

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1946

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

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Chapter 16-570 WAC RAPESEED PRODUCTION AND ESTABLISHMENT OF DISTRICTS

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

This action is taken pursuant to Notice No. WSR 87-13-051 filed with the code reviser on June 16, 1987. These rules shall take effect: XX 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, 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:

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:

[X] (a) This rule is promulgated pursuant to RCW 15.65 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)

[] (c) This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW

(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 August 3 1987

STATE OF WASHINGTON FILED

AUG 3 1987

By [Signature] (Acting)

Director Title

[Form CR-7: Rev. 7/23/82]

CODE REVISER'S OFFICE WSR 87-16-071

AMENDATORY SECTION (Amending Order 1900, filed 7/30/86)

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~~) 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.

AMENDATORY SECTION (Amending Order 1900, filed 7/30/86)

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))~~ facilitate the production districts in the registration of 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/subdistrict.

(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 all fields prior to planting, by location, type and variety of all rapeseed to be produced, with the district board at the extension ((agent f)) office ((r--as)) designated by the district board ~~((r--prior--to--planting))~~.

(3) Seed certification requirements.

(a) Only certified seed ((and--seed--treated--with--Environmental--Protection--Agency--or--state--approved--chemicals--for--the--control--of--phoma--lingam--(black--leg)--fungus)) shall be used for Washington production: PROVIDED, That ((any--introduced--and/or--noncertified--rapeseed--varieties)) the variety dwarf essex may be used for seed purposes without certification as certified seed is no longer available.

(b) All rapeseed varieties utilized for Washington production shall be ((treated--for--and--be)) accompanied by phyto-sanitary certification that it is free from phoma ((lingam)) lingam (black leg) fungus((r--and)). In the event that low level phoma lingam (black leg)

fungus is present, the seed must be treated with environmental protection agency and/or Washington state approved chemicals for the control of phoma ((lingum)) lingam (black leg) fungus, and recertified as free from viable phoma lingam fungus after treatment.

(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 of agriculture 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 subdistrict--boundaries))~~ for the purpose of conveyance, shall be in suitably covered ~~((and))~~ or sealed containers or vehicles to avoid the spread of volunteer or otherwise uncontrolled rapeseed ((in-nonproduction-and/or-prohibited-areas)). All harvesting and planting equipment shall be properly cleaned and adequate precautions taken to avoid the spread of rapeseed prior to movement from any farm or production area.

(6) The director shall have the authority to require destruction prior to bloom of any rapeseed production that does 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 prior to bloom, 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 production.