



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Agriculture

- Permanent Rule
 Emergency Rule
 Expedited Rule Making

(1) Date of adoption: April 6, 2004

(2) Purpose: This rulemaking order adds sections -750, -755, -760, -765, -770 and -775 to chapter 16-470 WAC by establishing a quarantine for *Phytophthora ramorum*, a fungal-like pathogen which causes a plant disease often called sudden oak death. Movement into Washington state from California of plants of host species and soil and potting mix associated with host species is prohibited, unless conditions specified in rule have been met. Advance notification of shipments and a phytosanitary certificate from the official state or federal certifying agency must accompany each shipment of regulated articles. Additional restrictions for cultures and live material of the pathogen are enacted.

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

Repealed:
 Amended:
 Suspended:

(4) Statutory authority for adoption: Chapter 17.24 and 15.13 RCW
 Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

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: The intrusion into this state of the non-native, invasive plant pest species *Phytophthora ramorum* on or in association with horticultural plants is of grave and immediate concern. To date, extensive survey and testing has not identified this pathogen in Washington, except in confined nursery environments. *Phytophthora ramorum* infestations have recently been identified at a major California nursery, from which significant amounts of stock were and continue to be shipped into Washington state. The primary shipping season for nursery stock is now, and risk of entry of this pathogen is urgent. This rule is being adopted to protect the economic well-being of the agricultural, forest, horticultural, and floricultural industries, and the environmental quality and natural resources of the state.

(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

- 31 days after filing
 Other (specify) _____*

Emergency Rules

- Immediately
 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)
 Valoria H. Loveland

Signature

Title Director **Date** April 6, 2004

CODE REVISER USE ONLY

CODE REVISOR OFFICE
STATE OF WASHINGTON
F L U

APR 6 2004

TIME _____
 WSP: 04-08-082

**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>0</u>	Repealed	<u>0</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>6</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>0</u>	Repealed	<u>0</u>

PHYTOPHTHORA RAMORUM QUARANTINE

NEW SECTION

WAC 16-470-750 Establishing quarantine for *Phytophthora ramorum*. *Phytophthora ramorum* is a nonnative, invasive fungal-like pathogen that causes sudden oak death disease in some oak species and severe canker, blight or twig dieback in numerous other plant genera. The pathogen is capable of spreading through multiple pathways, including infected host species in nursery stock. Known infestations have occurred in Washington in a few sites, all of which have been contained. Known infestations have recently been found in nursery stock shipped into Washington and many other states from at least one major producer in California. If allowed to become widely established in Washington, *Phytophthora ramorum* could have a devastating economic impact on the agriculture and forestry industries of the state and could endanger the environmental quality, native plant populations, and natural resources of the state. The director of agriculture, pursuant to chapters 17.24 and 15.13 RCW, has determined that the regulation and exclusion of host species, associated soil and potting mix, and cultures of *Phytophthora ramorum* itself, is necessary to protect the agricultural crops, economic health and environmental quality of the state.

NEW SECTION

WAC 16-470-755 *Phytophthora ramorum*--Area under quarantine. The entire state of California is the area under quarantine.

NEW SECTION

WAC 16-470-760 *Phytophthora ramorum*--Regulated articles. All of the following are designated regulated articles:

- (1) All plants of the following species:

Abies grandis	Pieris floribunda x japonica	Rubus spectabilis
Acer macrophyllum	Pieris formosa	Sequoia sempervirens
Aesculus californica	Pieris formosa x japonica	Syringa vulgaris
Aesculus hippocastanum	Pieris formosa var. forrestii	Taxus baccata
Arbutus menziesii	Pieris formosa var. forrestii x Pieris japonica	Toxicodendron diversiloba
Arbutus unedo	Pieris x japonica	Trientalis latifolia
Arctostaphylos manzanita	Pittosporum undulatum	Umbellularia californica
Camellia japonica	Pseudotsuga menziesii	Vaccinium ovatum
Camellia reticulate	Quercus agrifolia	Vaccinium vitis-idaea
Camellia sasanqua	Quercus chrysolepis	Viburnum x bodnantense
Camellia x williamsii	Quercus falcate	Viburnum x burkwoodii
Castanea sativa	Quercus ilex	Viburnum x carlcephalum x V. utile
Corylus cornuta	Quercus kelloggii	Viburnum x pragense
Fagus sylvatica	Quercus parvula v. shrevei	Viburnum davidii
Hamamelis virginiana	Quercus rubra	Viburnum farreri (= V. fragrans)
Heteromeles arbutifolia	Quercus sativa	Viburnum lantana
Kalmia latifolia	Rhamnus californica	Viburnum opulus
Leucothoe fontanesiana	Rhamnus purshiana	Viburnum plicatum var. tomentosum
Lithocarpus densiflorus	Rhododendron spp.	Viburnum tinus
Lonicera hispidula	Rosa gymnocarpa	

(2) Soil and potting mixes that:

(a) Are associated with shipments of regulated articles designated in subsection (1) of this section, including incidental mud and soil on pots, means of conveyance, pallets, and other shipping materials; or

(b) Have been within five feet of a *Phytophthora ramorum*

infected plant or from an infected site.

(3) All cultures and live material of *Phytophthora ramorum*.

NEW SECTION

WAC 16-470-765 *Phytophthora ramorum*--Notification requirements and restrictions. (1) All shipments of regulated articles specified in WAC 16-470-760 (1) or (2) must be accompanied by a certificate issued by an authorized state or federal regulatory official from the state of origin certifying that the commodity and associated soil or potting mix is free of *Phytophthora ramorum*.

(2) All shipments of regulated articles specified in WAC 16-470-760(3) are prohibited unless accompanied by a special permit issued by the department pursuant to WAC 16-470-775.

(3) Persons shipping any regulated article specified in WAC 16-470-760 into this state from the area under quarantine shall notify the department's plant services program in advance of the shipment. Notification shall consist of transmitting a copy of the certificate designated in subsection (1) of this section to: Nursery Inspection Program Supervisor, Plant Protection Division, Washington State Department of Agriculture, 1111 Washington St. SE, P.O. Box 42560, Olympia, WA 98504-2560; fax 360-902-2094; e-mail: nursery@agr.wa.gov.

NEW SECTION

WAC 16-470-770 *Phytophthora ramorum*--Disposal of articles regulated under this quarantine. Any regulated articles that are in violation of this *Phytophthora ramorum* quarantine are subject to destruction, shipment out-of-state or other disposition in a manner prescribed by the department. Any such action will be at the expense of the owner or owner's agent and without compensation.

NEW SECTION

WAC 16-470-775 *Phytophthora ramorum*--Special permits. The department may issue special permits for entry of regulated articles otherwise prohibited in WAC 16-470-750 through 16-470-775. Requests for permits shall be addressed to: Nursery Inspection

Program Supervisor, Plant Protection Division, Washington State
Department of Agriculture, 1111 Washington St. SE, P.O. Box 42560,
Olympia, WA 98504-2560; fax 360-902-2094; e-mail:
nursery@agr.wa.gov.