



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Dept. of Agriculture

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: This rulemaking order amends chapter 16-324 WAC (Certification of Seed Potatoes) by:

- 1) Repealing the requirement for laboratory testing of lots entered in the post-harvest testing for PVY;
- 2) Clarifying the definition of seed potato farm;
- 3) Requiring a certificate of compliance for evidence of eligibility for the transfer of seed lots between seed potato farms;
- 4) Authorizing the department to permit seed growers to plant lots in which the eligibility hasn't been determined under certain conditions; and
- 5) Including the bacterium *Candidatus liberibacter* with the tolerance for phytoplasmas.

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 16-324-361, 375, 391, 398, 409
Suspended:

Statutory authority for adoption: RCW 15.14.015

Other authority : Chapter 34.05 RCW

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-21-175 on October 22, 2014 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted:

December 9, 2014

NAME (TYPE OR PRINT)

Don R. Hover

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 09, 2014

TIME: 9:07 AM

WSR 15-01-042

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>5</u>	Repealed	<u>0</u>

WAC 16-324-361 Definitions. "Certification" means that the lot of seed potatoes was inspected and meets the requirements of this chapter.

"Cull" means any lot of potatoes rejected for certification for any reason.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of the department of agriculture or his/her duly appointed representative.

"Disease tested" means tested for and found free of all of the following diseases: Potato virus A (PVA), potato virus M (PVM), potato virus S (PVS), potato virus X (PVX), potato virus Y (PVY), potato leafroll virus (PLRV), potato mop top virus (PMTV), potato spindle tuber viroid (spindle tuber), *Erwinia carotovora* ssp. *carotovora* (soft rot), *Erwinia carotovora* ssp. *atroseptica* (black leg) and *Clavibacter michiganense* spp. *sepedonicus* (ring rot).

"ELISA testing" means laboratory testing by enzyme-linked immunosorbant assay or other equivalent methodologies.

"Micropropagated" means potato stock propagated using aseptic laboratory techniques and culture media to promote plant tissue growth.

"Microtubers" means tubers produced in vitro by a micropropagated plant or plantlet.

"Minitubers" means tubers produced under controlled greenhouse conditions.

"Nematode" means plant parasitic nematodes capable of infesting potatoes, including but not limited to the genus *Meloidogyne*.

"Nuclear stock" means plantlets, microtubers, minitubers, or seed potatoes produced from prenuclear stock, and grown in the field for the first time.

"Plot" means a seed potato planting that is 0.25 acre or less in size.

"Powdery scab" means the disease caused by the fungus *Spongospora subterranea*.

"Prenuclear" means micropropagated plants or tubers and plants or minitubers produced in a greenhouse.

"Quarantine pest" means a pest of potential economic importance and not yet present in the state, or present but not widely distributed and being officially controlled.

"Recertification" means the process of certifying a seed lot that was certified the previous year.

"Rogue" means removing diseased or undesirable plants, including all associated plant parts, from a seed potato field.

"Seed lot" means a field, in whole or in part, or a group of fields producing seed potatoes, or the potato tubers harvested from a seed potato field.

"Seed potato farm" means a separate seed potato enterprise, including all land, equipment, storages and all facilities used to produce only certified seed potatoes.

"Seed potatoes" means vegetatively propagated tubers used for potato production.

"Seed source" means seed potatoes produced by an individual (~~grower~~) seed potato farm within a particular seed production area.

"Trace" means a barely perceivable indication of plant disease that amounts to less than 0.001 percent of sample.

"Tolerance" means the maximum acceptable percentage of potato plants or tubers 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.

"Unit method" means a method of planting in which cut seed pieces from one tuber are dropped consecutively in a row, or in which all tubers from one plant are dropped consecutively in a row.

AMENDATORY SECTION (Amending WSR 04-12-026, filed 5/26/04, effective 6/26/04)

WAC 16-324-375 Application and withdrawal. (1) To apply for certification, applicants must use the form provided by the department and furnish all information requested, including the date, name, signature and address of the applicant, lot number, seed source identification number, variety, class planted, acres, date planted, seed spacing at planting, average length of rows, year the field was last cropped to potatoes, along with their variety and lot number, and a map of the field location. Applications for certification must reach the department on or before June 15 of each year, accompanied by the appropriate fee, field location maps and evidence of eligibility such as tags or certificates. A North American Certified Seed Potato Health Certificate is required for evidence of eligibility for seed lots originating in other states or Canada, and must be submitted with the application. A certificate of compliance is required for evidence of eligibility and must be submitted with the application for seed lots originating in Washington state except when planted back on the same seed potato farm. Unless prior approval has been granted, late applications will be assessed a late fee of twenty dollars per application. The department will not accept applications after July 10.

(2) Separate applications are required for each variety, seed source, and seed lot except as described in subsection (5) of this section.

(3) Separate applications are required for each field location that is separated by more than one hundred feet.

(4) Growers may withdraw a seed potato lot from certification for any reason by notifying the department in writing.

(5) Growers may use a single application for multiple varieties planted in a field plot totaling 1/8 acre or less. The application must contain the information required in subsection (1) of this section for each variety. Growers shall use one identification number for the field plot with a separate letter designation for each variety in the field plot.

AMENDATORY SECTION (Amending WSR 13-12-014, filed 5/24/13, effective 6/24/13)

WAC 16-324-391 Eligibility requirements. (1) Only seed potatoes derived from plants that have been disease tested and certified by an official certification agency are eligible for certification.

(2) Only seed lots that meet or exceed the minimum requirements as established in this chapter are eligible for certification. A seed lot that has more than a trace amount of virus disease noted during any field inspection is not eligible for recertification, unless it has been post-harvest tested and meets the minimum standards established in WAC 16-324-420.

(3) A post-harvest test is required for seed lots that will be recertified, except when planted back on the same seed potato farm.

(4) In order to be eligible for certification in Washington state, seed lots from other states or countries must be eligible for recertification in the state or country of origin and must meet the requirements of this chapter.

(5) A seed lot blended from two or more different sources of seed is not eligible for recertification.

(6) A seed lot infected with powdery scab is not eligible for recertification.

(7) Generation 5 (G5) seed lots are not eligible for recertification.

(8) The director may grant written permission to allow seed potato lots that fail to meet the eligibility requirements to be planted for recertification. Such written permission shall specify the conditions under which planting is allowed. Prior to granting permission, the director shall consult with the Washington state seed potato commission.

AMENDATORY SECTION (Amending WSR 13-12-014, filed 5/24/13, effective 6/24/13)

WAC 16-324-398 Field inspection disease tolerance. (1) Compliance with a 0.0% tolerance is not intended, nor should it be construed, to mean that the lot inspected is free from the disease. It means that the disease was not detected during visual inspections of the seed lot.

(2) First and second field inspection tolerances, expressed as percentages.

Factor	Nuclear	G 1	G 2	G 3	G 4	G 5
Varietal mixture	0.10	0.10	0.20	0.30	0.40	0.50
Mosaic	0.00	0.10	0.25	0.50	0.75	1.00
Leafroll	0.00	0.10	0.25	0.30	0.50	0.50
Total visible virus	0.00	0.20	0.50	0.80	1.25	1.50
Phytoplasmas (<u>including Candidatus liberibacter</u>)	0.00	0.00	0.10	0.20	0.50	1.00
Black leg	0.00	0.10	0.50	1.00	2.00	*
Ring rot	0.00	0.00	0.00	0.00	0.00	0.00
Nematode	0.00	0.00	0.00	0.00	0.00	0.00

Factor	Nuclear	G 1	G 2	G 3	G 4	G 5
Spindle tuber viroid and other quarantined pests	0.00	0.00	0.00	0.00	0.00	0.00

*Tolerance for black leg does not apply to G5.

AMENDATORY SECTION (Amending WSR 13-12-014, filed 5/24/13, effective 6/24/13)

WAC 16-324-409 Post-harvest test requirements. (1) Post-harvest testing is required for the following lots:

- (a) All Generation 1 lots except lots that are less than 0.25 acre and planted back on the same seed potato farm;
- (b) Seed lots sold for recertification; and
- (c) Lots for which a post-harvest test is required by WAC 16-324-399.

(2) Testing of seed lots submitted for post-harvest testing in subsection (1)(a) and (b) of this section (~~must also be~~) by ELISA (~~tested~~) for PVY is optional. Seed lots officially sampled by the department for PVY testing will be subject to disease tolerance listed under WAC 16-324-420.

(3) A minimum of four hundred tubers must be submitted for each seed lot entered for post-harvest testing. Seed lots less than 0.25 acre in size must submit a minimum of four tubers per total hundred weight with a minimum of fifty tubers.

(4) The applicant is responsible for the cost of post-harvest testing.

(5) Seed lots in the post-harvest test which fail to comply with the disease tolerance requirements set forth in WAC 16-324-420 are not eligible for recertification.

(a) The applicant must notify in writing all receivers of any seed lot that failed to comply with post-harvest tolerances set forth in WAC 16-324-420.

(b) Acceptance of a seed lot that fails to comply with the tolerances set forth in WAC 16-324-420 must be based on a written buyer/seller agreement. The grower must provide the department with a copy of the written agreement within thirty days of receiving the post-harvest results.