



RULE-MAKING ORDER (RCW 34.05.360)

CR-103 (7/23/95)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: 4/25/96

(2) Purpose: Prevention of introduction of Karnal bunt and protection of the state's wheat, rye, and triticale production industry. Karnal bunt is a plant disease of international quarantine significance. Its introduction would cause loss of export markets, resulting in grave economic hardship to the Washington grain industry.

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

Repealed:

Amended:

Suspended:

(4) Statutory authority for adoption: RCW 17.24.041 and RCW 34.05.350

Other Authority:

PERMANENT RULE ONLY

Adopted under notice filed as WSR _____ on _____ (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: Karnal bunt was recently discovered in the U.S. southwest in areas used to grow seed for wheat, rye, and triticale production. No accepted test protocol is sensitive enough to detect all Karnal bunt spores, and no level of spore contamination is acceptable in wheat, rye, or triticale seed; therefore, no seed from quarantine areas is acceptable. Seed from quarantine areas has already entered and continues to enter channels of trade destined for Washington. Its entry in to the state must be prevented.

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

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

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

Emergency Rules

- Immediately
- Later (specify):

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 25 1996

TIME: 2:18

WSR 96-10-036

Name (Type or Print)

James M. Jesernig

Signature

Title

Director

Date

April 25, 1996

**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	_____

*(current calendar year)

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	_____	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	_____	Amended	_____	Repealed	_____

Rules Relating to Wheat Seed, Rye Seed and Triticale Seed Quarantine

NEW SECTION

WAC 16-473-005 Promulgation - Establishing Quarantine. The commercial production of wheat, rye and triticale for food, seed, and feed in the state of Washington is one of the major agricultural industries. The introduction and spread of Karnal bunt, *Tilletia indica*, represents a serious economic threat to the wheat, rye and triticale production industry. The director finds that the regulation of wheat seed, rye seed and triticale seed is necessary to protect the wheat, rye and triticale production industry and mitigate the threat of introduction of Karnal bunt.

NEW SECTION

WAC 16-473-010 Regulated Articles. (1) Regulated articles include all wheat, rye and triticale intended for or used for planting, hereafter referred to as wheat seed, rye seed and triticale seed. Wheat includes both common wheat Triticum aestivum and durum wheat Triticum durum. Rye means Secale cereale. Triticale is a hybrid of wheat and rye (Triticum aestivum x Secale cereale).

(2) All containers and/or conveyances used to move wheat seed, rye seed and triticale seed.

NEW SECTION

WAC 16-473-015 Quarantine area. Quarantine areas are all states, portions of states and/or territories of the United States under a federal Karnal bunt quarantine including but not limited to the state of Arizona, two counties in the state of California (Imperial, Riverside), four counties in the state of New Mexico (Dona Ana, Hildalgo, Luna, Sierra) and two counties in the state of Texas (El Paso, Hudspeth).

NEW SECTION

WAC 16-473-020 Prohibited Acts. The sale, offering to sell, transporting, distributing and/or planting of wheat seed, rye seed and triticale seed from the quarantine area listed in WAC 16-473-015 is prohibited.

NEW SECTION

WAC 16-473-025 Permits. The director may allow, by special permit, the movement of regulated articles listed in WAC 16-473-010 originating from and/or loaded into a conveyance in the areas under quarantine listed in WAC 16-473-015. Such permit shall specify the terms and conditions under which movement is allowed, pursuant to RCW 17.24.041 and RCW 17.24.091. Permits may be requested from the Washington state department of agriculture, plant protection program at telephone number (360) 902-2071.

NEW SECTION

WAC 16-473-030 Disposition of Regulated Articles. Any regulated article listed in WAC 16-473-010 brought into this state in violation of this quarantine must be treated, returned to the quarantine area listed in WAC 16-473-015, or destroyed in a manner prescribed by the director to prevent infestation of the wheat, rye and triticale industry. The action shall be at the expense of the owner or owner's agent without compensation.

NEW SECTION

WAC 16-473-035 Penalties. Any person who violates the terms of this quarantine shall be subject to the civil and/or criminal penalties provided for in chapter 17.24 RCW.