



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 existing rules relating to Japanese beetle quarantine to bring them into full compliance with the U.S. National Japanese Beetle Harmonization Plan, to comply with legislative mandates such as regulatory reform and use of clear and readable format, and to reflect changes in industry and program practices.

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

Repealed: WAC 16-470-015
 Amended: WAC 16-470-010, -700, -705, -710, -715, -720
 Suspended:

(4) Statutory authority for adoption: Chapter 17.24 RCW
Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-20-067 on October 3, 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 1042 AM

WSR 00-23-078 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>6</u>	Repealed	<u>1</u>
-----	---------	----------	----------	----------

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

New	Amended	<u>6</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>6</u>	Repealed	<u>1</u>

AMENDATORY SECTION (Amending Order 1978, filed 7/25/88)

WAC 16-470-010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of this state, or a duly authorized representative.

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

(3) "Interior quarantine" means a quarantine within the state of Washington established against the movement of designated plant pests, life stages, their hosts, and possible carriers from areas identified by the Washington state department of agriculture.

(4) "Exterior quarantine" means a quarantine established against the movement into Washington state of designated plant pests, life stages, their hosts, and possible carriers from areas identified by the Washington state department of agriculture.

(5) "Commercial orchard" means an orchard in which fruit is grown for commercial purposes and with the use of approved and accepted integrated pest management programs pursuant to statutes, guidelines or rules approved by the agricultural extension service or regulatory officials of the state of origin.

(6) "Commercial fruit" means fruit that is:

(a) Grown in a commercial orchard and commercially packed and labeled;

(b) Fruit grown in a commercial orchard and destined to a commercial processing plant or packing plant.

~~(7) ("Honey bee" means bees of the species *Apis mellifera*.~~

~~(8) "Colony" means any natural group of bees having a queen.~~

~~(9) "Hive" means any receptacle or container made or prepared for the use of bees, including movable frames, combs, or substances deposited into the hive by bees.~~

~~(10) "Queen" means the fertile female honey bee, singly, in a shipping cage with attendant honey bees or in plurality with other queens in a shipping cage having common honey bee attendants.~~

~~(11) "Nuclei" means a shipping container or hive having five or less combs of bees and a queen.~~

~~(12) "Package" means a combless shipping container of bees with or without a queen.~~

~~(13) "Apiarist" means any person who owns bees or is a keeper of bees.~~

~~(14) "Net(s)" means fabricated material which is designed and utilized to prevent the escape of bees from bee colonies or hives during transit.~~) "Phytosanitary certificate" means a certificate issued by a government agency under authority of state or federal statute, which declares or establishes the pest status of a shipment of plants or plant parts under accepted inspection or

sampling procedures. Phytosanitary certificates are patterned after model certificates of the International Pest Protection Convention.

AMENDATORY SECTION (Amending Order 2049, filed 7/16/90, effective 8/16/90)

WAC 16-470-700 Quarantine--Japanese beetle. A quarantine is established under this chapter against all life stages of the insect pest (~~((known as))~~) Japanese beetle (*Popillia japonica* Newman), a member of the family Scarabaeidae. The Japanese beetle is a persistent, serious and highly destructive pest, attacking the roots, leaves, and fruits of over three hundred kinds of plants including fruit trees, ornamentals, and field and vegetable crops. The director of agriculture has determined that the regulation and exclusion of Japanese beetle is necessary to protect the environmental quality, forests, floriculture and agricultural crops of the state of Washington.

AMENDATORY SECTION (Amending Order 2049, filed 7/16/90, effective 8/16/90)

WAC 16-470-705 Areas under quarantine. (1) (~~((Except as provided in subsection (2) of this section,))~~) The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, ((and)) the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

(2) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

(a) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in (~~((this rule))~~) WAC 16-470-715; and

(b) Annual surveys are conducted in such counties and the results of (~~((such))~~) these surveys are negative for Japanese beetle; and

(c) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

(3) A plant health official of any state may request exemption of one or more counties under subsection (2) of this section. ((Such)) The request ((shall)) must be in writing, and ((signed by a duly authorized official stating)) it must state the area((s)) surveyed, the survey method, personnel conducting the survey, and ((the last)) dates of any previous Japanese beetle infestations in ((such)) that county ((if previously infested. The director shall maintain a list of any county so exempted)).

AMENDATORY SECTION (Amending Order 2049, filed 7/16/90, effective 8/16/90)

WAC 16-470-710 Regulated articles. The following are ~~((hereby))~~ declared to be hosts or possible carriers of Japanese beetle and are prohibited entry into this state from an area under quarantine as declared in WAC 16-470-705 either directly, indirectly, diverted or reconsigned, except as provided for in WAC 16-470-715:

(1) Soil, humus, compost, and manure (except when commercially packaged);

(2) All plants with roots (except bareroot plants free from soil in amounts that could contain concealed Japanese beetle eggs, larvae or pupae);

(3) Grass sod;

(4) Plant crowns or roots for propagation (except when free from soil);

(5) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free of soil);

(6) Any other plant, plant part, article, or means of conveyance when it is determined by the director to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation ~~((by Japanese beetle))~~.

AMENDATORY SECTION (Amending Order 2049, filed 7/16/90, effective 8/16/90)

WAC 16-470-715 Conditions governing the movement of regulated articles into Washington state. (1) Prior notification is required. Persons shipping regulated articles as specified in WAC 16-470-710 into this state from areas under quarantine ~~((shall))~~ must notify the department's plant ~~((protection branch of))~~ services program by sending via telefacsimile or other method a

copy of the applicable phytosanitary certificate as described in subsection (2) of this section for each shipment. The phytosanitary certificate must state the nature and quantity of ((each)) the shipment, its expected date of arrival at destination, the name of the intended receiver and the destination. The person to whom the commodities are shipped ((shall)) must hold the ((same)) shipment until ((they are)) it is inspected and released by the department.

(2) ~~((The commodities covered shall))~~ Each shipment of regulated articles must be accompanied by a phytosanitary certificate ((issued by an authorized state or federal regulatory official)) from the state of origin certifying that the commodity, soil, or means of conveyance is treated with methods and procedures approved and prescribed by the director. Approved methods and procedures include those specified in the National Plant Board U.S. Domestic Japanese Beetle Harmonization Plan Appendix 1. Shipment to Category 1 States.

(3) Privately owned houseplants grown indoors may be allowed entry into this state ~~((without meeting the requirements of subsection (2) of this section))~~ if a department official inspects ~~((such))~~ the plants ~~((as prescribed in subsection (1) of this section))~~ and determines that they are free from Japanese beetle.

AMENDATORY SECTION (Amending Order 2049, filed 7/16/90, effective 8/16/90)

WAC 16-470-720 Special permits. The director may issue special permits admitting regulated articles ~~((covered))~~ specified in WAC 16-470-710 that are not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions which the director may prescribe to prevent the introduction, escape, or spread of ~~((the))~~ Japanese beetle.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-470-015

Penalties.