



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Department of Agriculture

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

(1) Date of adoption: September 12, 2000

(2) Purpose: To revise existing rules relative to certification of caneberry planting stock. This revision converts the rules to clear and readable format, brings them into compliance with new international standards for caneberries, and updates the program and terminology to bring them into compliance with current industry and program practices.

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

- Repealed: WAC 16-333-030, 16-333-050, 16-333-060, 16-333-065, 16-333-070, 16-333-080
- Amended: WAC 16-333-010, 16-333-020, 16-333-040, 16-333-090
- Suspended:

(4) Statutory authority for adoption: Chapter 15.14 RCW

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-14-077 on July 5, 2000 (date).

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:

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

Emergency Rules

- 31 days after filing
- Other (specify) _____*
- 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)

Jim Jesernig

Signature

Title
Director

Date
September 12, 2000

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

SEP 12 2000

9:13

TIME

WSH

00-14-035



**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	<u>7</u>	Amended	<u>6</u>	Repealed	<u>4</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>7</u>	Amended	<u>6</u>	Repealed	<u>4</u>
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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>7</u>	Amended	<u>6</u>	Repealed	<u>4</u>

Chapter 16-333 WAC

~~((RULES AND STANDARDS FOR))~~ CERTIFICATION OF ~~((PLANTS))~~ CANEBERRY
PLANTING STOCK

AMENDATORY SECTION (Amending Order 1876, filed 11/5/85)

WAC 16-333-010 Definitions. (1) "Caneberry" means any cultivated Rubus species.

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

~~((2))~~ (3) "Director" means the director of the department of agriculture or ((his)) a duly appointed representative.

~~((3) "Virus infected (affected)" means presence of a virus(es) or yellows disease agent in a plant or plant part. The word "virus" shall be used hereafter to include yellows disease in this chapter.~~

~~(4) "Virus-like" means a disorder of genetic or nontransmissible origin.~~

~~(5) "Off-type" means not true-to-name.~~

~~(6) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.~~

~~(7))~~ (4) "Index ~~((or indexing))~~" means to ~~((determine))~~ test for virus infection by means of inoculation from the plant to be tested to an indicator plant ~~((7))~~ or by any other method approved by the department.

(5) "Indicator plant" means any herbaceous or woody plant used to index or test for virus infection.

(6) "Nuclear stock" means caneberry plants that have been indexed and found free of known viruses and virus-like diseases by United States Department of Agriculture personnel or other personnel acceptable to the department. Nuclear plants must be reindexed for virus and virus-like diseases at least every three years and maintained under conditions that would ensure freedom from infection.

(7) "Off-type" means appearing by visual examination to be different from the species or variety listed on the application or exhibiting symptoms of a genetic or nontransmissible disorder.

(8) "Root cuttings" means sections of roots which have one or more bud.

(9) "Succulent plants" means small, actively growing plants that are developing from root buds, not having passed through a dormant period.

(10) (~~"One-year old plants" means well rooted plants that have developed during one growing season.~~

~~(11) "Caneberry" means any cultivated Rubus species.))~~
"Tolerance" means the maximum acceptable percentage of planting stock that is diseased, infected by plant pests, defective, or off-type based on visual inspection or laboratory testing by the director or other authorized person.

(11) "Virus-like" means a graft-transmissible disorder resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending Order 1932, filed 6/9/87)

WAC 16-333-020 Certifying agency issuance of certificate.

(1) (~~The~~) Issuance of a ((certified)) state of Washington certified plant tag ((or)), stamp or other document under this chapter ((affirms solely)) means only that the tagged ((or)), stamped or otherwise documented caneberry planting stock has been subjected to ((certification standards and procedures by the department)) procedures and requirements described in this chapter and determined to be in compliance with its standards and requirements. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(3) Participation in the caneberry planting stock certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 3005, filed 7/21/92, effective 8/21/92)

WAC 16-333-040 Caneberry certification fees. (1) Caneberry certification application fee. The applicant (~~shall~~) must furnish all information requested on the application ((for inspection and shall)) form furnished by the department, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The

applicant must allow the department to take plants or plant parts from any planting for inspection and testing purposes. A separate application (~~((shall be made))~~) is required for each cultivar and/or (~~((unit))~~) lot entered for certification. (~~((Each lot of each cultivar shall be listed separately on the application. Lots under observation by the department shall pay the inspection fees.))~~) Applications (~~((for inspection shall))~~) must be filed with the (~~((seed branch, 2015 South First Street, Yakima, Washington 98903))~~) Plant Services Program, P.O. Box 42560, Olympia, Washington 98504-2560 by May 15 each year and be accompanied by a one hundred twenty-five dollar fee.

(2) Inspection fees. The inspection fee (~~((shall be))~~) is twenty-five dollars per hour (~~((and))~~) plus mileage (~~((shall be))~~) charged at a rate established by the state office of financial management. Inspection (~~((fees shall be))~~) and testing are payable upon completion of work (~~((done and shall be for the sole purpose of defraying expenses incurred in the inspection and certification of caneberry nursery stock))~~). Billing (~~((to the applicant shall be made by the seed branch.~~

~~((3) Applications for certification shall reach the department's seed branch, 2015 South First Street, Yakima, WA 98903, by May 15 each year.~~

~~((4) A grower desiring to produce certified caneberry plants as herein provided shall establish with the department facts evidencing sufficient experience to produce healthy, high quality stock.~~

~~((5) Failure to pay fees when due shall result in removing the applicant from the certification program.~~

~~((6) No application from any grower owing the department for previous fees shall be considered)) may be arranged subject to department policies and processes.~~

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

NEW SECTION

WAC 16-333-045 Production requirements for foundation caneberry planting stock. (1) Foundation caneberry plants must originate directly from nuclear stock and may be grown in a greenhouse, screenhouse or field.

(2) Growers may use micro-propagation techniques to multiply foundation plants prior to planting them in a foundation greenhouse, screenhouse or field, if both of the following conditions are met:

(a) The micro-propagated plants are isolated at all times from all other caneberry plants, except those that have been indexed and

found free of virus or virus-like infections; and

(b) The micro-propagation facility is approved by the department.

(3) Growers may transplant micro-propagated foundation plants to a greenhouse or screenhouse for conditioning prior to planting them in a foundation field.

(4) Foundation plants may be harvested from a foundation field planting for no more than one year.

(5) Foundation plants grown in an insect-proof facility on pasteurized soilless media may be maintained indefinitely, providing they are indexed and found free of virus or virus-like infections at intervals of no more than three years by personnel employed by the United States Department of Agriculture or other institution approved by the department.

(6) Each foundation plant in a foundation greenhouse or screenhouse must be grown in a container individually identified by the cultivar and lot.

(7) Different cultivars planted in a foundation field must be separated by a distance of fourteen feet or by a physical barrier that prevents the intermingling of roots.

(8) Upon request, growers must provide records to the department documenting the cultivar, nuclear source, indexing results and date of acquisition for any foundation stock.

NEW SECTION

WAC 16-333-051 Production requirements for registered caneberry planting stock. (1) Registered caneberry plants must originate directly from nuclear or foundation stocks and may be grown in a greenhouse, screenhouse or field.

(2) Registered plants of differing cultivars produced in a registered greenhouse or screenhouse must be grown in separate containers.

(3) Different cultivars planted in a registered field must be separated by a distance of fourteen feet or by a physical barrier that prevents the intermingling of roots.

(4) Registered plants may be harvested from a registered planting for no more than one year.

(5) Upon request, growers must provide records to the department documenting the cultivar, source, indexing results and date of acquisition for any registered stock.

NEW SECTION

WAC 16-333-056 Production requirements for certified caneberry planting stock. (1) Certified caneberry plants must originate directly from foundation or registered planting stock, or from root cuttings or succulent plants from foundation or registered plants.

(2) Different cultivars planted in a certified field must be separated by a distance of fourteen feet or by a physical barrier that prevents the intermingling of roots.

(3) Certified plants may be harvested from a certified planting for no more than one year.

(4) Upon request, growers of certified planting stock must provide records to the department documenting the cultivar, source, indexing results and date of acquisition for any certified stock.

NEW SECTION

WAC 16-333-061 Site requirements for foundation, registered and certified caneberry planting stock. (1) Prior to planting foundation, registered, or certified planting stock, the grower must obtain approval from the department for each field site or facility.

(2) For approval by the department, a field site for growing foundation, registered, or certified planting stock must comply with each of the following criteria:

(a) The site has not been planted to caneberry plants or solanaceous crops for the previous five years, or the entire site has been tarp fumigated with chloropicrin and methyl bromide or other equivalent soil treatments approved by the department.

(b) The entire site is at least five hundred feet from any noncertified *Rubus* plants.

(c) The site has been treated for plant parasitic nematodes using methods recommended by the Washington State University Cooperative Agricultural Extension Service, and its soil has been tested and found free of harmful plant parasitic nematodes.

(3) In order to grow foundation or registered caneberry planting stock in a greenhouse or screenhouse, the grower must use a pasteurized growing media, free of plant pests and vectors of virus pests.

(4) Upon request, growers must provide records to the department documenting fumigations, treatments, and tests.

(5) A map identifying cultivars and lots at each site must be provided to the department by the grower.

(6) Growers must tag all lots identifying the cultivar and/or the lot number.

NEW SECTION

WAC 16-333-066 Caneberry greenhouse and screenhouse inspection. (1) Foundation or registered caneberry plants growing in a greenhouse or screenhouse must be inspected by the department at least one time during the growing period when the plants are likely to express symptoms of virus infection, crown and cane gall infections, and other disorders. The department may conduct additional inspections.

(2) During inspection, the department will flag all plants that are visibly off-type, crown gall infected, virus infected, or exhibiting virus-like symptoms.

(3) Growers must remove all plants flagged by the department immediately after inspection.

(4) The unit of certification is the lot.

NEW SECTION

WAC 16-333-071 Caneberry field inspection. (1) Field grown foundation, registered, or certified caneberry planting stock must be inspected by the department at least three times during the growing period.

(a) The first and second inspections must be conducted when the plants are likely to express symptoms of virus infection, crown and cane gall infections, and other disorders.

(b) The department will conduct the third inspection during or after harvest.

(c) The department may conduct additional inspections.

(2) During inspections, the department will flag all plants that are visibly off-type, crown gall infected, virus infected, or exhibiting symptoms of other caneberry pests or diseases.

(3) Growers must rogue in compliance with the criteria in this subsection all plants flagged by the department within one week after inspection.

(a) Roguing after the first field inspection must include removing the undesirable plant and all of its roots.

(b) Roguing after the second field inspection must include removing the undesirable plant and all of its roots, as well as all plants and plant parts within ten feet of the undesirable plant.

(4) Any portion of a field not meeting the standards, tolerances and criteria established in this chapter may be marked and removed from consideration for certification if, in the judgment of the department, it does not jeopardize the certification eligibility of the remaining portion of the field.

(5) The unit of certification is the lot.

NEW SECTION

WAC 16-333-085 Tolerances for foundation, registered and certified caneberry planting stock. (1) Each lot of foundation, registered or certified planting stock may have no more than the percentage of affected plants listed in the table below:

Factors	Foundation	Registered	Certified
	All inspections	All inspections	All inspections
	Percent	Percent	Percent
Varietal mixture	0	0	0
Visible symptoms of virus diseases	0	0.05	0.5
Crown and cane gall	0	0.1	1.0
Nematode	0	0.05	0.1
Anthraxnose	0	2.0	5.0
Other diseases	0	0.2	0.5
Root, cane or crown inhabiting insects	0	0.05	0.1

(2) Caneberry planting stock that fails to meet any tolerance for its intended class may be reclassified to the next class for which it meets all of the tolerances.

AMENDATORY SECTION (Amending Order 1876, filed 11/5/85)

WAC 16-333-090 Caneberry (~~tagging or stamping and plant inspection~~) planting stock identification and grading. (1) (~~"Certified"~~) All caneberry planting stock ((shall)) meeting the requirements and standards of this chapter may be identified with the state of Washington official certified caneberry plant tag or stamp ((under the supervision of)) issued by the department ((after plants have passed inspection)).

(2) (~~Only plants meeting Washington standards for caneberry plants shall be tagged or stamped, except those marked foundation or registered.~~

(~~3~~) All containers ((shall)) must be marked with the name and address of the grower, ((grade or)) class of certified stock, ((and)) variety, and lot number.

(~~4~~) The grower is referred to chapter 15.14 RCW, planting stock, for additional information. (3) Quality and grading of planting stock is the responsibility of the grower.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-333-030	Caneberry certification standards.
WAC 16-333-050	Requirements for production of caneberry foundation and registered stock.
WAC 16-333-060	Requirements for production of caneberry certified planting stock.
WAC 16-333-065	Production of certified caneberry nursery stock by micropropagation techniques.
WAC 16-333-070	Caneberry field inspection.
WAC 16-333-080	Caneberry field standards.