



RULE-MAKING ORDER

R-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Dept. of Agriculture

- Permanent Rule
- Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: This rulemaking order amends chapter 16-481 WAC by:

- Adding the vine mealybug to the current grape phylloxera quarantine;
- Re-titling the chapter so the title more accurately describes the chapter's contents;
- Repealing the violations—penalties section (since penalties are addressed in the enabling statute); and
- Clarifying existing language so that it is easier to read and understand.

Citation of existing rules affected by this order:

Repealed: WAC 16-481-075
 Amended: WAC 16-481-010, -015, -020, -025, -030, -050, -060, and -070
 Suspended:

Statutory authority for adoption: Chapters 15.13, 17.24 and 34.05 RCW

Other authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-13-147 on June 23, 2004.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- 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.
- 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:

Date adopted:

August 10, 2004

NAME (TYPE OR PRINT)

Valoria H. Loveland

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

CLERK OF SUPERIOR COURT
STATE OF WASHINGTON
FBI

AUG 10 2004

TIME 4:49

WSR 04-17-03

AM
P10

(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>8</u>	Repealed	<u>1</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</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>8</u>	Repealed	<u>1</u>

Chapter 16-481 WAC

GRAPE ((PHYLLOXERA)) INSECT PESTS

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-010 Establishing quarantine. Grape phylloxera (~~((*Daktulosphaira vitifoliae* (Fitch)) is an)) and the vine mealybug are insect pests injurious to ((grape plants that)) grapevines. Grape phylloxera can cause severe reductions in grape yield and ultimately the death of the ((grape plant)) grapevine. This pest is widely distributed throughout the United States and the world. ((Introductions of the pest into the state of Washington through infested grape plants, rootstock, and plant cuttings or on contaminated grape cultivation or harvesting equipment could have a severe economic impact on the Washington grape industry. To prevent this)) The vine mealybug injures grapevines by damaging grape bunches and transmitting grape viruses. Introductions of these pests into the state of Washington through infested grapevines, rootstock, and plant cuttings or on contaminated grape cultivation or harvesting equipment could have a severe economic impact on the Washington grape industry. The director, under the authority provided in chapters 17.24 and 15.13 RCW, has established a quarantine to prevent ((the)) their introduction ((of this pest)) into the state.~~

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-015 Definitions. (~~((1) "Pest" means the insect of the order Homoptera and family Phylloxeridae, grape phylloxera (*Daktulosphaira vitifoliae* (Fitch)).~~

~~((2) "Infested area" means all states and territories of the United States and all areas outside the United States.~~

~~((3) "Area known to be free of grape phylloxera" means a specific property of a person or firm or a specific nursery stock growing ground surveyed by the department of agriculture of the shipping state.~~

~~(4))~~ "Department" means the Washington state department of agriculture.

~~((5))~~ "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

~~((6))~~ "Grape phylloxera" means the insect Daktulosphaira vitifoliae (Fitch) of the order Homoptera and family Phylloxeridae.

"Hardwood cutting" means a cutting from a ~~((grape plant))~~ grapevine taken during the period of dormancy and not including portions of the trunk of the plant produced during previous growing seasons.

~~((7))~~ "Infested area" means all states and territories of the United States and all areas outside the United States.

"Softwood cutting" means any cutting taken when the grape plant is not fully dormant.

~~((8))~~ "~~Susceptible varieties~~" means ~~grape plants that may serve as host to grape phylloxera and which show symptoms of decline when infested.~~

~~(9)~~ "~~Nonsusceptible varieties~~" means ~~grape plants that may serve as host to grape phylloxera but which do not show symptoms of decline when infested. Nonsusceptible varieties include concord varieties and vinifera varieties on resistant rootstock.)~~ "Vine mealybug" means the insect Planococcus ficus (Signoret) of the order Homoptera and family Pseudococcidae.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-020 Quarantine area. There is established under this chapter, an external quarantine area for grape phylloxera and vine mealybug including all states and territories of the United States and all territories outside the United States.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-025 Regulated products. Products regulated under the grape ~~((phylloxera))~~ insect pests quarantine include:

- (1) All ~~((grape plants))~~ grapevines, rootstock, and softwood cuttings, rooted or not. Hardwood cuttings meeting the definition in WAC 16-481-016~~((6))~~ and dried ~~((grape vines))~~ grapevines used for ornamental purposes are exempt from the requirements in this chapter.
- (2) All equipment that has been used for cultivation or

harvesting of grapes in a quarantine area.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-030 Conditions governing shipments--External. (1)

Each shipment of (~~grape plants~~) grapevines, grape rootstock and/or softwood cuttings from an infested area must be accompanied by a certificate (~~signed by a duly authorized inspector of the department of agriculture of the state of origin of the shipment, or by a duly authorized inspector of the United States Department of Agriculture, Animal and Plant Health Inspection Service,~~) issued by the plant protection organization in the state or country of origin stating that:

(a) The (~~grape plants~~) grapevines, rootstock and/or softwood cuttings were grown in and shipped from an area known to be free from grape phylloxera and vine mealybug; or

(b) The (~~grape plants~~) grapevines, rootstock or softwood cuttings were grown under an approved sterile media system; or

(c) For small shipments (five hundred articles or less), softwood cuttings were carefully inspected by an authorized inspector and were found to be free from grape phylloxera and vine mealybug; or

(d) The (~~grape plants~~) grapevines, rootstock, and/or softwood cuttings were subject to one of the two treatments outlined in subsection (2) of this section or such additional methods as may be determined to be effective and are approved in writing by the director and were stored in a manner after treatment that would prevent reinfestation.

(2) Acceptable treatments shall include:

(a) Hot water treatment. Dormant, rooted (~~grape plants~~) grapevines or rootstock shall be washed to remove all soil or other propagative media. Dormant rooted plants or rootstock shall be immersed in a hot water bath for a period of not less than three minutes nor more than five minutes at a temperature of not less than 125 degrees F. (52 degrees C.) nor more than 130 degrees F. (55 degrees C.) at any time during immersion; or

(b) Methyl bromide fumigation. (~~Grape plants~~) Grapevines, rootstock or softwood cuttings may be treated by methyl bromide fumigation. Fumigation shall be in an approved gastight fumigation chamber, equipped with a heating unit, fan for dispersal of gas and clearing the chamber of gas after fumigation, and interior thermometer readable from the outside. Fumigation shall be with a dosage of two pounds (0.908 kg.) of methyl bromide per one thousand cubic feet (twenty-eight cubic meters) for a period of three hours at a temperature of between 65 degrees F. (18.3 degrees C.) and 70 degrees F. (21.1 degrees C.). The fan shall be operated for a period of ten minutes after the injection of the gas.

(3) All shipments of ((~~grape plants~~)) grapevines, rootstock and/or softwood cuttings from an infested area shall be plainly marked with the contents on the outside of the package or container as "((~~grape plants~~)) grapevines," "grape rootstock," or "grape cuttings."

(4) Notification requirements of WAC 16-481-060 are met.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-050 Equipment cleaning requirements. (1) All equipment used for cultivation or harvesting of grapes in grape ((~~phylloxera~~)) insect pests quarantine areas outside the state or infested properties within the state must be thoroughly washed or steam cleaned to remove all soil and plant material prior to entry into the state of Washington. Such equipment shall be subject to inspection by authorized inspectors of the department of agriculture.

(2) Any equipment found to be in violation of the ((~~sanitation~~)) cleaning requirement shall be subject to detention by the department until such equipment is thoroughly cleaned at the expense of the owner or shipper or provision made to transport the equipment directly out of the state.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

WAC 16-481-060 Notification requirements. The plant ((~~services~~)) protection division of the department of agriculture shall be notified by United States mail or ((~~telefax~~)) telefacsimile to: Plant Protection Division, Washington State Department of Agriculture, 1111 Washington St. S.E., P.O. Box 42560, Olympia, WA 98504-2560; fax 360-902-2094, prior to the shipment of ((~~grape plants~~)) grapevines and/or cuttings under the grape ((~~phylloxera~~)) insect pests quarantine into this state from an infested area. Such notice shall include, but not be limited to, the approximate number of the ((~~grape plants~~)) grapevines, rootstock and/or softwood cuttings; the shipper; the consignee; the method of treatment used, if applicable; and the approximate date of delivery.

WAC 16-481-070 Disposition of products shipped in violation of this quarantine--Violations. Any shipment of (~~grape plants~~) grapevines, rootstock, and/or softwood shipped into or entering the state of Washington from an infested area and not accompanied by the required certificate and/or not complying with the (~~notice~~) notification requirement in WAC 16-481-060 shall be returned to the point of origin, or destroyed at the option and expense of the owner or owners, or their responsible agent or agents.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-481-075

Violations--Penalties.