



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Agriculture

- Permanent Rule
- Emergency Rule

(1) Date of adoption: 10/5/93^{AM}

(2) Purpose: To establish an interal quarantine against the pest known as the pea cyst nematode. The rule specifically restricts movement of machinery, products and soil from infested fields unless they are washed or treated to prevent pest movement.

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

- Repealed:
- Amended: WAC 16-470-92005 through 16-470-92040
- Suspended:

(4) Authority for adoption:
Statute: Chapter 17.24 RCW
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (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: The pea cyst nematode is a serious pest that threatens the pea and lentil crops in this state. The market for export crops that are grown in rotation with peas will be limited if the state fails to act. The state is likely to be quarantined by the federal government if we fail to enact this rule.

(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 | Emergency Rules |
| <input type="checkbox"/> 31 days after filing | <input checked="" type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____ * | <input type="checkbox"/> Later (specify) _____ |

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

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 05 1993

TIME: 3:49
WSR 93-20-100^{PM}

NAME (TYPE OR PRINT)
John King

SIGNATURE
John King
TITLE
Acting Director

DATE
10-5-93

NEW SECTION

WAC 16-470-92005 Quarantine--Pea cyst nematode--

Establishing. An interior quarantine is established under chapter 17.24 RCW against the pest known as pea cyst nematode, *Heterodera goettingiana* Liebscher. The pea cyst nematode is a serious nematode pest which threatens the production of peas, vetch, lentils, and other vegetable crops as well as reduces the market for other major crops such as potatoes, flower bulbs and ornamental crops grown in rotation. The pea cyst nematode, not known to occur elsewhere in the United States, has been detected in Washington. The director has determined that the spread of this infestation would entail great economic loss to the horticultural and other agricultural interests of this state and has established this quarantine setting forth rules for the movement of regulated articles from the infested areas.

NEW SECTION

WAC 16-470-92010 Pea cyst nematode quarantine --

Definitions. The definitions set forth in this section shall apply to WAC 16-470-9005 through WAC 16-470-92040, unless the context otherwise requires. (1) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of WAC 16-470-92005 through WAC 16-470-92040. The term "certificate" includes labels, rubber stamp imprints, tags, permits, written statements, or a form of inspection and certification document that accompanies the movement of inspected and certified plant material and plant products.

(2) "Compliance agreement" means a written agreement between the department and a person engaged in growing, handling or moving articles, plants or plant products regulated under WAC 16-470-92020, in which the person agrees to comply with stipulated requirements.

(3) "Farm tool" means an instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

(4) "Pea cyst nematode" means the nematode known as the pea cyst nematode (*Heterodera goettingiana*), in any stage of development.

(5) "Infestation" means the presence of the pea cyst nematode or the existence of circumstances that make it reasonable to believe that the pea cyst nematode is present.

(6) "Mechanized cultivating equipment; and mechanized harvesting equipment" means mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., combines, conveyors, and harvesters and hay balers.

(7) "Mechanized soil-moving equipment" means equipment used for moving or transporting soil, e.g., draglines, bulldozers, dump trucks, road scrapers, etc.

NEW SECTION

WAC 16-470-92015 Pea cyst nematode quarantine -- Regulated area. Area regulated under the pea cyst nematode quarantine includes real or personal properties within the counties of Skagit, Lewis and other counties within the state where pea cyst nematode is confirmed by the department, and where the following conditions apply:

(1) The department has identified pea cyst nematode or the real or personal property has been identified as a recipient of infected plants or contaminated soil, plant parts, equipment or tools; and

(2) The occupants and owners of those properties have been notified in writing by the department of the pea cyst nematode infestation or the receipt of infected plants, and the conditions and requirements of this quarantine as provided in WAC 16-470-92005 through WAC 16-470-92040.

Regulated areas are subject to the restrictions provided in WAC 16-470-92005 through WAC 16-470-92040.

NEW SECTION

WAC 16-470-92020. Pea cyst nematode quarantine -- Regulated articles. Articles regulated under the pea cyst nematode quarantine include all parts or portions of the pea cyst nematode. In addition the following are regulated articles and are hereby declared to be hosts or possible carriers of the pea cyst nematode and shall not be moved from the regulated areas prescribed in WAC 16-470-92015 either directly, indirectly, diverted or reconsigned, except as provided for in WAC 16-470-92025 and WAC 16-470-92030:

(1) All plant or plant parts of any pea, vetch, broad bean, lentil species including but not limited to the following:

COMMON NAME	SCIENTIFIC NAME
Garden Peas	<i>Pisum sativum</i>
Field/Broad Bean	<i>Vicia faba</i>
Vetch/winter Vetch	<i>V. sativa</i>
Hairy vetchling	<i>Lathyrus hirsuta</i>
Black pea	<i>L. niger</i>
Grass vetchling	<i>L. nissolia</i>
N/A	<i>L. ochrus</i>
Lentil	<i>Lens esculenta</i>

(2) Soil, compost, humus, muck, peat, and decomposed manure, separately or with other things;

(3) Plants with roots, except soil-free aquatic plants or bare rooted stock when completely free from soil;

(4) Grass sod.

(5) Plant crowns and roots for propagation.

(6) True bulbs, corms, rhizomes, and tubers of ornamental plants.

(7) Potatoes for seed or table stock;

(8) All other root crops.

(9) All fodder, and plant litter, of any kind.

(10) Used crates, boxes, and burlap bags, and other containers used for farm product.

(11) Used farm tools.

(12) Used mechanized cultivating equipment and used harvesting equipment.

(13) Used mechanized soil-moving equipment.

(14) Any other products, articles, or means of conveyance of any character whatsoever when it is determined by the director that they present a hazard of spread of pea cyst nematode, and the person in possession has been so notified in writing.

NEW SECTION

WAC 16-470-92025 Pea cyst nematode quarantine -- Conditions governing the movement of used tools and equipment. Used tools and equipment identified as regulated articles in WAC 16-470-92020(10), (11), (12) and (13) are prohibited movement from the regulated areas prescribed in WAC 16-470-92015 unless such articles that may have come in contact with infected plants or contaminated soil are:

- (1) disinfected by washing with steam, high pressure hot water or other means approved by the director; and
- (2) protected from further contact with infected plants or contaminated soil.

NEW SECTION

WAC 16-470-92030 Pea cyst nematode quarantine -- Conditions governing the movement of plants, plant parts and soil. (1) The movement of any plant, plant parts or soil listed in WAC 16-470-92020 from the regulated areas listed in WAC 16-470-92015 is prohibited except under the following conditions:

- (a) The regulated articles have been treated in a manner prescribed by the director to destroy any infestation; or
- (b) Have been grown, produced, manufactured, stored, or handled in such a manner under a compliance agreement that no infestation would be transmitted.

(2) Regulated articles, moving out of the regulated area must be accompanied by an official certificate attesting compliance to the requirements in subsection (1) above.

NEW SECTION

WAC 16-470-92035 Pea cyst nematode quarantine -- Compliance agreements and special permits. The director may enter into compliance agreements with persons, or issue special permits allowing movement of regulated articles under quarantine as specified in WAC 16-470-92020 not otherwise eligible for movement from the regulated area, subject to conditions that the director may prescribe to prevent introduction, escape or spread of the pea cyst nematode. Compliance agreements and special permits may be suspended or revoked for cause.

NEW SECTION

WAC 16-470-92040 Pea cyst nematode quarantine -- Disposition of regulated articles moved in violation -- Penalties. (1) All plants and plant parts listed in WAC 16-470-92020, moved from the regulated area established in WAC 16-470-92015 in violation of the requirements of WAC 16-470-92005 through WAC 16-470-92040 may be impounded by the department and treated, destroyed by incineration or burial in a landfill, or returned to the regulated area if such return does not present an undue hazard of spreading the infestation.