.

(a) The department will conduct the first field inspection in or about July. The department will analyze samples for tomato spotted wilt virus, impatiens necrotic spot virus and potato virus Y.

(b) The department will conduct the second field inspection in or about late September. The department will analyze samples of feeder roots from each acre for root knot nematode and root lesion nematode. Samples of stolons will be collected and examined for mint root borers. The department will note the presence of noxious weeds.

(2) The department will inspect certified and registered mint ~~((rootstocks shall be inspected))~~ planting stock after ~~((they are dug))~~ harvest.

(3) All inspections and analyses performed by the department under provisions of this chapter are charged in compliance with provisions of chapter 16-470 WAC.

(4) The department will issue an inspection certificate for each inspection. The inspection certificate will note the presence of pests detected by analysis or visual inspection and, when possible, the level of infestation. Inspection certificates will be furnished to the grower, and copies will be available upon request to any other person.

(5) It is the responsibility of the grower to notify the department before mint hay is cut, so that the required inspections can be performed.

(6) Certification may be denied if the department is unable to complete the required field or post harvest inspections.

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-035 Washington standards for mint (~~(rootstocks~~ ~~(peppermint and spearmint))~~) planting stock. (1) ~~Washington No. 1~~ ~~((shall))~~ mint planting stock consists of mint rhizomes ~~((of plants))~~ with similar varietal characteristics which are (a) fresh, (b) firm, (c) moist, (d) free of mold, (e) free of detectable, ~~((dangerous))~~ detrimental insects, nematodes, diseases and other pests, and (f) reasonably free of excess soil.

(2) **Tolerances.** In order to allow for variations incident to proper grading and packing, not more than a combined total of five percent, by count, of the rhizomes in any lot ~~((shall))~~ may fail to meet the requirements of ~~((the above grade. The tolerances for the standards are on a "load" basis but shall be determined by sampling on a weight basis))~~ Washington No. 1 as defined in this section.

(3) **Specific requirements.**

Pests and Diseases	Tolerance for:		
	Foundation ((Rootstock)) <u>planting stock</u>	Registered ((Rootstock)) <u>planting stock</u>	Certified ((Rootstock)) <u>planting stock</u>
Mint flea beetle ((<i>Longitarsus waterhousei</i> Kutschera))	0	0	1%
Rootknot nematode ((<i>Meloidogyne spp.</i>))	0	0	((Moderate)) <u>0</u>
Verticillium wilt ((<i>Verticillium albo-atrum</i> Reinke & Berth.) Var. <i>Menthae</i> Nelson))	0	0	0
Mint rust ((<i>Puccinia Menthae</i> Pers.))	Trace	Trace	((Moderate)) <u>1%</u>
Other pests and diseases	1%	1%	1%

~~((Any portion of a certified field not meeting requirements may be delimited if, in the judgment of the department, it will not jeopardize the remainder.))~~

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-040 Certifying agency issuance of certificate.

(1) ~~((The))~~ Issuance of a ~~((certified))~~ state of Washington certified plant tag ~~((or))~~ stamp or other document under this chapter ~~((affirms solely))~~ means only that the tagged ~~((or))~~ stamped or otherwise documented mint ~~((root))~~ planting stock has been subjected to ~~((certification standards and procedures by the department))~~ procedures and requirements described in this chapter and determined to be in compliance with its standards and requirements. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(3) Participation in the mint ~~((rootstock))~~ planting stock certification program ~~((shall be))~~ is voluntary.

AMENDATORY SECTION (Amending Order 1865, filed 7/8/85)

WAC 16-322-045 Identification and movement of mint rootstock.

(1) The department ~~((shall))~~ will issue a certificate ~~((covering))~~ for mint ~~((rootstock))~~ planting stock that meets the requirements of ~~((the certification program))~~ this chapter and will authorize the use of official certificates and seals for the identification of such ~~((rootstocks))~~ planting stock. The certificate ~~((shall))~~ will indicate presence of noxious weeds at the final field inspection and the level of infection by pests listed in WAC 16-322-025(1).

(2) Any person selling certified mint ~~((rootstock shall be))~~ planting stock is responsible for the identity of the planting stock bearing each certificate and for such planting stock meeting the requirements of the certification program. Persons issued certificates authorized by the program ~~((shall))~~ must account for all planting stock produced and sold and must keep ~~((such))~~ and allow the department to examine all necessary records ~~((as may be necessary))~~.

(3) All registered and certified mint ~~((rootstocks))~~ planting stock moving from the place of origin ~~((shall))~~ must be conveyed in clean trucks and covered by new plastic or clean canvas tarps and properly sealed.

(4) The department will deny certification for any mint planting stock that fails to meet the minimum standards, tolerances

and criteria established in this chapter.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-322-001

Promulgation.