



**RULE-MAKING ORDER**  
(RCW 34.05.360)

**CR-103** (10/1/89)

Agency: Agriculture

- Permanent Rule
- Emergency Rule

(1) Date of adoption: November 9, 1990

(2) Purpose: To amend the rules to reflect new technology in the area of virus testing of fruit trees and related ornamentals and to add related ornamentals to the certification program.

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

Repealed:

Amended: 16-350 Rules Relating to Fruit Trees Registration and Certification

Suspended:

(4) Authority for adoption:

Statute: 15.14 RCW Planting Stock

Other Authority:

**(5.1) PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 90-19-032 on September 13, 1990 (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**

- 31 days after filing
- Other (specify) \_\_\_\_\_ \*

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

**Emergency Rules**

- Immediately
- Later (specify) \_\_\_\_\_

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

NOV 09 1990

TIME: 8:22 *Red*  
WSR: 90-23-006

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE

*C. Alan Pettibone*

TITLE  
Director

DATE  
11/9/90

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-015 DEFINITIONS. (1) "Virus infected (affected)" means presence of a harmful virus(es) in a plant or plant part.

(2) "Virus-like" means a disorder of genetic or nontransmissible origin.

(3) "Off-type" means not true-to-name.

(4) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.

(5) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

(6) "Registered tree" means that a registration number has been assigned by the department to a tree or clonal planting that has been inspected and tested in accordance with the provisions of this program.

(7) "Scion-block" means a planting of registered trees which serves as a source of scionwood for the propagation of "Washington certified ((fruit-tree)) nursery stock."

(8) "Seed-block" means a planting of registered prunus seed trees which serves as a source of seed for producing rootstock used in the propagation of "Washington certified ((fruit-tree)) nursery stock."

(9) "Stool bed" means a clonal planting of self-rooted registered trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of "Washington certified ((fruit tree)) nursery stock."

(10) "Washington certified ((fruit-tree)) nursery stock" means nursery grown seedlings, clonal rootstocks originating from registered trees and nursery grown trees propagated by using top-stock from registered trees and rootstock originating from registered trees except as herein provided for certain rootstocks, but limited to the plant Genera 1. Chaenomeles, 2. Cydonia, 3. Crataegus, 4. Malus, 5. Prunus, 6. Pyrus, 7. Sorbus.

(11) "Washington certified ((fruit-tree)) seed" means seed produced on registered seed trees.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-025 SCION-BLOCKS. (1) Location. A scion-block shall be located not less than 100 feet from any nonregistered cultivated plant of the Rosaceae family. The ground in a scion-block and for a distance of 20 feet surrounding it shall be kept either clean cultivated or in an approved, properly controlled, ground cover. Registered scion-block trees shall be planted and maintained in a manner and at sufficient distance that branches of different varieties do ((no)) not overlap. ((Registered-scion-block-trees-shall-not-be-used-for-propagation-purposes-until-trueness-to-name-has-been-established.)) Each tree shall bear a permanent registration number.

(2) Acceptability. The root stock and top-stock sources of the scion-block trees shall have originated from foundation trees established under this program, or from virus-tested trees originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the scion-block.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-030 SEED-BLOCKS. (1) Location. A prunus seed-block shall be located not less than 100 feet from any nonregistered plant of the Prunus species. The ground in a seed-block and for a distance of 20 feet surrounding the seed-block shall be kept clean cultivated or in an approved, controlled ground cover. Each tree shall bear a permanent registration number.

(2) Acceptability. The rootstock and top-stock sources of the seed-tree shall have originated from foundation trees established under this program or from virus-tested trees originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the seed-block.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-032 STOOL-BEDS. (1) Location. A stool-bed shall be located not less than fifty feet from any nonregistered cultivated plant of the Rosaceae family. The following exception will apply. Nonregistered stool-beds may be located no less than ten feet from registered stool-bed plantings. The ground in a stool-bed and for a distance of ten feet surrounding it shall be kept clean cultivated.

(2) Acceptability. Existing stool-beds that index clean on the commonly used virus indicators will qualify as registered stool-beds. New stool-beds (those planted after January 1, 1976) shall have originated from foundation stock established under this program, or from virus-tested plants originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the stool-bed.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-035 NURSERY STOCK. (1) Rootstocks. All stone and pome fruit and related ornamental nursery stock being grown for blue tag certification shall be on rootstocks from registered trees except for stone fruit and related ornamental trees grown on ((peach)) virus tested seedlings and pome fruit and related ornamental trees grown on apple and pear seedlings. These seedling rootstocks, when grown from commercial seed, will be acceptable if seed transmissible virus content does not exceed five percent. Clonal rootstocks used in the production of Washington certified blue tag nursery stock must originate from registered stool-beds.

(2) Location. Nursery stock being grown for certification shall be planted sufficiently apart to maintain its identity and shall be kept clean cultivated. It shall be designated as to rootstock, top-stock, and interstock sources. There shall be no rebudding or regrafting of nursery row stock unless such stock is reworked with budwood from the same registered scion-tree.

(3) Seed. Certified seed shall have been produced on registered seed trees only.

(4) Tagging. A blue tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks produced from registered seed-source or stool-bed trees; or which are self-rooted. Stone and pome fruit and related ornamental trees grown on seedling rootstocks from commercial seed will also qualify for blue tag certification if seed transmissible virus content does not exceed five percent.

A yellow tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks which originate from nonvirus-tested sources.

All nursery stock meeting the requirements of this program when sold shall have the variety, interstock and rootstock designated where applicable as follows: Variety/interstock/rootstock.

(5) Acceptability. All nursery stock meeting the requirements of this program shall be known as Washington certified ((fruit-tree)) nursery stock.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-045 APPLICATION AND FEES. (1) Application.

(a) The applicant nurseryman shall furnish to the department all information pertinent to the operation of this program and shall give his/her consent to the department to take propagating wood from any tree for testing purposes.

(b) Trees registered and used under the provisions of the Washington state nursery improvement program shall be deemed usable as registered scion-trees and seed-trees if they meet the requirements outlined in this program.

(c) Application for inspection and indexing of registered scion and seed-trees and for inspection of nursery stock for certification must be filed with the department by June 1 of each year accompanied by an application fee. The application fee will consist of \$100.00 plus \$1.00 for each seed-tree entered in this program.

(2) Fees. The application fee will apply toward the one percent annual assessment on the gross sale price of the wholesale market value for all fruit trees, ((fruit-tree-seedlings)) fruit tree related ornamentals, and fruit tree rootstock sold within the state or shipped from the state of Washington by any licensed nursery dealer during any license period, as set forth in RCW 15.13.130: PROVIDED, That no refund of the application will be allowed.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-050 TAGGING AND IDENTITY. (1) Tagging. The department will authorize the use of official certification tags for the identification of nursery stock or seed that meet the requirements of this program. These tags will be supplied by the Washington state department of agriculture to all members participating in the program. Participating members will reimburse the department of agriculture for all certification tags supplied. This reimbursement will be based on the cost incurred by the Washington state department of agriculture.

(2) Identity. Any person selling Washington certified ((fruit tree)) nursery stock or seed is responsible for the identity of the stock bearing each tag and for such nursery stock or seed meeting the requirements of this program. Persons issued tags authorized by the program shall account for stock produced and sold and keep such records as may be necessary.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-060 GRADES AND STANDARDS FOR WASHINGTON CERTIFIED FRUIT TREE NURSERY STOCK ((AND-SEED)). All certified ((fruit-tree))

nursery stock offered for sale is to be bundled in accordance with commercial practice and shall be identified by one or more legible printed labels.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-065 STATUTORY DECLARATION OF UNLAWFUL ACTS. RCW 15.14.140 states: "It shall be unlawful for any person to sell, offer for sale, hold for sale, label, identify, represent or to advertise any planting stock" or seed "as being certified, registered, foundation or breeder planting stock" or seed "unless it has been inspected by the director and he has issued a certificate stating that such planting stock" or seed "has met the requirements of this ((act)) chapter and rules adopted hereunder and that it is properly identified and labeled."

NEW SECTION

WAC 16-350-075 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a certified state of Washington plant tag or stamp under this chapter affirms solely that the tagged or stamped fruit tree or fruit tree related stock and rootstock has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.