



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 fruit tree planting stock. This revision converts the rules to clear and readable format, clarifies existing requirements, and updates the program and its terminology to acknowledge current industry and program practices.

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

Repealed: WAC 16-350-001, 16-350-003, 16-350-060, 16-350-065, 16-350-070, 16-350-075

Amended: WAC 16-350-010, 16-350-015, 16-350-020, 16-350-025, 16-350-030, 16-350-032, 16-350-035,

16-350-040, 16-350-045, 16-350-050

Suspended:

(4) Statutory authority for adoption: Chapter 15.14 RCW

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-14-078 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

TIME 9:16 PM

WSR 00-19-036

**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	<u>10</u>	Repealed	<u>6</u>
-----	---------	-----------	----------	----------

The number of sections adopted in the agency's own initiative:

New	Amended	<u>10</u>	Repealed	<u>6</u>
-----	---------	-----------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	<u>10</u>	Repealed	<u>6</u>
-----	---------	-----------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed		
Pilot rule making:	New	Amended	Repealed		
Other alternative rule making:	New	Amended	<u>10</u>	Repealed	<u>6</u>

Chapter 16-350 WAC

~~((FRUIT TREES--))~~ REGISTRATION AND CERTIFICATION OF FRUIT TREE PLANTING STOCK

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-010 General. (1) Trees may be registered as rootstock and ~~((top-stock))~~ scion sources for the propagation of certified nursery stock when inspected, tested and found to be ~~((true-to-name-and))~~ discernibly free from harmful virus and virus-like diseases and other conditions by procedures outlined in this program.

(2) ~~((Registration and/or certification does not imply any warranty on the part of the department or any employee thereof.~~

~~((3) Participation in this program shall be voluntary.))~~
Issuance of a certified state of Washington plant tag, stamp or other document under this chapter means only that the tagged, stamped or otherwise documented fruit tree or fruit tree related ornamental stock and rootstock have been subjected to 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.

(3) The department is not responsible for disease, genetic disorders, 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.

(4) Participation in the fruit tree planting stock certification program is voluntary.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-015 Definitions. (1) (~~"Virus-infected~~

~~(affected)" means presence of a harmful virus(es) in a plant or plant part.~~

~~(2) "Virus-like" means a disorder of genetic or nontransmissible origin.~~

~~(3) "Off-type" means not true-to-name.~~

~~(4)) "Indicator plant" means any herbaceous or woody plant used to index or ((determine)) test for virus infection.~~

~~((5)) (2) "Index" means to ((determine)) test for virus infection by means of inoculation from the plant to be tested to an indicator plant, or by any other method approved by the department.~~

~~((6) "Registered tree" means that a registration number has been assigned by the department to a tree or clonal planting that has been inspected and tested in accordance with the provisions of this program.~~

~~(7) "Scion-block" means a planting of registered trees which serves as a source of scionwood for the propagation of "Washington certified nursery stock."~~

~~(8) "Seed-block" means a planting of registered prunus seed trees which serves as a source of seed for producing rootstock used in the propagation of "Washington certified nursery stock."~~

~~(9) "Stool bed" means a clonal planting of self-rooted registered trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of "Washington certified nursery stock."~~

~~(10) "Washington certified nursery stock" means nursery grown seedlings, clonal rootstocks originating from registered trees and nursery grown trees propagated by using top-stock from registered trees and rootstock originating from registered trees except as herein provided for certain rootstocks, but limited to the plant Genera 1. Chaenomeles, 2. Cydonia, 3. Crataegus, 4. Malus, 5. Prunus, 6. Pyrus, 7. Sorbus.~~

~~(11) "Washington certified seed" means seed produced on registered seed trees.) (3) "NRSP-5" means the United States Department of Agriculture National Research Support Project 5.~~

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

(5) "Scion block" means a planting of registered trees which serves as a source of scion wood for the propagation of certified nursery stock.

(6) "Seed block" means a planting of registered trees which serves as a source of seed for producing rootstock used in the propagation of certified nursery stock.

(7) "Stool bed" means a clonal planting of self-rooted registered trees for the specific purpose of producing vegetatively propagated rootstock used in the propagation of certified nursery stock.

(8) "Virus-like" means a graft-transmissible disorder

resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

(9) "Washington certified nursery stock" means nursery grown seedlings, clonal rootstocks and nursery grown trees of the plant genera *Chaenomeles*, *Cydonia*, *Crataegus*, *Malus*, *Prunus*, *Pyrus* and *Sorbus*, that comply with the requirements of this chapter.

(10) "Washington certified seed" means seed produced on registered seed trees in compliance with this chapter.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-020 Requirements. (1) The applicant (~~((nurseryman shall be))~~) is responsible, subject to the approval of the department, for the selection of the location and the proper maintenance of registered plantings (~~((being))~~) grown under the provisions of this program. The applicant (~~((nurseryman shall be))~~) is also responsible for maintaining the identity of all nursery stock entered in this program in a manner approved by the department. Any planting entered in this program (~~((shall))~~) must be kept in a thrifty growing condition (~~((and))~~) free of plant pests.

(2) (~~((There shall be no))~~) Budding, grafting, or top-working of registered trees ((in any scion-block, seed-block or stool bed)) is prohibited, except for indexing under the supervision of the department.

(3) (~~((Any plant found to be affected by a virus or virus-like disease or if off-type shall be removed and destroyed immediately from any planting))~~) Applicants must remove any tree that is infected with virus or virus-like disease or is off-type, following notification by the department.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-025 Requirements for registered scion blocks. (1) (~~((Location. A scion-block shall be located not less than 100 feet from any nonregistered cultivated plant of the Rosaceae family. The ground in a scion-block and for a distance of 20 feet surrounding it shall be kept either clean cultivated or in an approved, properly controlled, ground cover. Registered scion-block trees shall be planted and maintained in a manner and at sufficient distance that branches of different varieties do not overlap. Each tree shall bear a permanent registration number.~~

~~((2) Acceptability. The root stock and top-stock sources of the scion-block trees shall have originated from foundation trees~~

~~established under this program, or from virus-tested trees originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the scion-block.))~~ The department will assign a registration number to each registered scion tree.

(2) Only registered trees are permitted in a registered scion block.

(3) Isolation requirements.

(a) Prunus trees must be at least one hundred feet from any nonregistered Prunus tree.

(b) Chaenomeles, Cydonia, Crataegus, Malus, Pyrus, and Sorbus trees must be at least sixty feet from any nonregistered plant of the Rosaceae family. The department may waive the isolation distance for registered trees of these genera, if the trees are separated by a physical barrier that would prevent the intermingling of roots.

(4) The ground in a scion block and for a distance of twenty feet on all sides around it must be kept either clean cultivated or in ground cover relatively free of broadleaf weeds.

(5) Registered scion trees must be propagated from foundation scion wood obtained from NRSP-5 or other equivalent sources approved by the department and rootstock that complies with the requirements established in this chapter, except:

(a) Registered scion trees of the genus Malus may be propagated with scion wood from other registered Malus trees, if all of the following three conditions are complied with:

(i) No registered tree utilized is more than two generations from the foundation source.

(ii) The registered tree providing scion wood for a second generation registered tree is identified and its location is known.

(iii) The department monitors the propagation of second generation registered scion trees.

(b) Registered scion trees may be propagated from trees that have been indexed and found free of all known virus and virus-like diseases by NRSP-5 or other programs approved by the department using equivalent indexing methods.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-030 Requirements for registered seed blocks. (1)
((Location. A prunus seed-block shall be located not less than 100 feet from any nonregistered plant of the Prunus species. The ground in a seed-block and for a distance of 20 feet surrounding the seed-block shall be kept clean cultivated or in an approved, controlled ground cover. Each tree shall bear a permanent registration number.

~~(2) **Acceptability.** The rootstock and top-stock sources of the seed tree shall have originated from foundation trees established under this program or from virus-tested trees originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the seed-block.)~~ The department will assign a registration number to each registered seed tree.

(2) Only registered trees are permitted in a registered seed block.

(3) *Prunus* seed blocks must be located at least one hundred feet from any nonregistered *Prunus* plants.

(4) The ground in a seed block and for a distance of twenty feet on all sides around it must be kept either clean cultivated or in ground cover relatively free of broadleaf weeds.

(5) Registered seed trees must be propagated from foundation or registered scion wood and rootstock that has been demonstrated to be free of all virus or virus-like diseases.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-032 Requirements for registered stool beds. (1)

~~((**Location.** A stool-bed shall be located not less than fifty feet from any nonregistered cultivated plant of the Rosaceae family. The following exception will apply. Nonregistered stool-beds may be located no less than ten feet from registered stool-bed plantings. The ground in a stool-bed and for a distance of ten feet surrounding it shall be kept clean cultivated.~~

~~(2) **Acceptability.** Existing stool-beds that index clean on the commonly used virus indicators will qualify as **registered stool-beds.** New stool-beds (those planted after January 1, 1976) shall have originated from foundation stock established under this program, or from virus-tested plants originating through the inter-regional project No. 2 (IR-2) or other approved sources. If the tree is scion-rooted, its source shall have met the above requirements. Only registered trees shall be permitted in the stool-bed.)~~ Only registered trees are permitted in a registered stool bed.

(2) Registered stool beds must be at least ten feet from nonregistered plants of the Rosaceae family.

(3) The ground in a stool bed and for a distance of at least ten feet on all sides around it must be kept clean cultivated.

(4) Registered stool beds must be planted with foundation or registered planting stock. Certified rootstocks from programs approved by the department may also be used, provided the resulting stock in the stool bed is tested and found free of virus and virus-like diseases prior to harvest of certified rootstock.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-035 Requirements for certified nursery planting stock. (1) ~~((Rootstocks.))~~ All ~~((stone and pome fruit and related ornamental))~~ nursery stock being grown for ~~((blue tag))~~ certification ~~((shall be on rootstocks from registered trees except for stone fruit and related ornamental trees grown on virus tested seedlings and pome fruit and related ornamental trees grown on apple and pear seedlings. These seedling rootstocks, when grown from commercial seed, will be acceptable if seed transmissible virus content does not exceed five percent. Clonal rootstocks used in the production of Washington certified blue tag nursery stock must originate from registered stool-beds.~~

~~(2) Location.~~ Nursery stock being grown for certification shall be planted sufficiently apart to maintain its identity and shall be kept clean cultivated. It shall be designated as to rootstock, top-stock, and interstock sources. There shall be no rebudding or regrafting of nursery row stock unless such stock is reworked with budwood from the same registered scion-tree.

~~(3) Seed.~~ Certified seed shall have been produced on registered seed trees only.

~~(4) Tagging.~~ A blue tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks produced from registered seed-source or stool-bed trees, or which are self-rooted. Stone and pome fruit and related ornamental trees grown on seedling rootstocks from commercial seed will also qualify for blue tag certification if seed transmissible virus content does not exceed five percent.

A yellow tag shall designate trees produced from registered scion-source trees and which have been propagated on rootstocks which originate from nonvirus-tested sources.

All nursery stock meeting the requirements of this program when sold shall have the variety, interstock and rootstock designated where applicable as follows: Variety/interstock/rootstock.

~~(5) Acceptability.~~ All nursery stock meeting the requirements of this program shall be known as Washington certified nursery stock)) must be propagated on certified rootstock. Certified rootstock may be any one of the following:

(a) Rootstock originating from registered trees.
(b) Rootstock originating from other approved certification programs.

(c) Prunus seedlings grown from commercial seed, if the seed lot has been tested for transmissible virus content and not more than five percent of the seed tested positive for transmissible virus content.

(d) Pome fruit seedlings.

(2) Growers must keep records identifying the scion, rootstock, and interstock sources for all Washington certified stock. Upon request, these records must be made available to the department.

(3) Seed may be designated as Washington certified seed only if both of the following conditions are complied with:

(a) The seed was produced on registered seed trees; and

(b) The seed lot has been tested for transmissible virus content, and not more than five percent of the seed tested positive for transmissible viruses.

(4) Washington certified nursery stock must be identified by a blue certification tag.

(5) When it is offered for sale, Washington certified nursery stock must be identified as to variety, interstock and rootstock.

AMENDATORY SECTION (Amending Order 1331, filed 1/15/74)

WAC 16-350-040 Inspection and testing for certification of nursery planting stock. (1) (~~Methods and procedures. Inspection and testing procedures prescribed in this program may be made only by the department and shall be conducted in a manner and at times determined as suitable. The methods and procedures used for making the virus disease determinations will conform to IR-2 standards.~~)

(2) ~~Inspection of nursery stock for certification. At least one visual inspection shall be made of nursery rootstock in a planting for certification during the first growing season. At the request of the department any undesirable rootstock shall be rogued before propagation. At least two visual inspections shall be made of nursery stock during the growing season following bud or graft placement.~~

The department shall refuse certification in part or all of a planting if plants have been propagated from registered trees determined to be affected by a virus or virus-like disease or if other requirements of this program have not been met.) The department will conduct all inspections, testing and indexing prescribed in this chapter in a manner and at times the department has determined to be suitable. The methods and procedures used for making the virus and virus-like disease determinations will conform to the standards of NRSP-5.

(2) The department will conduct at least one visual inspection of certified nursery rootstock during the first growing season. Upon request by the department, growers must rogue any undesirable rootstock prior to bud or graft placement.

(3) The department will conduct at least two visual inspections of nursery stock during the growing season following bud or graft placement.

(4) The department will refuse certification of planting stock

that has been propagated from registered trees found to be infected by a virus or virus-like disease, or if other requirements of this chapter have not been complied with.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-045 Application and fees. (1) (~~Application.~~

~~(a))~~ The applicant (~~nurseryman shall furnish to~~) must provide the department with all information (~~pertinent to the operation of this program~~) documenting the eligibility of all registered and certified stock and (~~shall give his/her consent to~~) must allow the department to take (~~propagating wood from any tree~~) samples for indexing or testing purposes.

~~((b) Trees registered and used under the provisions of the Washington state nursery improvement program shall be deemed usable as registered scion-trees and seed-trees if they meet the requirements outlined in this program.~~

~~(c) Application for inspection and indexing of registered scion and seed-trees and for inspection of nursery stock)~~ (2) An application for certification must be filed with the department by June 1 of each year accompanied by an application fee. The application fee will consist of \$100.00 plus \$1.00 for each registered seed tree (~~entered in this program~~).

~~((2) Fees.)~~ (3) The application fee will apply toward the one percent annual assessment on the gross sale price of the wholesale market value for all fruit trees, fruit tree related ornamentals, and fruit tree rootstock sold within the state or shipped from the state of Washington by any licensed nursery dealer during any license period, as set forth in RCW 15.13.130 (~~Provided, That~~). No refund of the application fee will be allowed.

AMENDATORY SECTION (Amending Order 2058, filed 11/9/90, effective 12/10/90)

WAC 16-350-050 Tagging and identity. (1) (~~Tagging.~~) The department (~~will~~) authorizes the use of official certification tags for the identification of nursery stock or seed that meet the requirements of this program. These tags will be supplied by the (~~Washington state~~) department (~~of agriculture~~) to all (~~members~~) growers participating in the program. Participating (~~members~~) growers will reimburse the department (~~of agriculture~~) for all certification tags supplied. This

reimbursement will be based on the cost incurred by the ((Washington state)) department ((of agriculture)).

(2) ((Identity-)) Any person selling Washington certified nursery stock or Washington certified seed is responsible for the identity of the stock bearing each tag and for such nursery stock or seed meeting the requirements of this program. Persons issued tags authorized by the program ((shall)) must account for stock produced and sold ((and)), keep such records ((as may be necessary)), and make them available to the department upon request.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-350-001	Promulgation.
WAC 16-350-003	Promulgation.
WAC 16-350-060	Grades and standards for Washington certified fruit tree nursery stock.
WAC 16-350-065	Statutory declaration of unlawful acts.
WAC 16-350-070	Effective date.
WAC 16-350-075	Certifying agency issuance of certificate.