

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF AGRICULTURE

(agency name)

Administrative Order No. 1887

(1) I, C. Alan Pettibone, director of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to Rapeseed

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. These rules shall take effect: [] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

The uncontrolled production of incompatible varieties of rapeseed in close geographical proximity adversely affects (a new crop in the State). It is in the public interest to establish geographical districts and buffer zones wherein the production of rapeseed may be restricted by variety prior to the July 25 planting period. Permanent regulations could not be put in place by that time.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

- [] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of

(name of act or RCW citation)

[X] (c) This rule is promulgated under the general rule-making authority of the Department of Agriculture

(agency) as authorized in RCW 15.65

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED STATE OF WASHINGTON FILED

June 4

19 86

By C. Alan Pettibone Director

JUN 4 1986

Title

CODE REVISER'S OFFICE WSR 86-12-066

Chapter 16-570 WAC

RAPESEED PRODUCTION AND ESTABLISHMENT OF DISTRICTS

WAC

- 16-570-010 Definitions.
- 16-570-020 Rapeseed production prohibition, general production districts and district/board formation procedures.
- 16-570-030 Duties of rapeseed production district boards, persons, producers.

NEW SECTION

WAC 16-570-010 DEFINITIONS. The definitions set forth in this section apply throughout these rules unless the context clearly requires otherwise.

(1) "Board" means the rapeseed production district board as established by the director under the provisions of these rules.

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

(3) "Director" means the director of the department or his duly authorized representative.

(4) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(5) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.

(6) "Rapeseed" means those species of Brassica napus, Brassica campestris and Brassica juncea.

(7) "Types" means those species and varieties of rapeseed classified under the following rapeseed types:

(a) CANOLA, LOW ERUCIC ACID RAPESEED - LOW GLUCOSINOLATES (LEAR-LG) shall be the seed of the species Brassica napus or Brassica campestris, the oil components of which seed contain less than two percent erucic acid and the solid component of which seed contains less than 30 micromoles of any one or any mixture of 3-butenyl glucosinolate, 4-pentenyl glucosinolate, 2-hydroxy - 3-butenyl glucosinolate, and 2-hydroxy - 4-pentenyl glucosinolate per gram of air dry, oil free solid as determined by any approved method.

(b) LOW ERUCIC ACID RAPESEED - HIGH GLUCOSINOLATES (LEAR-HG) Rapeseed varieties shall contain less than two percent erucic acid in the oil of the rapeseed and more than 30 micromoles per one gram (um/g) glucosinolates in the rapeseed meal.

(c) HIGH ERUCIC ACID RAPESEED - LOW GLUCOSINOLATES (HEAR-LG) Rapeseed shall be rapeseed varieties used for production of industrial oil which shall contain erucic acid levels above forty percent in the oil of the rapeseed and less than 30 micromoles per one gram (m/g) glucosinolates in the meal of the rapeseed.

(d) HIGH ERUCIC ACID RAPESEED - HIGH GLUCOSINOLATES (HEAR-HG) Rapeseed shall be rapeseed varieties used for production of industrial oil which shall contain erucic acid levels above forty percent in the oil of the rapeseed and more than 30 micromoles per one gram (m/g) glucosinolates in the meal of the rapeseed.

NEW SECTION

WAC 16-570-020 RAPESEED PRODUCTION PROHIBITION, GENERAL PRODUCTION DISTRICTS AND DISTRICT/BOARD FORMATION PROCEDURES. (1) Rapeseed for oil, seed, forage or cover crop production requires particular attention to maintaining oilseed quality and purity. Proper isolation between differing types of rapeseed or other crops susceptible to cross pollination and/or processing problems is required if either a food, industrial or seed market is to be developed and established commodity markets are to be preserved. Therefore, the seeding and growing of rapeseed by any person for any purpose in the state of Washington shall be prohibited until such time that a rapeseed production district or subdistrict(s) is established by petition of a minimum of five affected producers and regulations adopted by the director to identify types and control and/or prohibition of rapeseed production: PROVIDED, That those acres of rapeseed already planted prior to the effective date of this order are exempt from this prohibition and any subsequent departmental action, through the current crop season only.

(2) General rapeseed production district boundaries as established by the director are as follows:

- District 1. All lands located within the boundaries of Whatcom, Skagit, Snohomish, King and Island counties.
- District 2. All lands located within the boundaries of Clallam, Jefferson, Grays Harbor, Mason, Pierce, Pacific, Lewis, Wahkiakum, Cowlitz, Clark and Skamania counties.
- District 3. All lands within the boundaries of Okanogan, Ferry, Stevens and Pend Oreille counties.
- District 4. All lands within the boundaries of Chelan and Douglas counties.
- District 5. Those lands in Grant County lying east and north of highway 17 from its first point of intersection with the Grant/Douglas County boundary thence southerly to its intersection with state highway 28 at Soap Lake thence easterly along state highway 28 to its intersection with Crab Creek (near Wilson Creek) thence easterly along Crab Creek to the Grant/Lincoln County boundary. Those lands within Lincoln and Adams County lying north of Crab Creek from its intersection with Grant/Lincoln County boundaries, thence easterly to its intersection with county road 3019, thence easterly to county road 3079, thence southerly to Adams County Arlt road, thence easterly to Wellsandt road, thence southerly to Interstate 90 in Adams County, thence northeasterly along Interstate 90 to the Lincoln/Spokane County boundary. Those lands within Spokane County lying north and west of Interstate 90 to Spokane to its intersection with U.S. highway 2/395 thence northerly to the intersection with state highway 291 thence northwesterly to the Spokane/Stevens County boundary.
- District 6. All lands within Kittitas County. Those lands in Yakima County lying east of highway 410 commencing at Cliffdell thence southeasterly to the junction of state highway 410 and U.S. highway 12 thence south in a straight line past Fort Simcoe to the crest of the Toppenish Ridge, thence easterly, including those lands in Yakima and Benton counties lying north of the crest of the Toppenish Ridge/Horse Heaven

Hills to the Benton/Walla Walla County boundary at Yellpit on the Columbia River.

- District 7. Those lands in Franklin and Adams County lying west of U.S. highway 395 commencing at its intersection at the Snake River thence northerly to the intersection with state highway 17 thence northerly to the intersection with state highway 260 thence north along continuous section lines to the Franklin/Adams County boundary thence north along continuous section lines to the intersection with the Adams/Grant County boundary. Those lands in Grant County lying south and west of a line commencing at the intersection of U.S. interstate highway 90, thence westerly to its intersection with state highway 17 at Moses Lake, thence northwesterly along state highway 17 to its first point of intersection with the Grant/Douglas County boundary.
- District 8. All lands in Franklin and Adams County lying east of the boundary of district 7. Those lands in Lincoln County lying south of Crab Creek and lands west of county road 3019 from its intersection with Crab Creek, thence easterly to county road 3079, thence southerly to Adams County Arlt road, thence easterly to Wellsandt road, thence southerly to its intersection with U.S. Interstate 90. Those lands in Grant County lying south and east of a line commencing at the intersection of Crab Creek and the Grant/Lincoln County boundary thence westerly to the Crab Creek intersection of state highway 28 (near Wilson Creek), thence westerly to the intersection of state highways 28 and 17 at Soap Lake thence southeasterly to its intersection with U.S. Interstate 90 at Moses Lake and those lands north of U.S. Interstate 90 commencing at Moses Lake, thence easterly to its intersection with the Grant/Adams County boundary.
- District 9. All lands within Whitman County. Those lands in Lincoln County lying south and east of U.S. Interstate 90. Those remaining lands in Spokane County lying east of U.S. Interstate 90 from the Lincoln/Spokane County boundary thence northeasterly to its intersection with U.S. highway 2/395 thence northerly to its intersection with state highway 291, thence northwesterly to its intersection with the Stevens/Spokane County border.
- District 10. All lands within Klickitat County. Those lands in Benton County lying south of the crest of the Horse Heaven Hills. Those remaining lands in Yakima County lying south of the crest of the Horse Heaven Hills and the Toppenish Ridge to a point of intersection with a line past Fort Simcoe thence north to the junction of U.S. highway 12 and state highway 410.
- District 11. All lands in Walla Walla County. All lands in Columbia County lying south of the Tucannon River commencing at its intersection at the Whitman/Columbia County border at the Snake River thence southeasterly to its intersection with the Columbia/Garfield County border.
- District 12. All lands within Asotin and Garfield counties. Those remaining lands in Columbia County lying

north of the Tucannon River commencing at its intersection with the Garfield/Columbia County border thence northwesterly to its intersection with the Whitman/Columbia County border at the Snake River.

(3) Rapeseed production district/subdistrict formation procedures.

The following are procedures required for establishment, implementation and operation of rapeseed production districts and subdistricts in the state of Washington.

(a) A rapeseed production district may be established by petition to the director by a minimum of five affected producers within a general district as established by this order, prior to any rapeseed production for any purpose including oil, seed, forage and/or cover crop use. Establishment of a subdistrict to produce a nondominant type, or to produce rapeseed in an area where it is otherwise prohibited, shall be by petition to and agreement of the established district board for submittal to the director for approval.

(b) Districts and/or subdistricts within the general districts established by these rules shall be administered by a local board of a minimum of five but not more than seven members. Of those members a majority shall be rapeseed producers. At least one member should represent industry interests where possible. In addition, a local representative from Washington State University cooperative extension and/or the director or the director's representative may be appointed as a nonvoting advisory member to the board and to provide liaison with the director. In the instance where the director or the director's representative is not on the board, the cooperative extension representative shall provide the liaison with the director.

(c) Subsequent to a proper petition, the director of agriculture shall appoint the initial three members to the board to initiate the program. Those board members shall appoint two to four additional members, depending on the size and/or diversity of the district or subdistrict, to assure proper area/county representation and/or differences in dominant types to be produced. The terms of each member shall be three years. No member shall serve for more than two consecutive full terms. Initial appointment terms shall be as follows:

Director's appointees:

Two members for three year terms, and one member for a two year term.

Board appointees:

- One member for a two year term.
 - One member for a one year term.
 - One additional member may be appointed for a two year term.
 - One additional member may be appointed for a one year term.
- Officers shall include chairman, vice chairman and secretary.

(d) The board shall fill all expired or unexpired board member terms. Retiring or resigning board members shall not be allowed to participate in the selection of their replacements.

NEW SECTION

WAC 16-570-030 DUTIES OF RAPESEED PRODUCTION DISTRICT BOARDS, PERSONS, PRODUCERS. (1) Duties of the board shall include:

(a) Proposing and clearly defining district/subdistrict boundaries to be submitted to the director for establishment by rule. District and subdistrict boundaries shall follow geographical and/or topographical characteristics or provide for buffer zones to provide for isolation. Consideration is to be given to existing crop production to minimize negative impact to sensitive crops and shall also be extended beyond district and state lines to minimize impacts to producers in contiguous districts or states and cooperate to avoid the

need for buffer zones which could prevent producers from raising rapeseed near district or state lines.

(b) Producers and industry shall have the ability to petition the board to recommend to the director to adopt subdistricts within an initial production district, should production for multiple markets develop.

(c) The board shall designate the Washington State University extension offices to be utilized by producers in the district to register rapeseed production fields, in accordance with subsection (2) of this section.

(d) The board shall examine the economic potential for the differing types of rapeseed, and with input from affected producers, propose the dominant type for the district and/or subdistricts. In proposing the district and/or subdistrict boundaries and the dominant types of rapeseed for production, the board shall avoid negative impacts to already existing crops. The board shall propose and recommend to the director, rules establishing a dominant rapeseed type. A public hearing shall be held no later than March 15th, with rules adopted no later than May 15th of any production year after 1986. Hearings need not be held each year if there is no petition to change existing rule(s). The board shall inform producers of the areas and type(s) that are approved for production. This may be accomplished by utilizing producer meetings, local news and radio media, and the use of Washington State University cooperative extension personnel.

(e) The board shall serve as the first level for disputes involving production of conflicting types by conducting an inquiry to determine the facts of the dispute. If resolution is not reached at the board level the board shall then render an advisory opinion to be submitted to the director for additional action.

(f) The board shall have the authority to recommend to the director production of "off type" rapeseed (other than the authorized dominant type) or rapeseed production in an area where it is otherwise prohibited under the following criteria:

(i) The producer of the "off type" rapeseed must petition the board to allow "off type" rapeseed production.

(ii) The petition shall contain the following information:

(A) Producer name, address, telephone number and location within district.

(B) Crop year.

(C) Variety name and species of rapeseed to be produced.

(D) Principal use of proposed production (i.e., industrial or food oil, seed, forage, cover crop etc.).

(E) Variety traits - Erucic Acid and Glucosinolate levels.

(F) Contracting company - (if any).

(G) Acreage to be produced.

(H) Exact legal description and reference to local landmarks of proposed acreage.

(I) Evidence of isolation of at least one-half mile, or at such greater distance as required by rule within the respective district and/or subdistrict, from other rapeseed production or other sensitive crops.

(J) Signed statements from all landowners/operators within one-half mile of the proposed production site stating that they will not plant a conflicting type during the proposed crop year.

(2) Persons or producers of rapeseed shall register fields by location, type and variety of all rapeseed to be produced, with the extension agent (office) as designated by the district board, prior to planting.

(3) Only certified seed is to be used for Washington production. Any introduced rapeseed varieties shall be accompanied by Phyto-certification that it is free from *Phoma lingam* (Black Leg) fungus.

(4) Any person selling or offering rapeseed for sale in the state of Washington, either in person, through dealerships or through radio, video or printed media, must be licensed by the Washington state department seed branch.

(5) Any volunteer or uncontrolled rapeseed may be subject to the Washington state noxious weed control board and chapter 17.10 RCW.

Any transport of unbagged rapeseed beyond production district or sub-district boundaries, shall be in suitably covered and sealed containers or vehicles to avoid the spread of rapeseed in nonproduction and/or prohibited areas.

(6) The director shall have the authority to require destruction of any rapeseed production that has not meet the rules of the director or any established production district. In the event that the person or producer of said production does not comply with the destruction order, the director is authorized to have the production destroyed by a third party and the cost of such destruction is to be charged to the producer of said property.