



# RULE-MAKING ORDER

## (RCW 34.05.360)

**CR-103** (7/23/95)

**Agency:** Washington State Department of Agriculture

- Permanent Rule  
 Emergency Rule  
 Expedited Repeal

**(1) Date of adoption:** August 13, 1996

**(2) Purpose:** Prevention of introduction of Karnal bunt and protection of the state's wheat, rye, and triticale product 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. This emergency rule modifies and continues the existing state emergency rule.

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

Repealed:  
 Amended:  
 Suspended: None

**(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:**

An emergency rule instituting a state quarantine on all wheat, rye and triticale seed from areas under federal quarantine for newly discovered Karnal bunt infection was adopted on 4/25/96. Since that time, test data from the 1996 harvest has caused USDA to redefine the boundaries of the federal quarantine area. The emergency rule incorporates the redefined federal quarantine boundaries. Until complete data from the ongoing harvest becomes available, WSDA will not be able to evaluate the need for a permanent rule.

**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:**

- |                                                                                                                                                                                                                                                              |                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Permanent Rules</b></p> <p><input type="checkbox"/> 31 days after filing</p> <p><input type="checkbox"/> Other (specify)*:</p> <p><small>*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required.)</small></p> | <p><b>Emergency Rules</b></p> <p><input checked="" type="checkbox"/> Immediately</p> <p><input type="checkbox"/> Later (specify):</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
 STATE OF WASHINGTON  
 FILED

AUG 13 1996

TIME: 3:38  
 WASH 96-17-027

**Name (Type or Print)**

Jim Jesernig

**Signature**

*William E. Paul* (for Jim Jesernig)

**Title**  
 Acting Director

**Date**  
 August 13, 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:**

<b>Federal statute:</b>	New	-----	Amended	-----	Repealed	-----
<b>Federal rules or standards:</b>	New	-----	Amended	-----	Repealed	-----
<b>Recently enacted* state statutes:</b>	New	-----	Amended	-----	Repealed	-----

\*(current calendar year)

**The number of sections adopted at the request of nongovernmental entity:**

New	-----	Amended	-----	Repealed	-----
-----	-------	---------	-------	----------	-------

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

New	-----	Amended	-----	Repealed	-----
-----	-------	---------	-------	----------	-------

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

New	-----	Amended	-----	Repealed	-----
-----	-------	---------	-------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	-----	Amended	-----	Repealed	-----
<b>Pilot rule making:</b>	New	-----	Amended	-----	Repealed	-----
<b>Other alternative rule making:</b>	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 portions of the states of Arizona, California, New Mexico, and Texas.

### 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.