



RULE-MAKING ORDER

CR-103 (7/10/97)

(RCW 34.05.360)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: August 17, 1998

(2) Purpose: To define freedom from infestation by plant pests and updating existing rules implementing RCW 15.13.

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

Repealed:
Amended:
Suspended:

(4) Statutory authority for adoption: Chapter 15.13 RCW

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 98-13-129 on 6/17/98 (date).

Describe any changes other than editing from proposed to adopted version:

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
or Expedited Repeal

- 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)
James M. Jesernig

Signature

Title
Director

Date
August 17, 1998

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 17 1998

TIME 3:44 AM

WSR 98-17-069 PM

**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Federal statute:	New	-----	Amended	-----	Repealed	-----
Federal rules or standards:	New	-----	Amended	-----	Repealed	-----
Recently enacted state statutes:	New	-----	Amended	-----	Repealed	-----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	-----	Repealed	-----
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>4</u>	Amended	-----	Repealed	-----
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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	<u>4</u>	Amended	-----	Repealed	-----

Chapter 16-402 WAC

FREEDOM FROM INFESTATION BY PLANT PESTS

NEW SECTION

WAC 16-402-005 Freedom from infestation—general. Issuance of any document stating that horticultural plants are apparently free from plant pests means only that the plants were inspected and found to meet the standards for freedom from infestation by plant pests described in this chapter. The department disclaims all expressed or implied warranties, including without limitations implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant material under this chapter. The department is not responsible for disease, genetic disorders, failure of performance or otherwise in connection with this chapter. No grower, nursery dealer, government official or other person is authorized to give any expressed or implied warranties on behalf of the department regarding this chapter.

NEW SECTION

WAC 16-402-010 Definitions. The definitions in this section shall apply throughout this chapter.

- (1) "Department" means the Washington State Department of Agriculture.
- (2) "Director" means the director of the Washington State Department of Agriculture or the director's duly authorized representative.
- (3) "Established" means a reproducing population of a pest that is expected to have a permanent presence.

(4) "Harmful" means injurious or potentially injurious to horticultural plants.

(5) "Quarantine pest" means any pest listed in current Washington State quarantines as promulgated in chapter 17.24 RCW.

(6) "Practically free" means horticultural plants which do not exceed:

(a) a 2% infestation level; or

(b) an infestation in an amount expected to result from and be consistent with good culturing and handling practices employed in the production and marketing of the horticultural plants.

NEW SECTION

WAC 16-402-015 Standards for freedom from infestation by plant pests.

Horticultural plants sold, held for sale, shipped or transported into the state must be:

(1) free of quarantine pests;

(2) free of pests that would be harmful if allowed to become established within the state or county; and

(3) practically free of plant pests.

Determination of this standard shall be based on visual inspection by the department.

NEW SECTION

WAC 16-402-020 Compliance with standards required. (1) Horticultural plants

sold, held for sale, shipped or transported in the state must comply with the standards described in this chapter.

(2) The director may deny, suspend or revoke the license of any person selling, holding for sale, shipping or transporting horticultural plants in violation of this chapter, pursuant to RCW 15.13.350. The director may also issue civil penalties in accordance with RCW 15.13.490 for violations of this chapter.

(3) Any horticultural plant sold, held for sale, shipped or transported in violation of this chapter shall be subject to a hold order, issued pursuant to RCW 15.13.430, or an order of condemnation, issued pursuant to RCW 15.13.440. Upon issuance of a hold order or an order of condemnation, the seller or holder of the plant material is entitled to request a hearing under chapter 34.05 RCW.

(4) The department shall issue a Nursery Inspection Record or other official document(s) certifying compliance to this chapter.