



RULE-MAKING ORDER

CR-103 (12/31/00)

(RCW 34.05.360)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: March 31, 2004

(2) Purpose: This rule making order creates one bean seed quarantine rule that simplifies the quarantine requirements, streamlines the reporting and compliance requirements, and clearly defines the diseases that are regulated under the bean seed quarantine.

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

Repealed: WAC 16-301-450, WAC 16-301-455, WAC 16-301-460, WAC 16-301-465, WAC 16-301-470, WAC 16-301-475, WAC 16-301-480, and WAC 16-301-485

Amended: WAC 16-301-365, WAC 16-301-375, WAC 16-301-380, WAC 16-301-395, WAC 16-301-410, WAC 16-301-415, WAC 16-301-420, WAC 16-301-430, WAC 16-301-435, and WAC 16-301-440

Suspended:

(4) Statutory authority for adoption: RCW 15.49.310, RCW 17.24.011, and RCW 17.24.041

Other authority: RCW 34.05

PERMANENT RULE ONLY

04-05-118 d.h.

Adopted under notice filed as WSR ~~04-01-184~~ on ~~2-18-2004~~ (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

- 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 Loveland

SIGNATURE

Valoria Loveland

TITLE

Director

DATE

MARCH 31, 2004

CODE REVISER USE ONLY

SEARCHED INDEXED
SERIALIZED FILED

MAR 31 2004

4:27

04-08-043

ASA

**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	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	10	Repealed	8
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	10	Repealed	8
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	10	Repealed	8

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-365 Bean seed quarantine--Establishing quarantine. The production of edible beans and bean seed is an important industry in the state of Washington. The economic well-being of that industry is threatened by the introduction of bean seed contaminated with ~~((viral))~~ bean, bacterial ~~((and))~~, fungal ~~((diseases not established in the commercial production areas in Washington))~~ and seed-borne viral pathogens. The director has determined that a quarantine ~~((will be effective in preventing the introduction of these viral, bacterial and fungal diseases of beans, and that control of these diseases of beans will))~~ is needed to protect the Washington dry bean industry and to provide the bean growers of ((the)) this state ((of Washington with)) a source of bean seed ((beans)) for planting purposes ((which are)) that is tested for the presence of these diseases.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-375 Regulated articles. Seeds of common beans ~~((and adzuki beans))~~, Phaseolus sp., intended for planting purposes, bean plants and parts of plants, and crop residue from the harvest of infected beans are regulated under the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-380 Regulated diseases. The following viral, bacterial and fungal diseases of beans, and any new strains or variations of these identified in the future, of beans are regulated under the provisions of this chapter:

Halo blight (*Pseudomonas syringae* pv. *phaseolicola* (Young et. al.))

Common bean blight (*Xanthomonas campestris* pv. *phaseoli* (Smith) Dye)

Fuscos blight (*Xanthomonas phaseoli* var. *fuscans* (Burk.))

Bean anthracnose disease (*Colletotrichum lindemuthianum* (Sacc. & Magn.) Scrib.)

Brown spot disease (*Pseudomonas syringae* pv. *syringae* (Van Hall)) strains virulently pathogenic to Phaseolus

Bean bacterial wilt (*Corynebacterium flaccumfaciens* ssp. *flaccumfaciens* (Hedges) Dows.)

Seed-borne viral diseases of beans, such as, but not limited to, bean common mosaic virus and its strains are regulated under the terms of this quarantine.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-395 General requirements for planting bean seed in the regulated area. (1) No beans may be planted, sold, shipped, ((or)) transported for seed purposes, or knowingly received in the regulated area which are found to be or are known to be contaminated with any disease listed in WAC 16-301-380 and must also comply with the requirements as listed in WAC 16-301-396.

(2) The department shall be notified in writing, prior to shipping, of any person's intent to ship, move, or transport any bean seed into the regulated area. ~~((A copy of the official certificate issued for that bean seed must accompany this notice of intent.))~~ All bean seed to be planted in the regulated area must have a Notice of Intent/Quarantine Compliance form filed with the WSDA seed program. A copy of the field inspection report or other proof of freedom from specified diseases based on one field inspection and one windrow inspection or negative results from an approved laboratory test must accompany this form. In addition, a copy of the laboratory analysis (ELISA) showing freedom from regulated viral diseases issued for that bean seed must accompany this Notice of Intent/Quarantine Compliance form. Proof of I-gene resistance may be provided in lieu of laboratory analysis (ELISA).

NEW SECTION

WAC 16-301-396 Additional requirements for planting bean seed in the regulated area relating to seed-borne viral diseases. Bean seed may be received for planting purposes, planted, sold, shipped, or transported if that seed meets one of the following criteria:

(1) The bean variety (cultivar) is known to be uniform for the dominant I-gene. Documentation of evidence of uniformity must accompany the seed shipment. Undocumented cultivars are subject to serology and/or grow out testing to determine freedom from bean

seed-borne viral diseases.

(2) The bean seed has been tested by the serology method (ELISA) and is found to be free from bean seed-borne viral diseases.

(3) The bean seed is tested by the serology method and is found to be positive for seed-borne viral diseases and on a subsequent grow out test, the sample is found free from bean seed-borne viral diseases.

(4) All serology tests are based on an official five-pound sample of untreated bean seed for each fifty thousand pounds of bean seed or fraction thereof.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-410 Additional requirements for planting bean seed ((grown)) originating in quarantine Area I; areas west of the continental divide. (1) Bean seed from quarantine Area I must not be shipped, transported, or moved into the regulated area for planting unless the beans are accompanied by an ((origin)) official certificate showing that the beans are apparently free from the regulated diseases. Such certification shall be on the basis of at least one growing season field inspection and one windrow inspection ((or)) and an approved laboratory/greenhouse test, which may include ELISA or other diagnostic screening for bacterial or fungal diseases.

(2) Bean seed planted for seed increase or with intention of seed increase must be planted in fields entered into either the Washington state bean seed phyto-sanitary certificate inspection program or the Washington state seed certification inspection program as provided in WAC 16-302-045 and 16-301-235.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-415 Additional requirements for planting bean seed ((grown)) originating in quarantine Area II; areas east of the continental divide and foreign countries. (1) Bean seed must first be planted into an approved trial ground that meets the requirements of the department.

(2) Bean seed, up to a maximum of one pound per variety, may be planted in an approved trial ground intended for research purposes, with notification to the department, ((plant certification)) seed program, of intent to plant and adherence to

the inspection procedures in WAC 16-301-425 and such isolation and other requirements as the director may prescribe.

(3) Bean seed over one pound, intended for introduction or seed increase, must first be planted in an approved trial ground not to exceed fifteen acres for each variety. The trial ground must be isolated from other beans by 1/4 mile. In addition, prior to planting, this bean seed must pass a laboratory/greenhouse test as recommended by the university; notification must be given to the department, (~~plant certification~~) seed program, of intent to plant; and inspection procedures in WAC 16-301-425 must be complied with for trial grounds.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-420 Quarantine--Exceptions and exemptions. (1) Bean seed planted for harvest as green beans for cannery or freezing, otherwise in compliance with this quarantine, is not required to be entered into an inspection program except that the department reserves the right to request complete listing and location of all the plantings and other information the department may deem necessary. Further, if at any time prior to harvest, the grower decides that the plantings are not to be harvested as green beans, the department must be notified and the plantings placed under an inspection program. In order for the plantings to be accepted into the inspection program, the plantings must be at a state of maturity that allows for the proper identification of regulated diseases.

(2) This quarantine does not apply to the shipment, movement, or transportation of beans prepackaged in packages of eight ounces or less for home garden use in the regulated area if the beans are free of diseases.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-430 Identification and disposition of diseased bean seed and infected bean fields. (1) Any bean field planted with seed in violation of the requirements of this quarantine is subject to destruction, in full or in part, or quarantined, as determined necessary by the director, to prevent the spread of regulated diseases. Any expenses of such actions will be solely that of the grower or their responsible agents.

(a) Fields that are placed under a quarantine order must be

entered into the Washington state bean seed phyto-sanitary inspection program as provided in WAC 16-301-235 with all costs of inspection to be borne by the grower or the grower's agent.

(b) Fields that are placed under a quarantine order may be subject to additional requirements for inspection, control or isolation, as deemed necessary by the director, to prevent the spread of regulated diseases.

(2) Any bean field determined to be infected with a regulated disease must be reported within seventy-two hours after discovery to the department, (~~(plant certification)~~) seed program.

(3) The department encourages the aid of all interested parties, including growers and seed company representatives, in the prompt reporting of suspected infected bean fields in order that timely investigation may be made.

(4) Any bean fields within the boundaries of the regulated area which show contamination by a regulated disease, as provided in subsection (5) of this section, must be destroyed in part or in total as may be required to eliminate the disease, by or at the expense of the grower or their responsible agents. The director may authorize any other method of control at the director's discretion. The director must notify the grower, seed company representatives and/or the grower's landlord of the method and extent of the destruction and safeguards against disease spread in order for the parties to comply.

(5) The identity of a regulated disease on growing plants or plants in windrow is based on the observance of the visual symptoms of the disease. If the department deems it necessary to establish true identity or pathogenically, a laboratory and/or greenhouse test may be conducted by the department in cooperation with the university. Testing is subject to provisions provided in WAC 16-301-396 (3) and (4), the results of which will be used to determine final disposition.

(a) In cases of disagreement concerning the presence of a regulated disease between the department plant pathologist and a qualified plant pathologist representing the commercial company or grower, the definitive verification of identity or pathogenically must be determined by isolation of the suspected pathogen and inoculation of seedlings of a known susceptible host using accepted scientific and professional techniques.

(b) Until verification of the suspected pathogen as specified in this section is completed, the involved planting must be placed under quarantine for a period of thirty days subject to conditions and review or extension as determined by the director. Entry into the quarantined area is to be restricted to the grower or grower's agents, department employees, and/or persons authorized in writing by the director. Persons granted entry into the quarantined area will be required to take all necessary sanitary precautions as prescribed by the director to safeguard against the possible spread of the suspected regulated disease.

(6) The true identity of the regulated disease when found in or on seed is based on testing methods recommended by the university results of which, when positive, is evidence to identify the disease as being subject to the department's requirements. The

owner of the seed, at owner's expense, may request verification of pathogenicity. Such verification must be made using accepted scientific and professional techniques.

(7) When the director determines that it is probable, based on visual symptoms and serological analysis, that a seed field may be infected with bean seed-borne viral diseases and determines that a threat of infection of other fields exists, the director may prescribe aphid control or other requirements, through a notice of destruction as provided in WAC 16-301-435, deemed necessary to prevent infection of adjacent properties.

(8) All bean seed that is determined to be contaminated by bean seed-borne viral diseases and which does not meet the requirements of WAC 16-301-395(2) must be destroyed or diverted to dry edible or other nonseed purposes. For seed that is diverted to dry edible or other nonseed purposes, documentation of disposition of the seed must be provided to the department of agriculture upon request.

(9) Exemptions and special situations:

(a) Any field of beans first found infected during windrow inspection, is exempt from total destruction if the diseased portion and an area (not less than a fifty-foot radius) surrounding the infected site is promptly destroyed or harvested with the beans from the infected area directed, under department supervision, to processing. Seed from the remainder of the field must be tested by a serology test. Only seed apparently free from regulated diseases may be used for seed purposes in the regulated area.

(b) Any field of beans to be used only for dry edible purposes is exempt from destruction if the diseased portion of the field is destroyed and the entire crop residue is promptly and completely destroyed after harvest.

(c) Beans for processing or fresh consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within ten days after first detection and/or verification as provided in subsection (4) of this section and the crop residue is promptly and completely destroyed after harvest.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-435 Notice of destruction. When the director finds personal property planted in violation of the terms of this quarantine or infected as described in WAC 16-301-430, the director may issue a written notice of quarantine or destruction to the owners and occupants thereof. The notice must identify the property under quarantine, order the destruction of infested plants or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles. Any expenses of such actions will be solely that of the grower or their responsible

agents.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-440 Penalties. (1) Any bean field planted with seed in violation of the requirements of this quarantine is subject to destruction, in full or in part, or quarantined, as determined necessary by the director, to prevent the spread or establishment of bean diseases.

(2) In addition to actions specified in WAC 16-301-430, any grower violating the terms of this ((~~chapter~~)) quarantine, is subject to civil and/or criminal penalties provided in chapters 15.49 and/or 17.24 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|--|
| WAC 16-301-450 | Bean seed-borne viral disease quarantine--Establishing the quarantine. |
| WAC 16-301-455 | Bean seed-borne viral disease quarantine--Regulated articles. |
| WAC 16-301-460 | Bean seed-borne viral disease quarantine--Regulated disease. |
| WAC 16-301-465 | Bean seed-borne viral disease quarantine--Quarantined area. |
| WAC 16-301-470 | Bean seed-borne viral disease quarantine--Regulated area. |
| WAC 16-301-475 | Bean seed-borne viral disease quarantine--Requirements for planting bean seed in the regulated area. |
| WAC 16-301-480 | Bean seed-borne viral disease quarantine--Identification and disposition of diseased bean seed. |
| WAC 16-301-485 | Bean seed-borne viral disease quarantine--Penalties. |