

RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)



Agency: Agriculture

- Permanent Rule
- Emergency Rule

(1) Date of adoption: October 11, 1991

(2) Purpose: To prevent introduction of grape phylloxera and grape virus in the state of Washington

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

Repealed:

Amended: WAC 16-481-010 through 16-481-075 and 16-483-001 through 16-483-070

Suspended:

(4) Authority for adoption:

Statute: Chapters 15.13 and 17.24 RCW

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 91-15-098 on July 24, 1991 (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to 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:

(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

Emergency Rules

- 31 days after filing
- Other (specify) _____ *
- Immediately
- Later (specify) _____

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

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CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 11 1991

TIME 1:27 AM
WSR 91-21-042

NAME (TYPE OR PRINT)

C. Alan Pettibone

TITLE

Director

DATE
10/11/91

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-010 ((REGULATED-TERRITORY--CARRIERS-OF-PEST)) ESTABLISHING QUARANTINE. ((Whereas, the fact has been determined by the director of agriculture of the state of Washington that an injurious insect pest of the grape, the grape phylloxera (Phylloxera vastatrix), not prevalent in the state of Washington, exists in and is widely distributed in the United States hereinafter known as infested territory and all grape vines and cuttings are liable to be carriers of said pest.)) Grape phylloxera (Daktulosphaira vitifoliae (Fitch)) is an insect pest injurious to grape plants that can cause severe reductions in grape yield and ultimately the death of the grape plant. This pest is widely distributed throughout the United States and the world. Introductions of the pest into the state of Washington through infested grape plants, rootstock, and plant cuttings or on contaminated grape cultivation or harvesting equipment could have a severe economic impact on the Washington grape industry. To prevent this the director, under the authority provided in chapters 17.24 and 15.13 RCW, has established a quarantine to prevent the introduction of this pest into the state.

NEW SECTION

WAC 16-481-015 DEFINITIONS. (1) "Pest" means the insect of the order Homoptera and family Phylloxeridae, grape phylloxera (Daktulosphaira vitifoliae (Fitch)).

(2) "Infested area" means all states and territories of the United States and all areas outside the United States.

(3) "Area known to be free of grape phylloxera" means a specific property of a person or firm or a specific nursery stock growing ground surveyed by the department of agriculture of the shipping state.

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

(5) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(6) "Hardwood cutting" means a cutting from a grape plant taken during the period of dormancy and not including portions of the trunk of the plant produced during previous growing seasons.

(7) "Softwood cutting" means any cutting taken when the grape plant is not fully dormant.

(8) "Susceptible varieties" means grape plants that may serve as host to grape phylloxera and which show symptoms of decline when infested.

(9) "Nonsusceptible varieties" means grape plants that may serve as host to grape phylloxera but which do not show symptoms of decline when infested. Nonsusceptible varieties include concord varieties and vinifera varieties on resistant rootstock.

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-020 ((ESTABLISHING-QUARANTINE--PROMULGATION)) QUARANTINE AREA. ((Now, therefore, I, Arthur E. Cox, director of agriculture of the state of Washington, by virtue of authority vested in me by RCW 17.24.030, consider it necessary in order to prevent the introduction and spread of the grape phylloxera (Phylloxera vastatrix) into and within the state of Washington, do hereby establish a quarantine at the boundaries of the state of Washington, hereinafter setting

forth--the--name--of--the--pest--against--which--the--quarantine--is--estab-
 lished;--the--infested--area;--the--products--regulated;--specifying--condi-
 tions--governing--shipments--and--issuance--of--certificates--under--which
 said--products--may--be--shipped;--and--indicating--the--areas--quarantined.))
There is established under this chapter, an external quarantine area
 for grape phylloxera including all states and territories of the
 United States and all territories outside the United States.

NEW SECTION

WAC 16-481-025 REGULATED PRODUCTS. Products regulated under the
 grape phylloxera quarantine include:

- (1) All grape plants, rootstock, and softwood cuttings, rooted or not. Hardwood cuttings meeting the definition in WAC 16-481-016(6) and dried grape vines used for ornamental purposes are exempt from the requirements in this chapter.
- (2) All equipment that has been used for cultivation or harvesting of grapes in a quarantine area.

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-030 ((DEFINITIONS)) CONDITIONS GOVERNING SHIPMENTS--
 EXTERNAL. ((1) "Pest":--Grape-phylloxera--(Phylloxera--vastatrix)--a
 pest-of-the-grape;

(2) "Infested--area":--All--states--and--territories--of--the--United
 States.)) (1) Each shipment of grape plants, grape rootstock and/or
 softwood cuttings from an infested area must be accompanied by a cer-
 tificate signed by a duly authorized inspector of the department of
 agriculture of the state of origin of the shipment, or by a duly auth-
 orized inspector of the United States Department of Agriculture, Ani-
 mal and Plant Health Inspection Service, stating that:

(a) The grape plants, rootstock and/or softwood cuttings were
 grown in and shipped from an area known to be free from grape phyllox-
 era; or

(b) The grape plants, rootstock or softwood cuttings were grown
 under an approved sterile media system; or

(c) For small shipments (five hundred articles or less), softwood
 cuttings were carefully inspected by an authorized inspector and were
 found to be free from grape phylloxera; or

(d) The grape plants, rootstock, and/or softwood cuttings were
 subject to one of the two treatments outlined in subsection (2) of
 this section or such additional methods as may be determined to be
 effective and are approved in writing by the director and were stored
 in a manner after treatment that would prevent reinfestation.

(2) Acceptable treatments shall include:

(a) Hot water treatment. Dormant, rooted grape plants or
 rootstock shall be washed to remove all soil or other propagative
 media. Dormant rooted plants or rootstock shall be immersed in a hot
 water bath for a period of not less than three minutes nor more than
 five minutes at a temperature of not less than 125 degrees F. (52
 degrees C.) nor more than 130 degrees F. (55 degrees C.) at any time
 during immersion; or

(b) Methyl bromide fumigation. Grape plants, rootstock or soft-
 wood cuttings may be treated by methyl bromide fumigation. Fumigation
 shall be in an approved gastight fumigation chamber, equipped with a
 heating unit, fan for dispersal of gas and clearing the chamber of gas
 after fumigation, and interior thermometer readable from the outside.
 Fumigation shall be with a dosage of two pounds (0.908 kg.) of methyl
 bromide per one thousand cubic feet (twenty-eight cubic meters) for a

period of three hours at a temperature of between 65 degrees F. (18.3 degrees C.) and 70 degrees F. (21.1 degrees C.). The fan shall be operated for a period of ten minutes after the injection of the gas.

(3) All shipments of grape plants, rootstock and/or softwood cuttings from an infested area shall be plainly marked with the contents on the outside of the package or container as "grape plants," "grape rootstock," or "grape cuttings."

(4) Notification requirements of WAC 16-481-060 are met.

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-050 ((CONDITIONS--GOVERNING--SHIPMENTS)) EQUIPMENT CLEANING REQUIREMENTS. (({1})-Each shipment of grape vines and/or cuttings must be accompanied by a certificate signed by a duly authorized inspector of the department of agriculture at the point of origin, or by a duly authorized inspector of the United States Bureau of Entomology and Plant Quarantine, stating that said grape vines and/or cuttings were grown and shipped from an area known to be free from the grape phylloxera or that the grape vines or cuttings were given one of the treatments outlined in subsections (2), (3), and (4) below and were stored in a manner after the treatment that would prevent reinfestation:

(2) Hot water treatment: Grape vines and/or cuttings shall be immersed in a hot water bath for a period of not less than three minutes nor more than five minutes at a temperature not less than 125°F. nor more than 130°F. at any time during the immersion;

(3) Oil and nicotine dip: Entire vine washed free from dirt, submerged in oil and nicotine dip for period not less than five minutes; formula of solution as follows: 1 1/2 Gal. medium summer oil of viscosity from 72-80; unsulphonated residue test of 90 or above; 1 pint blackleaf-40; 1 pint sulphated alcohol liquid spreader; and 100 gallons of water; Dip to be renewed after dipping no more than five lots of vines and at least once in each 24 hours; Solution must be completely agitated immediately prior to each dipping;

(4) Methyl bromide fumigation: Fumigation in an air-tight chamber with 2 pounds of methyl bromide per 1000 cu. ft. for 3 hours at a temperature of 65 to 70°F. All shipments of nursery stock shall be plainly marked with the contents on the outside of the package or container.)

(1) All equipment used for cultivation or harvesting of grapes in grape phylloxera quarantine areas outside the state or infested properties within the state must be thoroughly washed or steam cleaned to remove all soil and plant material prior to entry into the state of Washington. Such equipment shall be subject to inspection by authorized inspectors of the department of agriculture.

(2) Any equipment found to be in violation of the sanitation requirement shall be subject to detention by the department until such equipment is thoroughly cleaned at the expense of the owner or shipper or provision made to transport the equipment directly out of the state.

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-060 ((CARRIER-AGENTS-MUST-HOLD-SHIPMENTS)) NOTIFICATION REQUIREMENTS. ((All products admissible under the provisions of this quarantine must be held by common carrier agent and not delivered to consignee or agent until inspected and passed by the director of agriculture, his deputy or deputies.)) The plant services division of the department of agriculture shall be notified by United States mail or telefax prior to the shipment of grape plants and/or cuttings under

the grape phylloxera quarantine into this state from an infested area. Such notice shall include, but not be limited to, the approximate number of the grape plants, rootstock and/or softwood cuttings; the shipper; the consignee; the method of treatment used, if applicable; and the approximate date of delivery.

AMENDATORY SECTION (Amending Order 384, effective 3/30/43)

WAC 16-481-070 DISPOSITION OF PRODUCTS SHIPPED IN VIOLATION OF THIS QUARANTINE--VIOLATIONS. ~~((+))~~ Any shipment of grape ~~((vines and/or--cuttings--coming--into))~~ plants, rootstock, and/or softwood shipped into or entering the state of Washington from an infested area and not accompanied by the required certificate and/or not complying with the notice requirement in WAC 16-481-060 shall be returned to point of origin, or destroyed at the option and expense of the owner or owners, ~~((his))~~ or their responsible agent or agents.

~~((2))--All--horticultural--inspectors--of--the--department--of--agriculture--are--hereby--empowered--and--instructed--to--carry--out--the--provisions--of--this--quarantine~~

~~((3))--Any--violations--of--these--orders--will--be--dealt--with--according--to--laws))~~

NEW SECTION

WAC 16-481-075 VIOLATIONS--PENALTIES. Any person who violates the terms of the grape phylloxera quarantine may be subject to a criminal or civil penalty, as determined by the director, in an amount not more than five thousand dollars for each violation. Every person who, through an act of commission or omission, procures, aids or abets in the violation, shall be considered to have violated this chapter and may be subject to criminal or civil penalty.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-481-040 REGULATED PRODUCTS.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-001 ((~~PROHIBITION~~)) GRAPE VIRUS QUARANTINE--ESTABLISHING QUARANTINE. ((~~(1)--Whereas,--the--introduction--of--dangerous virus--diseases--of--grape,--such--as--FANLEAF--and--LEAFROLL,--into--the--state--of--Washington--would--entail--great--losses--to--the--horticultural--interest--of--the--state;--and~~

~~(2)--Whereas,--the--most--rigid--examinations--cannot--determine--the--presence--of--these--virus--diseases--on--dormant--grape--plants--or--parts--of--plants;~~

~~(3)--Now,--therefore,--I,--Donald--W.--Moos,--director--of--the--department--of--agriculture--of--the--state--of--Washington,--by--virtue--of--the--authority--vested--in--me--by--chapter--17.24--RCW--relating--to--insect--pests--and--plant--diseases,--after--public--hearing--held--in--Sunnyside,--Washington,--on--March--4,--1970,--pursuant--to--chapters--34.04--and--42.32--RCW,--do--hereby--proclaim--and--establish--the--quarantine--to--become--effective--May--1,--1970,--setting--forth--the--rules--for--the--importation--of--grape--plants.))~~ The production of wine grapes, table grapes, and grape plant nursery stock are important industries in the state of Washington. The director has determined that these industries are threatened by the introduction of the virus diseases known as leafroll, fanleaf, corky bark, and stem pitting that are not established in the state of Washington. The presence of these virus diseases cannot be determined by the most rigorous visual examination of dormant grape plants or propagative parts of grape plants. Introductions of these virus diseases would entail great economic loss to the horticultural industries of the state. To prevent this harm, the director, under the authority provided in chapter 17.24 RCW, has established a quarantine setting forth rules for the importation of grape planting stock into the state of Washington.

NEW SECTION

WAC 16-483-005 GRAPE VIRUS QUARANTINE--DEFINITIONS. (1) "Department" means the Washington state department of agriculture.

(2) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(3) "Grape plants and propagative parts" means live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant (vitis species), except fruit, capable of propagation.

(4) "Official certificate" means a document issued by an official inspection agency including but not limited to phytosanitary certificates, inspection certificates, or other letters, tags, stamps, or similar documents certifying plant quality or condition.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-010 GRAPE VIRUS QUARANTINE--QUARANTINE AREA. ((~~(1)~~)) Areas under quarantine for grape virus include all states and territories of the United States outside of the territorial borders of the state of Washington.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-020 (~~COMMERCIALS-COVERED~~) GRAPE VIRUS QUARANTINE--REGULATED ARTICLES. (~~(Plants-and-all-parts-thereof-(except-fruits)-of-grape-(vitis-species)-)~~) All plants and plant parts capable of propagation (except fruit) of grapes are regulated under the terms of the grape virus quarantine.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-030 GRAPE VIRUS QUARANTINE--REGULATIONS. Grape plants and ((all)) propagative parts ((thereof-of-grapes)) will be admitted into the state of Washington provided the following provisions are complied with((*)):

(1) ((That)) The grape plants or propagative parts ((thereof)) have been certified in accordance with the regulations of an official state agency, which certification program includes inspection and testing by indexing on suitable indicator hosts for ((FANLEAF--and LEAFROLL)) fanleaf, leafroll, stem pitting, and corky bark virus diseases((;--provided-that-all)). All shipments of such grape cuttings shall be accompanied by a certificate issued by ((said-official state)) an agency of the state of origin certifying that ((said)) the grape plants or cuttings were produced under official certification regulations and meet official certification standards as to freedom from ((FANLEAF--and--LEAFROLL)) fanleaf, leafroll, stem pitting, and corky bark virus diseases.

(2) All shipments of grape nursery stock shall be plainly marked with the contents on the outside of the package or container.

(3) ((All-products-admissible-under-the-foregoing-provisions-must-be--held--by--common--carrier--agent-and-not-delivered-to-consignee-or-agent-until-inspected-and-passed-by-the-director-of-agriculture--his-deputy-or-deputies-)) Persons shipping or transporting regulated articles, identified in WAC 16-483-020, into this state from areas under quarantine shall notify the department's plant protection branch by United States mail or telefax prior to shipment of the nature and the quantity of each shipment, the expected date of arrival at destination, the name of the intended receiver and the destination. The person to whom the articles are shipped shall hold the same until they are inspected and/or released by the department.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-040 GRAPE VIRUS QUARANTINE--DISPOSITION OF MATERIAL SHIPPED IN VIOLATION ((OF--THIS--QUARANTINE)). All grape plants or parts thereof arriving in the state of Washington in violation of the provisions of ((this)) the grape virus quarantine, shall be refused admittance into the state of Washington ((and)), or shall be immediately sent out of the state or destroyed at the option and expense of the owner or owners, ((his)) or their responsible agents.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-050 GRAPE VIRUS QUARANTINE--EXEMPTION. The ~~((foregoing does not apply to the experiments of))~~ restrictions on the movement of regulated articles set forth in this chapter shall not apply to grape plants or propagative parts imported for experimental or trial purposes by the United States Department of Agriculture and the state experiment stations in the state of Washington~~((--providing))~~; PROVIDED, That a permit to import is issued by the director of agriculture.

AMENDATORY SECTION (Amending Order 1146, filed 3/16/70, effective 5/1/70)

WAC 16-483-060 GRAPE VIRUS QUARANTINE--VIOLATION AND PENALTY. All violations of ~~((this order))~~ the grape virus quarantine shall be ~~((dealt with according to the provisions of RCW 17.24.100))~~ punishable by the criminal and/or civil penalties provided by law.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-483-070 EFFECTIVE DATE.