



RULE-MAKING ORDER

SR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Dept. of Agriculture

Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

Immediately upon filing.
 Later (specify) _____

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

Yes No If Yes, explain:

Purpose: This rulemaking order amends chapter 16-482 WAC, Seed Potato Quarantine, by requiring all seed potatoes planted in Washington comply with the State National Harmonization Program for seed potatoes (SNHP). Specifically, this includes:

- (1) Changing the regulated area to the entire state;
- (2) Increasing the certification document retention period to a minimum of three years;
- (3) Requiring growers to furnish certification documentation to the department within thirty days of a written request; and
- (4) Modifying rule language to increase its clarity and readability.

Citation of existing rules affected by this order:

Repealed: WAC 16-482-007
Amended: WAC 16-482-003, 005, 010, 015, 017, and 020
Suspended:

Statutory authority for adoption: Chapters 17.24 and 34.05 RCW

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 07-07-107 on March 19, 2007.

Describe any changes other than editing from proposed to adopted version: Added the words "are regulated articles" to complete a sentence in WAC 16-482-005. The sentence now reads, "All seed potatoes used throughout the state for commercial plantings in excess of one acre or for any acreage of seed potato production are regulated articles." The change does not alter the meaning.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- 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.
- 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:

DATE ADOPTED

May 3, 2007

NAME (TYPE OR PRINT)

Valoria H. Loveland

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

Stamp: MAY 3 2007
Handwritten: 1122
Handwritten: 07-11-013

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>6</u>	Repealed	<u>1</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>6</u>	Repealed	<u>1</u>

NEW SECTION

WAC 16-482-003 Definitions. "Department" means the Washington state department of agriculture.

"State National Harmonization Program for seed potatoes" means the United States Department of Agriculture program regarding phytosanitary certification standards for seed potatoes and pest management.

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-005 Regulated articles. All seed potatoes used throughout the state for commercial plantings in excess of one acre or for any acreage of seed potato production are regulated articles.

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-010 Regulations--Certified seed requirement. (1) Except as provided in WAC 16-482-015, all seed potatoes (~~(propagated)~~) planted within the state for commercial or for seed production ((within the regulated area)) shall be ((from)) certified seed, produced as a part of a certified seed potato program in the state or country of origin ((and accepted and certified by that program)) that meets the requirements of Article 4 of the State National Harmonization Program for seed potatoes.

(2) The department may sample and test any lot of seed potatoes or conduct field inspections for the purpose of testing and verification of compliance with this chapter.

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-015 Regulations--Certified seed--Exceptions. The certified seed requirement shall not be applicable to:

(1) Potatoes planted for personal use or other noncommercial purposes;

(2) Commercial production, other than for production of seed potatoes, of not more than one acre; or

(3) Experimental or seed trial plots as provided in WAC 16-482-016.

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-017 Recordkeeping requirement. All commercial potato growers (~~((within the regulated area shall be responsible for obtaining))~~) are required to obtain certification documents or tags to verify that all seed potatoes ((used for propagation purposes)) planted in this state comply with the terms of this chapter. ((Such documents shall be retained by the grower for a period of one calendar year and a copy provided to the department of agriculture, plant services division, upon written request to the grower.)) Growers must retain certification documents for at least three years and provide them to the department within thirty days of a written request. Such documents shall include the total weight of certified seed potatoes and shall be issued by an official certifying agency in the state or country of origin. Falsification of seed potato documents shall subject the grower to penalties provided in law.

AMENDATORY SECTION (Amending Order 2075, filed 3/13/91, effective 4/13/91)

WAC 16-482-020 Disposition of material shipped in violation of this quarantine. (1) Seed potatoes shipped in violation of this quarantine may be returned to the point of origin, diverted to nonseed use, or destroyed at the option and expense of the owner or owners or their responsible agents.

(2) Seed potatoes planted and growing in violation of the terms of this quarantine may be destroyed or placed under quarantine, with terms and conditions for that quarantine specified by the director, at the option and expense of the grower or owners or their responsible agents. Potatoes, placed under quarantine for

violation of the terms of this chapter and found to be infested or infected with a viral, fungal, bacterial or nematode disease by subsequent inspection or testing shall be destroyed at the expense of the grower, without compensation.

(3) In addition to the actions specified in subsections (1) and (2) of this section, any grower violating the terms of this quarantine shall be subject to civil and/or criminal penalties provided ~~((by))~~ in law~~((s))~~.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-482-007

Regulated area.