

WSR 21-03-048

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed January 14, 2021, 2:35 p.m., effective February 14, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-483 WAC, Grape pest quarantine, by:

1. Adding glassy winged sharpshooter, European grapevine moth, *Xiphinema index*, and grapevine red blotch virus to the list of pests under quarantine (WAC 16-483-001).
 2. Clarifying that only one strain of *Xylella fastidiosa*, Pierce's Disease, is under quarantine (WAC 16-483-001).
 3. Adding an updated scientific name for the grape pest phylloxera, *Viteus vitifoliae* (Fitch), to the list of pests under quarantine (WAC 16-483-001).
 4. Adding new and clarifying existing definitions (WAC 16-483-005).
 5. Clarifying that the quarantine applies to infected grape plantings within Washington, as well as outside of the state (WAC 16-483-010).
 6. Adding cultivation and harvesting equipment to the list of items regulated under the quarantine (WAC 16-483-020).
 7. Within Washington, restricting the movement of grape planting stock from a site found infested with a quarantine pest until it meets the requirements of a pest management plan approved by the director (WAC 16-483-030).
 8. Reorganizing and clarifying the requirements for grape planting stock being shipped into the state (WAC 16-483-030).
 9. Removing the exemption allowing small shipments of softwood cuttings to be visually inspected for insect pests in lieu of treatment (WAC 16-483-030).
 10. Allowing tissue culture plantlets in vitro from infested states in lieu of treatment for insect pests (WAC 16-483-030).
 11. Revising the acceptable treatments for insect pests to reflect current research (WAC 16-483-030).
 12. Requiring all equipment used for cultivation or harvesting of grapes and vines within Washington be thoroughly washed or steam cleaned prior to movement out of an infested site, in accordance with an approved pest management plan (WAC 16-483-033).
 13. Requiring phytosanitary certificates and laboratory reports (if applicable) accompany advance notice of shipments of grape planting stock imported from outside of the state (WAC 16-483-037).
 14. Requiring any grapevines shipped from an infested site within the state in violation of the quarantine be returned or destroyed at the expense of the owner (WAC 16-483-040).
 15. Specifying that the Clean Plant Center Northwest is not required to obtain written permission from the department when exchanging G1 material between foundation sources (WAC 16-483-050).
 16. Allowing the department to issue a compliance agreement (with conditions or restrictions) to allow the movement of regulated articles not otherwise eligible for movement (WAC 16-483-050).
- Citation of Rules Affected by this Order: Amending WAC 16-483-001, 16-483-005, 16-483-010, 16-483-020, 16-483-030, 16-483-033, 16-483-037, 16-483-040, and 16-483-050.
- Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.
- Adopted under notice filed as WSR 20-23-118 on November 18, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 9, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 14, 2021.

Derek I. Sandison
Director

OTS-2745.1

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-001 Establishing a quarantine. (1) A quarantine is established against harmful pests of grapevines that could endanger the grape industries of Washington.

(2) Quarantine pests include:

- (a) Grapevine fanleaf virus;
- (b) Grapevine leafroll associated viruses;
- (c) Grapevine virus A;
- (d) Grapevine virus B;

(e) Grapevine red blotch virus;

(f) Pierce's disease (a strain of *Xylella fastidiosa*);

~~((f))~~ (g) Grapevine phylloxera (*Daktulosphaira vitifoliae*, *Viteus vitifoliae* (Fitch)); ~~(and~~

~~(g))~~ (h) Vine mealybug (*Planococcus ficus*);

(i) Glassy winged sharpshooter (*Homalodisca vitripennis*);

(j) European grapevine moth (*Lobesia botrana*); and

(k) *Xiphinema index*.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-001, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-23-096, § 16-483-001, filed 11/21/00, effective 12/22/00; WSR 00-05-105, § 16-483-001, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-001, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-001, filed 3/16/70, effective 5/1/70.]

AMENDATORY SECTION (Amending WSR 00-05-105, filed 2/16/00, effective 3/18/00)

WAC 16-483-005 Grape virus quarantine—Definitions. "Department" means the Washington state department of agriculture.

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

"G1 foundation sources" means any National Clean Plant Network-funded clean plant center, or other sources approved by the director.

"Grape planting stock" means live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant (Vitis species), except fruit, capable of propagation.

~~"((Official)) Phytosanitary certificate" means ((a)) an official document issued by ((an official)) the plant protection organization ((including but not limited to phytosanitary certificates, inspection certificates, or other letters, tags, stamps, or similar documents certifying plant quality or condition)) in the state, district or territory of origin, attesting that a consignment has been inspected and meets phytosanitary import requirements, through specific additional declarations. The department may issue compliance agreements that take the place of a phytosanitary certificate.~~

[Statutory Authority: Chapter 17.24 RCW. WSR 00-05-105, § 16-483-005, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-005, filed 10/11/91, effective 11/11/91.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-010 Area under quarantine. The area under quarantine includes all states, districts, and territories of the United States. Within the state of Washington, sites with grape plantings infested with a quarantine pest from WAC 16-483-001 are subject to additional restrictions.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-010, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-05-105, § 16-483-010, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-010, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-010, filed 3/16/70, effective 5/1/70.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-020 Regulated articles. Grape planting stock including live plants, hardwood cuttings, softwood cuttings, and any other plant parts capable of propagation, except fruit are regulated under the terms of this quarantine. Equipment used in harvesting grapes in another state, or in an infested site within the state is a regulated article.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-020, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-05-105, § 16-483-020, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-020, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-020, filed 3/16/70, effective 5/1/70.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-030 Restrictions. (~~Grape planting stock will be admitted into the state of Washington provided the following provisions are complied with:~~

~~(1) An official certificate issued by the plant protection organization of the state, district, or territory of origin certifying that the grapevines meet the requirements of this chapter must accompany the grape planting stock into the state.~~

~~(2-))~~ (1) Within the state of Washington, grape planting stock produced in a site found infested with a quarantine pest may only be moved from that site if it meets requirements of a pest management plan that is:

(a) Designed to prevent the spread of quarantine pests from that site; and

(b) Approved by the director.

(2) Grape planting stock entering the state must be accompanied by an official phytosanitary certificate that certifies the grape planting stock was produced in accordance with the regulations of an official grapevine virus certification program that includes inspection and testing for grapevine fanleaf virus, grapevine leafroll associated viruses, grapevine virus A, grapevine virus B, grapevine red blotch virus and *Xylella fastidiosa* (Pierce's disease strain). The official phytosanitary certificate must:

(a) Include a statement that "The grape planting stock ((has been certified)) was produced in accordance with the regulations of an official grapevine virus certification program ((that includes inspection and testing by methods approved by the director for grapevine fanleaf virus, grapevine leafroll associated viruses, grapevine virus A, grapevine virus B, and *Xylella fastidiosa*.

~~(3) Each shipment of grapevines, grape rootstock, or softwood cuttings from a state infested with grapevine phylloxera or vine mealybug require one of the following statements on the certificate:~~

~~(a) The grapevines, rootstock, or softwood cuttings were) in the state of origin.";~~ and

(b) Include one of the following statements:

(i) "The grape planting stock was grown in and shipped from an area known to be free from grape phylloxera ((and)), vine mealybug, glassy winged sharpshooter, and European grapevine moth, by official survey"; or

~~((b) The grapevines, rootstock, or softwood cuttings were grown under an approved sterile media system; or~~

~~(c) For small shipments (five hundred articles or less), softwood cuttings were inspected by a state, district, or territory plant regulatory official and were found to be free from grape phylloxera and vine mealybug; or~~

~~(d-))~~ (ii) "The grape planting stock was grown in containers of soilless media, in a greenhouse screened to exclude grape phylloxera, vine mealybug, glassy winged sharpshooter and European grapevine moth"; or

(iii) "The shipment consists entirely of tissue cultures in vitro, or plantlets ex vitro"; or

(iv) A statement that the grapevines, rootstock, or softwood cuttings were (~~subject~~) subjected to one of the two treatments in subsection ~~((4-))~~ (3) of this section, or other treatments determined to be effective and (~~are~~) approved in writing by the director. The treated grapevines must be stored (~~in a manner~~) after treatment (~~that would~~) in a manner to prevent reinfestation. The details of the treatment must be listed on the accompanying phytosanitary certificate.

~~((4-))~~ (3) Acceptable treatments for grapevine insect pests include:

(a) Hot water treatment. Dormant, rooted grapevines or rootstock shall be washed to remove all soil or other propagative media. Dormant rooted plants or rootstock shall be immersed in a hot water bath for a period of not less than three minutes nor more than five minutes at a temperature of not less than 125°F (52°C), nor more than 130°F (55°C) (~~at any time during immersion~~); or

(b) (~~Methyl bromide~~) Fumigation treatment. Grapevines, rootstock, or softwood cuttings may be treated (~~by methyl bromide fumigation. The fumigation shall be in an approved gastight fumigation chamber, equipped with a heating unit, fan for dispersal of gas and clearing the chamber of gas after fumigation, and interior thermometer readable from the outside. Fumigation shall be with a dosage of two pounds (0.908 kg) of methyl bromide per one thousand cubic feet (twenty-eight cubic meters) for a period of three hours at a temperature of between 65°F (18.3°C) and 70°F (21.1°C). The fan shall be operated for a period of ten minutes after the injection of the gas.~~)

~~(5) All shipments of grapevines, rootstock, or softwood cuttings from a quarantine area shall be plainly marked with the contents on the outside of the package or container as "grapevines," "grape rootstock," or "grape cuttings") with a fumigant labeled for such purpose.~~

(4) Each shipment of grape planting stock originating from a state infested with *Xiphinema index* as determined by the department must be accompanied by an official phytosanitary certificate that, in addition to the requirements in WAC 16-483-030(2), must include:

(a) A statement that "The potted grape plants in this shipment were grown in soilless media"; or

(b) A statement that "The grape planting stock in this shipment was grown in an area of the state where *Xiphinema index* is not found, by official survey"; or

(c) Where there is no recent official survey, a statement that "The grape planting stock in this shipment was grown in a field sampled and tested and found to be free from *Xiphinema index* in the growing season immediately prior to harvest. Official lab results are attached." Phytosanitary certificates providing this statement must be accompanied by test results from the growing season prior to harvest showing the vines were grown in a field free of *Xiphinema index*.

(5) All shipments of grape planting stock shall be plainly marked with the contents on the outside of the package or container as "grapevines," "grape rootstock," or "grape cuttings."

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-030, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-23-096, § 16-483-030, filed 11/21/00, effective 12/22/00; WSR 00-05-105, § 16-483-030, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-030, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-030, filed 3/16/70, effective 5/1/70.]

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-033 Equipment cleaning requirements. (1) All equipment used for cultivation or harvesting of grapes (~~(in the grape insect pest quarantine areas)~~) and vines must be thoroughly washed or steam cleaned to remove all soil and plant material prior to entry into the state of Washington, and prior to movement out of an infested site within the state according to the approved pest management plan for the infested site. Such equipment shall be subject to inspection by (~~(authorized inspectors of)~~) the department.

(2) Any equipment found to be in violation of this (~~(cleaning requirement)~~) section shall be subject to detention by the department until such equipment is thoroughly cleaned at the expense of the owner or shipper, or provisions are made by the owner or shipper to immediately transport the equipment directly out of the state.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-033, filed 10/7/14, effective 11/7/14.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-037 Notification requirement. Persons bringing (~~(grapevines)~~) grape planting stock into the state must (~~(first)~~) notify the department in advance, under this grape pest quarantine. Notification may be by U.S. mail, email, or ((telefacsimile)) facsimile to: Plant Protection Division, Washington State Department of Agriculture, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560; email: PlantServices@agr.wa.gov; (~~(fax)~~) facsimile: 360-902-2094 (~~(, prior to the shipment of grapevines or cuttings under the grape pest quarantine into this state from an infested area)~~). Such notice shall include, (~~(but not be limited to)~~) at a minimum, the ((approximate)) number of grapevines, rootstocks, or softwood cuttings; the ((shipper)) shipper's name and address; the ((consignee)) consignee's name and address; the method of treatment used, if applicable; ((and)) the approximate date of delivery; and applicable copies of phytosanitary certificates and lab reports.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-037, filed 10/7/14, effective 11/7/14.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-040 Disposition of products shipped in violation of this quarantine—Violations. At the option and expense of the owner, the department will return to the point of origin or destroy any grapevines shipped into the state of Washington, or moved from an infested site within the state, in violation of this chapter.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-040, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-05-105, § 16-483-040, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-040, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-040, filed 3/16/70, effective 5/1/70.]

AMENDATORY SECTION (Amending WSR 14-21-036, filed 10/7/14, effective 11/7/14)

WAC 16-483-050 Grape pest quarantine—Exemptions. (1) The restrictions on the movement of regulated articles set forth in this chapter do not apply to grape planting stock imported for experimental or trial purposes by the United States Department of Agriculture or Washington State University((÷)), provided((7)) the director's written permission is first obtained.

(2) The Clean Plant Center Northwest is not required to obtain the director's permission when exchanging G1 material between G1 foundation sources.

(3) The department, upon receipt of an application in writing, may issue a compliance agreement allowing movement into this state, or movement within this state, of regulated articles not otherwise eligible for movement under the provisions of this quarantine order. Movement of such articles will be subject to any conditions or restrictions stipulated in the agreement. These conditions and restrictions may vary depending upon the intended use of the article and the potential risk of introduction or spread of a harmful pest or disease.

[Statutory Authority: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-21-036, § 16-483-050, filed 10/7/14, effective 11/7/14. Statutory Authority: Chapter 17.24 RCW. WSR 00-05-105, § 16-483-050, filed 2/16/00, effective 3/18/00. Statutory Authority: Chapters 15.13 and 17.24 RCW. WSR 91-21-042, § 16-483-050, filed 10/11/91, effective 11/11/91; Order 1146, § 16-483-050, filed 3/16/70, effective 5/1/70.]