

**Chapter 16-402 WAC**  
**PLANT PEST INFESTATIONS AND PLANT LABELING**

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**WAC**

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REPORTING AND HOLDING OF TREE AND SHRUB NURSERY STOCK

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**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.

[Statutory Authority: Chapter 15.13 RCW. WSR 98-17-069, § 16-402-005, filed 8/17/98, effective 9/17/98.]

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

"Collected horticultural plant" means a noncultivated native plant, collected in its native habitat and sold for horticultural purposes.

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or the director's duly authorized representative.

"Established" means a reproducing population of a pest that is expected to have a permanent presence.

"Harmful" means injurious or potentially injurious to horticultural plants.

"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.

"Quarantine pest" means any pest listed in current Washington state quarantines as promulgated in chapter 17.24 RCW.

"Tag" means to identify a horticultural plant or a group of horticultural plants by a bill of lading, invoice, label or other package marking.

"Unit of sale" means a group of the same plant variety or of mixed varieties placed together at a specific site for retail sale.

[Statutory Authority: Chapters 15.13 and 34.05 RCW. WSR 04-09-084, § 16-402-010, filed 4/20/04, effective 5/21/04. Statutory Authority: Chapter 15.13 RCW. WSR 98-17-069, § 16-402-010, filed 8/17/98, effective 9/17/98.]

**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.

[Statutory Authority: Chapter 15.13 RCW. WSR 98-17-069, § 16-402-015, filed 8/17/98, effective 9/17/98.]

**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 WAC 16-402-015.

(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 standard, pursuant to RCW 15.13.490. The director may also issue civil penalties in accordance with RCW 15.13.490 for violations of this standard.

(3) Any horticultural plant sold, held for sale, shipped or transported in violation of WAC 16-402-015 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 WAC 16-402-015.

[Statutory Authority: Chapters 15.13 and 34.05 RCW. WSR 04-09-084, § 16-402-020, filed 4/20/04, effective 5/21/04. Statutory Authority: Chapter 15.13 RCW. WSR 98-17-069, § 16-402-020, filed 8/17/98, effective 9/17/98.]

**WAC 16-402-030 Standards for plant labeling.** (1) Nursery dealers transporting horticultural plants into the state must legibly tag or identify each species or variety of plant in the shipment in a conspicuous manner with the botanical name and/or the common name.

(2) Nursery dealers displaying horticultural plants for retail sale must tag or identify each variety or species of each unit of sale in a conspicuous manner with the botanical name, and/or the common name, or provide this information to any person upon request. This requirement does not apply to containers or baskets with mixed species of perennials, annuals or biennials.

(3) Nursery dealers must tag or identify collected horticultural plants with the botanical name, the common name and designate the plants as collected.

(4) To determine compliance with state and federal quarantines, the botanical name of each horticultural plant transported or sold in the state must be made available to the director upon request.

[Statutory Authority: Chapters 15.13 and 34.05 RCW. WSR 04-09-084, § 16-402-030, filed 4/20/04, effective 5/21/04.]

**WAC 16-402-040 Horticultural plants not in compliance.** Pursuant to RCW 15.13.410, the director may order any horticultural plant, not properly tagged or identified, off sale or returned to the consignor for proper tagging. Upon issuance of an order requiring horticultural plants to be removed from sale or returned to the consignor, the seller or holder of the plant material is entitled to request a hearing under chapter 34.05 RCW.

[Statutory Authority: Chapters 15.13 and 34.05 RCW. WSR 04-09-084, § 16-402-040, filed 4/20/04, effective 5/21/04.]

#### **REPORTING AND HOLDING OF TREE AND SHRUB NURSERY STOCK**

**WAC 16-402-100 Purpose.** The intrusion of nonnative, invasive plant pest species into Washington state is a significant public concern. Plant pest species include insects, nematodes, snails, plant diseases, weeds and other species which harm plants or plant products. If established, such plant pests have potential to cause harm to the state's forest, agricultural, horticultural, floricultural and apiary industries, to damage natural resources and the property of private landowners, to reduce environmental quality, and to threaten the diversity and abundance of native species. In recent years, many of these invasive plant pests have entered the state, in some cases causing significant private and public expense for monitoring, control or eradication. This rule is intended to aid in the exclusion, tracking, identification, control and/or eradication of invasive plant pests which may enter the state on or in association with horticultural plants, in order to protect public health, safety, welfare, and the environment.

[Statutory Authority: Chapters 15.13, 17.24, and 34.05 RCW. WSR 04-14-090, § 16-402-100, filed 7/6/04, effective 8/6/04.]

**WAC 16-402-110 Definitions.** The following definitions apply to WAC 16-402-100 through 16-402-130:

(1) "Tree and shrub nursery stock" means woody forest and ornamental trees, shrubs and vines grown or kept for propagation, distribution or sale, including bareroot, balled and burlaped, and containerized plants, liners, budwood, seedlings and cuttings. Fruit, seeds and tissue culture plantlets are not considered tree and shrub nursery stock.

(2) "Business day" means Monday through Friday, excluding state holidays.

(3) "Receiving nursery" means any nursery dealer within Washington state, including landscape firms and greenhouses required to be licensed as nursery dealers, that acquires tree and shrub nursery stock via interstate or international shipment.

[Statutory Authority: Chapters 15.13, 17.24, and 34.05 RCW. WSR 04-14-090, § 16-402-110, filed 7/6/04, effective 8/6/04.]

**WAC 16-402-120 Notification requirement.** (1) Receiving nurseries for tree and shrub nursery stock imported into Washington state from any out-of-state source are required to notify the Washington state department of agriculture (WSDA). Notification methods may include U.S. mail, telefacsimile, delivery service or email to: Nursery Inspection Program Supervisor, 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; email: nursery@agr.wa.gov.

(2) Notification must include the species of plant(s), quantities of each species, source of each shipment and the receiving nursery's contact information including telephone numbers and email address (if available). Copies of regular shipping documents, such as load lists, with this information are encouraged.

(3) Notification must arrive at WSDA no later than two business days after arrival of the shipment at the receiving nursery. Notification in advance of the shipment is encouraged.

(4) WSDA may approve alternative notification systems, if the alternative systems allow the provisions of WAC 16-401-130 to be carried out.

[Statutory Authority: Chapters 15.13, 17.24, and 34.05 RCW. WSR 04-14-090, § 16-402-120, filed 7/6/04, effective 8/6/04.]

**WAC 16-402-130 Hold requirement.** (1) Tree and shrub nursery stock shipments from outside the state must be held separate from other nursery stock for a minimum of one full business day after notification is received by WSDA.

(2) WSDA will contact the nursery before or during the hold period specified in subsection (1) of this section, if the tree and shrub nursery stock must be held for inspection. WSDA will conduct the inspection as soon as practicable.

(3) Unless the receiving nursery has been instructed by WSDA to hold the shipment under subsection (2) of this section, the receiving nursery may distribute the stock before the expiration of the hold period specified in subsection (1) of this section, if the disposition of the stock is fully traceable. Retail sale to cash customers is not permitted during the hold period.

[Statutory Authority: Chapters 15.13, 17.24, and 34.05 RCW. WSR 04-14-090, § 16-402-130, filed 7/6/04, effective 8/6/04.]