



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: May 11, 2004

(2) Purpose: This rulemaking order amends chapter 16-350 WAC by: (1) increasing the fruit tree certification application fee for each registered prunus and pome seed tree, (2) establishing a new fruit tree certification application fee for each registered prunus and pome scion tree, (3) eliminating the requirement for field inspections of certified stock, (4) clarifying existing language to make it more clear and readable, and (5) correcting an erroneous RCW reference.

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

Repealed:
 Amended: WAC 16-350-040 and 16-350-045
 Suspended:

(4) Statutory authority for adoption: Chapter 15.14 RCW
 Other Authority: Chapter 34.05 RCW

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-07-171 on March 24, 2004.
 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:

(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) July 1, 2004*

*(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

RCW REVISIONS OFFICE
STATE OF WASHINGTON

MAY 11 2004

TIME 3:05

WSR 04-11-025

PIA

Name (Type or Print)
 Valoria H. Loveland

Signature
Valoria H. Loveland

Title Director Date May 11, 2004

(COMPLETE REVERSE SIDE)

**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>2</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>2</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>2</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 00-19-036, filed 9/12/00, effective 10/13/00)

WAC 16-350-040 Inspection and testing for certification of nursery planting stock. (1) The department will conduct all inspections, testing and indexing prescribed in this chapter in a manner and at times the department has determined to be suitable. The methods and procedures used for making the virus and virus-like disease determinations will conform to the standards of NRSP-5.

~~(2) ((The department will conduct at least one visual inspection of certified nursery rootstock during the first growing season. Upon request by the department, growers must rogue any undesirable rootstock prior to bud or graft placement.~~

~~(3) The department will conduct at least two visual inspections of nursery stock during the growing season following bud or graft placement.~~

~~(4))~~ The department will refuse certification of planting stock that has been propagated from registered trees found to be infected by a virus or virus-like disease, or if other requirements of this chapter have not been complied with.

AMENDATORY SECTION (Amending WSR 00-19-036, filed 9/12/00, effective 10/13/00)

WAC 16-350-045 Application and fees. (1) The applicant must provide the department with all information documenting the eligibility of all registered and certified stock and must allow the department to take samples for indexing or testing purposes.

(2) An application 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))~~ \$10.00 for each registered ~~((seed))~~ Prunus tree and \$2.00 for each registered pome tree.

(3) The application fee will apply toward the ~~((one percent))~~ annual assessment on the gross ~~((sale))~~ wholesale price of ~~((the wholesale market value for))~~ all fruit trees ~~((7))~~ and fruit tree related ornamental ~~((s, and fruit tree rootstock))~~ nursery stock produced in Washington and 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))~~ 15.13.310. No refund of the application fee will be allowed.