



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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FILED

DATE: August 19, 2020

TIME: 11:15 AM

WSR 20-17-144

Agency: Department of Agriculture

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-08-010 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Chapter 16-462 WAC, Grape Planting Stock – Registration and Certification.

As a result of a three year stakeholder driven federally funded grant project and a petition from the Washington Winegrowers Association, the department is proposing the following amendments:

1. Clarifying the circumstances under which Generation 2 mother plants which are more than two years old, can continue to be used to propagate Generation 3 grapevines;
2. Requiring retesting of soil after fumigation to control the presence of nematodes of the genus *Xiphinema*, to prove efficacy of the treatment;
3. Decreasing the number of required inspections of certified grape planting stock (Generation 4) from three times per year to only twice per year;
4. Requiring virus sampling and testing for all registered (Generation 2/Generation 3) grapevines on a five-year rotation;
5. Removing the requirement that program participants have to use paper certification tags provided by the department;
6. Removing the requirement that certified grape planting stock (Generation 4) adhere to certain grades and standards specified in WAC 16-462-055 when offered for sale; and
7. Moving the annual application due date for registration and certification from January 1st to January 10th.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 23, 2020	8:30 AM	Skype Conference Line Join by link: https://lync.wa.gov/agr.wa.gov/meet/grobinson/77GFSGDC Join by phone: 1 (360) 407-3816 Conference ID: 86838	Due to the mandated social distancing requirements in place during the current COVID-19 pandemic, the public hearing will be held solely over video and teleconference.

Date of intended adoption: September 30, 2020 (Note: This is NOT the effective date)

Submit written comments to:

Name: Gloriann Robinson, Agency Rules Coordinator

Address: PO Box 42560 Olympia, WA 98504-2560

Email: wsdarulescomments@agr.wa.gov

Fax: (360) 902-2092

Other:

By (date) 5:00 PM, September 23, 2020

Assistance for persons with disabilities:

Contact Deanna Painter
Phone: (360) 902-2061
Fax:
TTY: 800-833-6388 or 711
Email: dpainter@agr.wa.gov
Other:
By (date) September 15, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

In May 2015, the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA APHIS) funded a grant, managed by the Washington Wine Industry Foundation, called "Harmonizing Protocols in the Northwest – A Pilot Project Driven by Stakeholders." The grant project utilized grape industry stakeholders to drive development of a harmonized approach to grapevine virus certification, quarantines, and regulatory programs across multiple states. After a draft certification standard was developed, the Washington Winegrowers Association petitioned the department to modify the rules to adopt these standards. The proposed rule amendment will create a regional approach for grapevine virus certification, as well as harmonize quarantines and regulatory programs for grapevine nursery stock certification in Idaho, Oregon, and Washington. The main anticipated effects from these changes include the retesting of soil for nematodes after fumigation for new G2 planting sites and the sampling and testing of all registered grapevines on a five-year rotation.

Reasons supporting proposal:

The thriving Washington grape industry has earned a reputation for producing high-quality grapes to make premier wines and juices. Much of this success is due to superior growing conditions and the absence of grape pests that plague other grape growing regions. Of particular concern to Washington grape growers are the leaf roll-associated viruses and red blotch virus, which delay ripening and reduce quality and yields. These viruses can be found in Washington vineyards; therefore, it is important to limit their spread within the state, by planting virus tested certified grape planting stock.

To support and strengthen the state's grape industry, the Washington State Dept. of Agriculture (WSDA) has maintained the Grape Planting Stock Registration and Certification Program as an important tool to limit pest introductions and reduce their spread. This program has been revised several times since it was established in 1968, to address new threats and the changing needs of a rapidly evolving grape industry. The program supports the availability of high-quality growing stock free of economically important plant virus diseases. It is intended to produce healthier vineyards and a market premium for growers participating in the grapevine certification program. Healthy plant material is key to cost-effective production of grapes.

Planting stock certification is an effective means of controlling systemic virus diseases and other economically important pests in commercial nursery crops. Because they are long lived, grapevines can accumulate viruses that eventually affect production and quality. Washington commercial grape growers rely on certified planting stock to minimize the effects of these viruses, by starting vineyards with virus-tested stock. Propagation nurseries work closely with the commercial grape industry to provide them with clean planting stock produced using the WSDA Grape Planting Stock Registration and Certification Program.

Statutory authority for adoption: RCW 15.14.015 and 15.13.260

Statute being implemented: Chapters 15.13 RCW and 15.14 RCW

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington Winegrowers Association Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Cindy Cooper	1111 Washington Street Olympia, WA 98504	(360) 870-5069
Implementation:	Cindy Cooper	1111 Washington Street Olympia, WA 98504	(360) 870-5069
Enforcement:	Cindy Cooper	1111 Washington Street Olympia, WA 98504	(360) 870-5069

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No
 If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
 Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
 Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

No: Please explain: The Washington State Dept. of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:
 This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.
 This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.
 This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) (i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW _____.
 Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

Small Business Economic Impact Statement
Chapter 16-462 WAC
Grape Planting Stock Registration and Certification
August 19, 2020

SECTION 1:

Describe the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Washington is the second largest producer of grapes in the United States, contributing over \$7 billion annually to the State's economy. There are over 79,000 acres of grapevines in Washington, 58,000 of which are wine grapes (*Vitis vinifera*). The remaining 21,000 acres are juice grapes. Wine grape acreage has more than doubled during the last ten years while the acreage of juice grapes has remained relatively stable.

The thriving Washington grape industry has earned a reputation for producing high-quality grapes to make premier wines and juices. Much of this success is due to superior growing conditions and the absence of grape pests that plague other grape growing regions. Surveys have shown Washington is free of European grapevine moth, glassy winged sharpshooter and vine mealy bug. Of particular concern to Washington grape growers are the leaf roll-associated viruses and red blotch virus, which delay ripening and reduce quality and yields. These viruses are found in Washington vineyards, and it is important to limit further spread.

Since Washington's industry is built on own-rooted vines, grape growers are also concerned about the uptick in finds of root infesting phylloxera, which kills own-rooted vinifera grapevines. Own-rooted vines are vines that have not been grafted to a root stock. In areas where phylloxera occurs, wine grapes must be grafted on resistant rootstocks, significantly increasing planting costs. After severe winter freezes, (a common occurrence in the major production acreage of eastern Washington), grafted grapevines may be killed to the ground and must be replanted instead of simply growing a new shoot from the root of own-rooted grapevines. If phylloxera becomes widespread in Washington, growers will shift entire vineyards to grafted vines over time, changing growing practices significantly.

To support and strengthen the state's grape industry, the Washington State Department of Agriculture (WSDA) has maintained two important tools to limit pest introductions and reduce their spread: the Grape Pest Quarantine and the Grape Planting Stock Registration and Certification Program. WSDA's Grape Planting Stock Registration and Certification Program and associated rule was established in 1968, to provide grape growers with a source of pest and virus free planting stock. It provides integral support to the wine and juice industries in the state, from rooted cuttings to high-quality fruit production. The rule has been revised several times since 1968 to address new threats and the changing needs of a rapidly evolving grape industry. The program supports the availability of high-quality growing stock that is free of economically important plant virus diseases. It is intended to produce healthier vineyards and a market premium for growers participating in the grapevine certification program. Healthy plant material is key to a cost-effective production of grapes.

Planting stock certification is an effective means of controlling systemic virus diseases and pests in commercial crops. Because they are long lived, grapevines tend to accumulate regionally occurring viruses that eventually affect fruit production and quality. Since grapevine viruses cannot be cured, Washington commercial grape growers rely on starting with certified virus-tested planting stock to minimize the effects of these viruses. Propagation nurseries work closely with the commercial grape industry to provide them with virus-tested planting

stock. A long lived vineyard is more cost effective for growers. Additionally, the retail consumer benefits from the availability of disease free grape plants for healthy, long lived backyard fruit production.

In May 2015, the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA APHIS) funded a grant, managed by the Washington Wine Industry Foundation, called "Harmonizing Protocols in the Northwest – A Pilot Project Driven by Stakeholders." This grant was intended to create a regional approach for grapevine virus certification, and to harmonize quarantines and regulatory programs for grapevine nursery stock certification in Idaho, Oregon, and Washington. The project utilized grape industry stakeholders to drive development of a harmonized approach by focusing on agency rule development and quarantine alignment using outreach to industry stakeholders to ensure a high level of participation. All planting stock certification program participants were involved in the harmonization working group.

The project engaged stakeholders and regulatory agencies in comparing existing grapevine pest quarantines and certification programs, developing a common pest list, and identifying universally acceptable testing methods and cultural mitigations for common pests. In November 2018, after a draft certification standard was developed as a result of this project, the Washington Winegrowers Association petitioned the department to amend chapter 16-462 WAC to incorporate the changes recommended by the harmonization working group.

Compliance Requirements

Chapter 16-462 WAC outlines the grape planting stock registration and certification requirements in Washington State. WAC 16-462-010(4) states that participation in the Grape Planting Stock Registration and Certification Program is voluntary. Participants in the program may see a market premium for their planting stock over non-certified planting stock. Through this program Washington grape growers have access to grape planting stock that is free of regulated pests and diseases. Certified vines are produced under a limited generation system. Lower number generations are considered the cleanest, as they are closest to the original virus-tested mother plant. All propagative material eligible for entry into the program must be derived from a Generation 1 (G1) foundation block held at a National Clean Plant Network (NCPN) supported center approved by WSDA. Through the Grape Planting Stock Registration and Certification Program, grapevines or rootstocks may be designated as registered stock (Generation 2 (G2) and Generation 3 (G3)), or certified grape planting stock (Generation 4 (G4)), if they and the stock from which they were produced have been inspected and tested in accordance with all procedures and requirements. From these registered plants, nurseries propagate large numbers of G4 vines for planting in commercial vineyards across the country and for retail sales to the public.

Requirements for nurseries participating in the program include:

1. Responsibility for the selection of location and proper maintenance of registered blocks (G2/G3) and certified grape planting stock (G4).
2. Records identifying the G1 foundation source of the registered vines (G2/G3) and certified grape planting stock (G4) must be maintained and provided to the department upon request.
3. Suitable precautions must be taken in the cultivation, irrigation, movement and use of equipment, and in other farming practices, to guard against the spread of soil-borne pests to planting stock entered in the program. All registered blocks (G2/G3) and certified grape planting stock (G4) must be clean cultivated, except for approved cover crops.
4. Removal and immediate destruction of any registered grapevine (G2/G3) or certified planting stock (G4) found to be off-type or affected by a virus or virus-like disease or quarantine pest.

Proposed rule amendments include:

1. Clarifying the circumstances under which G2 mother plants which are more than two years old, can continue to be used to propagate G3 grapevines.
2. Requiring retesting of soil after fumigation to control the presence of nematodes of the genus *Xiphinema*, to prove efficacy of the treatment.
3. Decreasing the number of required inspections of certified grape planting stock (G4) from three times per year to only twice per year.
4. Requiring virus sampling and testing for all registered (G2/G3) grapevines on a five-year rotation.
5. Removing the requirement that program participants have to use paper certification tags provided by the department.
6. Removing the requirement that certified grape planting stock (G4) adhere to certain grades and standards identified in WAC 16-462-055 when offered for sale.

7. Moving the annual application due date for registration and certification from January 1st to January 10th.

Required Professional Services

No professional services would be required as a result of the proposed rule amendment.

SECTION 2:

Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

NAICS Code (4, 5 or 6 Digit)	NAICS Business Description	±Minor Cost Threshold = 1% of Average Annual Payroll	*Minor Cost Threshold = 0.3% of Average Annual Revenue
111332	Grape Vineyards	\$4,785.74	\$429.50
111421	Nursery and Tree Production	\$4,836.69	\$2,372.40
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers	\$9,042.12	\$16,190.34
444220	Nursery, Garden Center and Farm Supply Stores	\$3,173.49	\$3,502.11

*Data source: 2017 Washington Dept. of Revenue

±Data source: 2018 Quarterly Census of Employment and Wages (Bureau of Labor Statistics)

**These codes reflect the NAICS codes that affected businesses chose when registering with the Washington State Dept. of Revenue.

SECTION 3:

Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

Under the proposed rule amendment, the primary cost to businesses would be fees associated with increased WSDA inspections and some required lab work. Businesses would not incur any additional costs for equipment, supplies, professional services, or administration. Some businesses may experience increased labor costs by choosing to have staff assist WSDA with the collection of samples. This is not a requirement under the proposed amendment. However, it would likely decrease the billable hours of the inspector's time, reducing the overall cost of the inspection. Additionally, compliance with the proposed rule will not affect sales or revenue for participating businesses. There are five businesses currently participating in the certification program, only one of which is a small business. Businesses participating in the program grow planting stock in two ways, either taking cuttings from field grown registered mother vines or producing potted vines through tissue culture.

Clarifying the circumstances under which G2 mother plants over two years old can continue to be used to propagate G3 grapevines:

Proposed changes to WAC 16-462-021(5) would allow G2 mother plants, used to propagate G3 grapevines, to be more than two years old as long as they have been tested by the department within the last two growing cycles and are found free of regulated viruses and pests. Currently, the continued use of a mother vine that is more than two years old is allowed only if the department has determined it to be free of regulated viruses. Under the proposed rule amendment, the department is specifying that the mother vine has to be tested by the department within the last two growing cycles and determined to be free of regulated viruses and pests. Since this change aligns the rule with current industry practice, it will not result in additional costs to businesses. Long term, this may be an overall benefit to the industry as it allows for a resurgence in the use of older varieties which may provide growers with greater production flexibility.

Requiring retesting of soil in registered blocks after fumigation to control the presence of nematodes of the genus *Xiphinema*:

Prior to planting a registered block, WAC 16-462-021(6) already requires the growing area and its contiguous borders be tested for the presence of nematodes of the genus *Xiphinema*. If this genus is detected, the growing area must be fumigated before it can be planted with registered vines. Under the proposed rule amendment, after an area has been fumigated, it must be retested to ensure that the nematodes are no longer present. This is the current practice, however it is not stated in rule. The additional testing requirement is needed to ensure that the fumigation successfully destroyed the nematodes. Retesting must be conducted by WSDA through the collection

of soil samples by inspection staff at a rate of \$50 per hour plus mileage. Samples are then processed by the WSDA lab at a cost of \$60 per sample. One soil sample is taken for up to five acres of each potential new block. For a business with a 5-acre block, the cost would likely be between \$110-\$150 depending on time and mileage. Most businesses which require testing for a new block, have >1 to 20 acres that need to be tested. The cost per business will vary depending on the size of the new block. Additionally, if a sample tests positive for *Xiphinema*, the business can either abandon that field as a potential site or fumigate and retest at their expense. In a typical year, the need for testing a new or expanded block occurs between 0-3 times. Of the five businesses currently in the certification program, two would not be impacted by the proposed changes to WAC 16-462-021(6). These businesses certify potted plants and therefore do not require new field plantings.

Decreasing the number of required inspections of certified grape planting stock (G4):

Proposed amendments to WAC 16-462-025(3) require certified grape planting stock (G4) to be inspected at least twice per year. This would be a decrease from current rule language requiring three inspections per year. The proposed language will better align with current practices and will not create any additional costs to businesses. In current practice, WSDA generally inspects G4 stock more than twice a year by request at most nurseries. This is because nurseries who ship interstate or internationally require phytosanitary inspections within 30 days prior to shipping, so inspections will occur during the growing season, as well as post-harvest. During the shipping season, G4 material will likely be inspected several times, post-harvest, as inspectors monitor compliance with destination treatment requirements.

Requiring virus sampling and testing for all registered (G2/G3) grapevines on a five-year rotation:

WAC 16-462-027 is a new section which outlines mandatory virus sampling and testing requirements for registered (G2/G3) grapevines. Currently, there is no requirement on the amount of samples which must be taken annually. Rather, samples are taken based upon visual symptoms displayed at the time of inspection, new plantings, and grower requests. Due to this, the total number of samples taken annually from businesses varies greatly. Under the proposed rule amendment, all registered grapevines should be tested for viruses once every five years. This would require around 20 percent of the total registered grapevines for each business be sampled annually. In practice, this estimated percentage will likely vary from year to year, with some years sampling and testing more than 20 percent and others fewer. WSDA will work with program participants to plan ahead and determine what samples are high priority for the coming year. However, for the purpose of calculating a cost estimate, it is assumed 20 percent of registered vines will be sampled annually under the proposed amendment. The overall result of proposed changes to WAC 16-462-027 will be an increase in the number of samples taken from each business. Table 3.1 shows the number of composite samples taken in 2018 and 2019, as well as the estimated annual number of samples required under the proposed rule amendment. Totals for composite samples taken in 2019 are unusually low due to an early frost that year.

Due to this, when calculating the difference in samples taken under the proposed amendment, figures were calculated using the number of composite samples taken in 2018. In areas of Table 3.1 where no data was available (unknown), it was assumed there were no composite samples taken.

Table 3.1 – Estimated number of samples based on registered grapevines

Businesses in program	Registered grapevines	2018 composite samples	*2019 composite samples	Estimated composite samples under amendment (20% of total registered vines)	**Difference in composite samples from 2018 and under amendment
Nursery #1	185,750	4,783	987	7,430	2,647
Nursery #2	13	N/A	N/A	1	1
Nursery #3	100	0	0	4	4
Nursery #4	16,547	500	61	662	162
Nursery #5 (small business)	800	Unknown	0	32	32

*Total composite samples for 2019 were unusually low due to an early frost.

**Unknowns for 2018 were calculated as zero.

Increased sampling will result in added costs to businesses, as WSDA inspectors will likely need to make multiple trips to sites and spend more time collecting samples. These additional time and mileage costs will vary depending on the number of grapevines a business has and the distance an inspector must travel to a site.

Under WAC 16-401-027 the collection of samples by WSDA is charged at a rate of \$50 per hour (including travel time) plus mileage, for licensed nurseries. It is estimated that an inspector can collect, document, and prepare a total of six composite samples per hour for submission to the testing lab. A nursery may decide to have their staff assist with the collection of samples. This is the current practice and may only be done under the direct supervision of WSDA. With nursery staff assisting in the collection of samples, the overall time required for WSDA to collect samples will be greatly reduced, leading to a reduction in costs billed by WSDA.

Composite sampling is the current technique used for sample collection. It's used to test a greater number of vines at one time. A composite sample is collected from several grapevines. The composite sample is then tested for target viruses. If the test is negative for viruses, then all vines included in the sample are considered certified. If the test is positive, then the business has the option of retesting each individual vine or removing all vines in that sample. If the business chooses to retest the vines, they must cover the cost for mileage to recollect the samples. Typically, businesses choose to remove all vines.

Table 3.2 Businesses producing field grown planting stock - approximate inspection cost under the proposed amendment.

Affected businesses	Total G2/G3 vines	Composite samples taken annually	Hours to collect composite samples (6/hour)	*Mileage cost	**Inspection and travel time cost (\$50/hr)	Total cost to business	Total cost with assistance from nursery staff (plus 1 WSDA inspector)
Nursery #1	185,750	7,430	1,238	\$4,539	\$68,495	\$73,035	\$12,172 (5 staff)
Nursery #4	16,547	662	110	\$2,109	\$8,591	\$10,700	\$1,421 (5 staff)
Nursery #5 (small business)	800	32	5	\$13	\$292	\$304	***\$107 (2 staff)

*Mileage cost calculated using 2019 data and multiplying total mileage by current per mile rate of \$0.575 per mile.

**Travel costs estimated from total mileage assuming a travel time of one mile per minute.

***Cost calculated with assistance from two staff, due to the low number of employees.

Table 3.3 Businesses producing tissue culture - approximate inspection costs under the proposed amendment.

Affected businesses	Total G2/G3 vines	Composite samples taken annually	Hours to collect composite samples (6/hour)	*Mileage cost	**Inspection and travel time cost (\$50/hr)	Total cost to business
Nursery #2	13	1	1	\$41	\$125	\$166
Nursery #3	100	4	1	\$28	\$100	\$128

*Mileage cost calculated using 2019 data and multiplying total mileage by current per mile rate of \$0.575 per mile.

**Travel costs estimated from total mileage assuming a travel time of one mile per minute.

Tables 3.2 and 3.3 show the estimated number of composite samples collected under the proposed amendment, as well as approximate inspection and travel time costs plus mileage. Total costs shown in Table 3.2 illustrate a worst case scenario situation depicting costs as if there was no assistance from nursery staff in the collection of samples (under direct supervision of WSDA). This table also shows what costs would look like if five nursery staff assisted one WSDA inspector with the collection of samples for nurseries #1 and #4, and two nursery staff assisted one WSDA inspector for nursery #5. This is not a WSDA requirement, but is a common practice among

nurseries. Thus, these costs more closely represent what costs may be in practice. Businesses in Table 3.3 did not have costs calculated with the assistance of nursery staff. This is because assistance would not be necessary due to the low number of samples collected. Mileage costs shown in Tables 3.2 and 3.3 are dependent on an inspector's physical distance from the nursery and the current mileage rate set by the Office of Financial Management. The current rate is \$0.575 per mile. Inspection and travel time costs are calculated at \$50 per hour. Travel costs are determined by the amount of time it takes an inspector to travel to and from a nursery. These costs were estimated in Tables 3.2 and 3.3 based on the total mileage traveled at a rate of one mile per minute. Travel costs are highly variable depending on road conditions, weather, and traffic. Additionally, inspectors will typically try to mitigate costs to nurseries by traveling to multiple sites which are in close proximity to each other. This can greatly reduce mileage and travel costs for businesses.

Businesses currently participating in the program grow planting stock in two ways, either field grown vines or through tissue culture. Costs calculated for Table 3.2 show nurseries which produce grape planting stock that was field grown and Table 3.3 shows nurseries which produce plants through tissue culture. Businesses which grow vines in a field will generally have more registered grapevines than businesses that produce planting stock from tissue culture. This is because WSDA registers and tests either the tissue culture lines themselves or the mother plant used to establish the tissue culture. This practice is different from single field grown vines that are used as a source of cuttings. Under the proposed amendments, businesses in Table 3.3 which produce tissue cultures will not see a large increase in costs, because their total number of composite samples will not substantially increase and their mileage and travel time costs will stay relatively the same. Businesses in Table 3.2 will likely see a larger increase because they will have a greater number of composite samples taken and the inspector will likely need to make more trips, increasing their overall mileage and travel time costs. Nursery #5 (the only small business), which has the lowest number of grapevines registered among businesses producing field grown planting stock, will have an estimated total cost of \$304.

Due to the increased number of samples collected under the proposed rule amendment, there will be an increased cost for testing. The number of vines bulked into one composite sample for testing at one time will also increase from five to ten vines. The increase in testing and composite samples will not increase costs for program participants. This is because testing fees are paid for by the grapevine assessment fund, through an interagency agreement with WSU. Businesses in the program will only be responsible for covering costs associated with inspection and travel time, as well as mileage.

RCW 15.13.310 requires the department adopt by rule an annual assessment on horticultural plants of the genera *Vitis* at a level necessary to carry out the grapevine certification program. The actual assessment is specified in WAC 16-401-060. The assessment was first adopted in 2003 as a result of legislation (chapter 215, Laws of 2002) passed during the 2002 legislative session that directed the department to levy an assessment on grapevines. Program participants also pay an annual application fee to participate in the program. To support the grapevine certification program, the department maintains an interagency agreement with Washington State University to fund most of the testing required by rule. RCW 15.14.145 provides that "[a]ll the moneys collected under the provisions of this chapter shall be paid to the director and deposited in the planting stock certification account within the agricultural local fund and shall be used only to carry out the purposes and provisions of this chapter."

Removing the requirement that program participants have to use paper certification tags provided by the department:

Amendments to WAC 16-462-035 allows nurseries more flexibility to print the approved certification language. Program participants can affix the approved certification language directly on each bundle, box or other unit of certified grape planting stock. When tagging and identifying certified grape planting stock (G4) - if a single shipment contains only certified G4 vines, the certification language may be affixed to or printed on the invoice or bill of lading. This amendment aligns the rule with current practices and will not have an economic impact on businesses.

Removing the requirement that certified grape planting stock (G4) adhere to certain grades and standards:

WAC 16-462-055 is being repealed in order to remove the requirement for certified planting stock to be bundled and labeled according to the grades and standards listed in this section when offered for sale. Nurseries have not requested the department grade their planting stock according to these standards in many years, as the grades listed are out of date with current industry production practices. Grades are now commonly agreed upon in a buying contract between the nursery and the buyer. Therefore, revising the rule by removing grades and standards will not have any economic impact to businesses.

Moving the application for registration and certification annual due date:

The current application for registration and certification is January 1st of each year. Under the proposed amendment, the application deadline is delayed until January 10th. Delaying the application due date will provide additional time for current and potential program participants to submit their applications after the beginning of the calendar year. There are no costs associated with this amendment.

Revising definitions used in the rule:

The proposed rule language includes some additional definitions of terms and some revision of existing definitions. This is being done to align the meaning of common terms with those in neighboring states' grapevine certification program rules, and to adopt the common glossary definitions used by the National Clean Plant Network. The definitions align our rule with the language used by both the North American Plant Protection Organization and the European Plant Protection Organization, creating consistent meaning across countries with whom we trade grape planting stock. There is no cost to businesses associated with these revised or added definitions.

SECTION 4:

Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

Costs associated with the proposed rule amendment include retesting costs for *Xiphinema* under WAC 16-462-021(6) and additional sampling costs under WAC 16-462-027. None of the other proposed amendments are expected to impose additional costs on regulated businesses.

Requiring retesting of registered blocks after fumigation to control the presence of nematodes of the genus *Xiphinema*:

Under the proposed rule amendment for WAC 16-462-021(6), costs for the collection of soil samples by WSDA staff are \$50 per hour plus mileage. Testing of these samples by the lab costs \$60 per sample. One sample is taken for every five-acre field block, so the estimated cost for one sample is \$110 – \$150. Two of the businesses in the program do not require soil testing because they produce potted planting stock from tissue culture and therefore will not be impacted by the proposed amendments. Most businesses which require testing for a new block, have between >1 – 20 acres that need to be tested. Businesses in the program typically register between 0 – 3 new blocks annually. The cost per business will vary depending on the size of the new block. The retesting cost alone will not impose more than minor costs on businesses in the industry.

Requiring virus sampling and testing for all registered (G2/G3) grapevines on a five-year rotation:

Costs associated with proposed changes to WAC 16-462-027 include time and mileage for additional sample collection by WSDA inspectors at a rate of \$50 per hour plus mileage. If 20 percent of each business' registered vines are sampled annually at this rate, it is likely that the proposed rule will impose more than minor costs on two of the large businesses, but none of the other businesses participating in the program.

Participation in this certification program is voluntary. Currently there are five businesses participating in the program. The minor cost threshold differs for each business based on the industry code they associated themselves with when they established their business license with the Washington State Department of Revenue. Table 4.1 shows the industry code used by each business, the minor cost threshold for that industry and the estimated costs incurred by businesses under the proposed rule amendments. All costs are estimated under worst case scenario situations and will likely be lower in practice.

Table 4.1 – Total estimated costs per business compared with their associated minor cost threshold.

Business	NAICS Code	Business Size	Estimated Costs for Increased Sampling	Estimated Costs to Sample and Retest 5 Acre Block After Fumigation	Total Cost	Minor Cost Threshold
Nursery #1	111332	Large	\$73,035	\$150	\$73,185	\$4,785.74
Nursery #2	111421	Large	\$166	\$0	\$166	\$4,836.69
Nursery #3	111421	Large	\$128	\$0	\$128	\$4,836.60
Nursery #4	424820	Large	\$10,700	\$150	\$10,850	\$10,415.10

Nursery #5	444220	Small	\$304	\$150	\$454	\$3,173.49
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Totaling all estimated costs associated with the proposed rule amendments, it is likely that more than minor costs will be imposed on nursery #1 and #4. However, no other nurseries participating in the program will experience more than minor costs.

SECTION 5:

Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

RCW 19.85.040(1) requires the department to compare the cost of compliance for small businesses with the cost of compliance for the largest ten percent of businesses affected by the proposed rule amendment. One or more of the following methods can be used as a basis for comparing costs: (a) cost per employee; (b) cost per hour of labor; or (c) cost per one hundred dollars of sales. The department used the cost per employee method to determine if the proposed fee increase will have a disproportionate impact on small businesses. Costs in Tables 5.1 and 5.2 were calculated using estimated total costs under the proposed amendment.

Table 5.1 – Businesses producing field grown planting stock - average cost per employee under the proposed rule amendment.

Business	Business Size	Proposed Amendment Total Cost	Estimated Total Employees	Average Cost per Employee
Nursery #1	Large	\$73,185	110	\$665
Nursery #4	Large	\$10,850	483	\$22
Nursery #5	Small	\$454	3	\$151

Table 5.2 Businesses producing tissue culture – average cost per employee under the proposed rule amendment.

Business	Business Size	Proposed Amendment Total Cost	Estimated Total Employees	Average Cost per Employee
Nursery #2	Large	\$166	129	\$1.29
Nursery #3	Large	\$128	350	\$0.36

The Grape Planting Stock Program is a voluntary certification program in which no businesses are required to participate. For those businesses wishing to have their planting stock certified by WSDA, the length of inspection time and number of samples submitted for testing is determined based on the total number of grapevines each business has. The more grapevines registered or certified for businesses that produce tissue cultures or field grown vines, the higher the overall expense will be for that business. Generally, businesses which produce tissue culture have a lower number of registered vines and will not be impacted by proposed amendments to WAC 16-462-021(6), so their overall costs will be lower. Nurseries #1, #4, and #5 all have a greater number of field grown vines and will be impacted by changes to WAC 16-462-021(6), so their costs will likely be higher.

Tables 5.1 and 5.2 compare the total cost per employee for each business. There are four large businesses currently participating in the program. One business would therefore be considered 25 percent of the largest businesses impacted by the proposed amendments. Nursery #1 has the greatest number of certified grapevines in the program and will see an estimated total cost per employee of \$665 under the proposed amendments. Nursery #5 is the only small business participating in the program and has the lowest number of certified vines which are field grown. This small business will see an estimated cost of \$151 per employee under the proposed amendments. When comparing per employee costs between nursery #5 and nursery #1, it is evident that small businesses will not be disproportionately impacted by the proposed rule amendments.

SECTION 6:

If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced provide a clear explanation of why.

It is concluded that the proposed rule amendment will not have a disproportionate impact on small businesses. The following information is provided for further explanation and clarification.

RCW 19.85.030(2) requires consideration of the following methods of reducing the impact of the proposed amendment on small businesses:

(a) Reducing, modifying, or eliminating substantive regulatory requirements –

Any reduction, modification, or elimination of the regulatory requirements of the proposed rule amendment could increase the risk of grape pests and viruses infesting Washington grapevines and undermine the purpose of the program. Additionally, the proposed amendments harmonize the planting stock requirements in Washington with those of Idaho and Oregon. If the amendments are not adopted, then program participants may have greater difficulty meeting interstate shipping requirements and could lose their specialty crop market niche for virus tested certified planting stock. Participation in the program is voluntary.

(b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements –

There are no recordkeeping or reporting requirements associated with the proposed rule amendment.

(c) Reducing the frequency of inspections –

This rule does reduce the frequency of inspections for G4 certified plants to align with current practices. Reducing the frequency of inspection further may result in the spread of undetected grape pests. Reducing the frequency of inspections undermines harmonization with other northwest states and could impact interstate movement of certified grapevines.

(d) Delaying compliance timetables –

Delaying compliance timetables is not a viable mitigation measure. Any delay will result in a higher risk of spread for grape pests. Although, delaying compliance timetables is not an option, WSDA expects to work with program participants to determine what samples are their highest priority for sampling to comply with amendments to WAC 16-462-027 for the coming year.

(e) Reducing or modifying fine schedules for noncompliance –

This rule does not contain any fines for noncompliance. The purpose of the grape planting stock program is to provide vineyards with planting stock that is free of pests, viruses and pathogens.

(f) Any other mitigation techniques including those suggested by small businesses or small business advocates –

No other mitigation techniques were presented to us by small businesses or small business advocates. Proposed changes to WAC 16-462-027 will result in an increased number of samples collected annually from each business. This will result in added costs to businesses, as WSDA will likely need to make multiple trips to sites and spend more time collecting samples. To mitigate travel costs, WSDA inspectors will visit multiple businesses within close proximity of each other. This will save on mileage and travel time. Another mitigation technique to reduce the costs charged to businesses by WSDA would be utilizing nursery staff to assist in sample collection under the direct supervision of WSDA. This would drastically reduce the amount of time WSDA inspectors would need to spend collecting samples, which could reduce costs billed by WSDA to businesses.

The Grape Planting Stock Registration and Certification Program is a collaborative effort between the grape industry, program participants, Washington State University, and the department to provide clean planting stock to support Washington's wine and juice growers. Under RCW 15.13.310, an assessment is levied on the sale of

grapevines. This assessment is used to fund the department's Grape Planting Stock Registration and Certification Program.

The proposed amendment to WAC 16-462-027 will significantly increase the number of samples that need to be tested by a laboratory. The Washington State University provides most of the laboratory testing required under the rule. In an effort to mitigate costs related to the increase in testing, the department funds most of WSU's laboratory testing costs for program participants through an interagency agreement with WSU. Program participants will only be responsible for covering costs associated with sample collection and inspection and some laboratory testing fees related to confirming the efficacy of fumigation for nematodes.

SECTION 7:

Describe how small businesses were involved in the development of the proposed rule.

Industry groups representing small businesses were involved throughout the development of the proposed rule, which included the "Harmonizing Protocols in the Northwest – A Pilot Project Driven by Stakeholders." This project engaged stakeholders and regulatory agencies in comparing existing grapevine pest quarantines and certification programs, developing a common pest list, and identifying universally acceptable testing methods and cultural mitigations for common pests. The project led to the development of a draft certification standard which was the basis for the Washington Winegrowers Association's petition to the department to amend chapter 16-462 WAC. The Northwest Foundation Block Advisory Group was utilized throughout the draft development to advise regulators and sound out deliverables and their feasibility. The Foundation Block Advisory Group represents industry interests by advising the Washington State University (WSU) Clean Plant Center Northwest on the Foundation Block including management, direction, selection of plant material, distribution, phytosanitary issues (testing and re-testing), as well as on all policies and procedures, funding needs, quarantine issues and quarantine needs plus program reviews and industry reports. Members include wine, juice and table grape growers, wineries, nurseries, universities and departments of agriculture from Idaho, Oregon, and Washington.

All businesses impacted by the proposed amendments were invited to meetings and discussions regarding changes to the rule. They were also invited to attend focus groups where the language was developed. Additionally, there has been high stakeholder engagement in the past few years around the development of best practices for laboratory testing by composite sampling. Businesses have assisted WSDA and WSU in developing these practices by allowing more samples to be collected than required.

SECTION 8:

Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

No jobs are estimated to be created or lost as a result of compliance with the proposed rule.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Gloriann Robinson, Agency Rules Coordinator
Address: PO Box 42560, Olympia, WA 98504-2560
Phone: (360) 902-1802
Fax: (360) 902-2092
TTY: (800) 833-6388
Email: wsdarulescomments@agr.wa.gov
Other:

Date: 8/19/20

Name: Brad White

Title: Assistance Director

Signature:



AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-010 Grape planting stock program—General. (1) Participation in the grape planting stock program is voluntary.

(2) Grapevines or parts of grape plants may be designated as registered stock (G2/G3), or certified grape planting stock (G4), if they and the stock from which they were produced have been inspected(~~(, in-~~~~dexed,)~~) and tested in accordance with procedures and requirements outlined in this chapter and found to be in compliance with all ap-
plicable standards and requirements established in this chapter.

~~((2))~~ (3) The issuance of a state of Washington plant tag, stamp, or other document under this chapter means only that the tagged, stamped, or otherwise documented planting stock has been subjected to standards and procedures described in this chapter and determined to be in compliance with its standards and requirements. The department disclaims all expressed 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))~~ (4) 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 grape planting stock certification program is voluntary.)~~

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-015 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

"Block" means a contiguous grouping of Vitis plants separated from other groupings by a buffer zone. A block may contain one or multiple lots.

"Buffer zone" is an area surrounding or adjacent to an area officially delimited for phytosanitary purposes in order to minimize the probability of spread of targeted pests or diseases, into or out of the delimited area and subject to phytosanitary or other control measures, if appropriate.

"Certified grape planting stock" means vines, rooted cuttings, tissue cultures, cuttings or grafted plants taken or propagated directly from G1 foundation vines or G2/G3 registered vines in compliance with the provisions of this chapter.

"Containerized plant" means any live plant grown in a container or pot-in-pot where the plant is healthy, vigorous, well-rooted, and established in soil-less media in the container in which it is growing.

"Clean cultivation" means the site is actively managed for weed control or is planted with a cover crop approved by the department.

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

"Director" means the director of the department of agriculture or the director's designee.

"Foundation block" means a planting of grapevines established, operated, and maintained by the Clean Plant Center Northwest at Washington State University, or other sources approved in writing by the director, that are ((indexed)) tested and found free from targeted pathogens and viruses designated in this chapter and that are not off-type.

"Generation 1 (G1)" means original mother (~~((plants indexed for the viruses of concern))~~) vines identified as such by the Clean Plant Center Northwest at Washington State University or an equivalent facility approved by the department. (~~((The Clean Plant Center Northwest web site is: <http://healthyplants.wsu.edu/grape-program-at-cpenw/>.)~~)

"Generation 2 (G2)" means grapevines propagated from G1 mother (~~((plants))~~) vines and grown under conditions to prevent infection, in accordance with the requirements of this chapter.

"Generation 3 (G3)" means grapevines propagated from G1 or G2 mother (~~((plants and grown))~~) vines, for increase of propagative material, and grown under conditions that prevent infection, in accordance with the requirements of this chapter.

"Generation 4 (G4)" means grapevines propagated from G1, G2, or G3 mother (~~((plants))~~) vines and grown in accordance with this chapter. This is material most often (~~((grown))~~) distributed for sale to commercial vineyards and retail consumers.

~~((("Index" means testing for virus infection by making a graft with tissue from the plant being tested to an indicator plant, or by any other testing method approved by the department.~~

~~((("Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.))~~ "Grapevine" means commercially grown species in the genus *Vitis*.

"Lot" means a contiguous group of a selection within a block, derived from one or more G1 source grapevines obtained from a single clean plant source approved by the department.

"Mother vine" means a grapevine used as a source for propagation material.

"National Clean Plant Network (NCPN)" means the national network of clean plant centers established in 2008 and supported by the United States Department of Agriculture. (~~((The NCPN web site is: <http://nationalcleanplantnetwork.org/>.)~~)

"Off-type" means appearing under visual examination to be different from the variety listed on the application for registration and certification, or exhibiting symptoms of a genetic or nontransmissible disorder.

"Registered block" means a planting of registered (G2/G3) grapevines maintained by a nursery and used as a source of propagation material for certified (G4) grapevines.

"Registered vine" means any G2 or G3 grapevine approved by the director, identified to a single (G1) grapevine source, and registered with the Washington state department of agriculture, in compliance with provisions of this chapter.

"Screenhouse" is a structure that includes screening designed to prevent the introduction of insect vectors.

"Tissue culture" means aseptically removing a vegetative shoot tip from growth arising from a dormant cutting or from green growth (i.e., softwood) from a plant during the growing season and aseptically transferring this shoot tip to a suitable vessel containing an appropriate culture medium.

"Virus-like" means a graft-transmissible disorder with symptoms resembling a characterized virus disease(~~(7)~~) including, but not limited to, disorders caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-018 (~~(Certification levels.)~~) Foundation sources eligible for registration and certification. All propagative material (~~(produced under this)~~) eligible for entry into the WSDA grape planting stock registration and certification program must be derived from a Generation 1 (~~(stock and grown under conditions that mitigate the risk of reinfection.)~~) foundation block held at a National Clean Plant Network (NCPN) supported center and continuously grown under conditions that mitigate the risk of infection. Eligible Generation 1 (~~(level material is produced at)~~) foundation sources include the Clean Plant Center-Northwest (CPC-NW) at Washington State University(~~(, or)~~) and Foundation Plant Services (FPS) at University of California at Davis. The department may approve other grapevine foundation facilities (~~(within the National Clean Plant Network (NCPN) and approved by the department)~~) as an eligible G1 foundation source. Such approval shall be in writing. The accession numbers relating to the single (G1) grapevine source (~~(at CPC-NW or other approved facilities)~~) must be retained for tracking purposes throughout the life of its certified progeny and provided to the department upon request. (~~(At each stage of propagation, progeny plants drop to a lower certification level.)~~)

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-020 Requirements for participation in the grape planting stock program. (1) The applicant shall be responsible, subject to the approval of the department, for the selection of the location and the proper maintenance of registered blocks (G2/G3) and certified grape planting stock (G4).

(2) The applicant must maintain records identifying the (G1) foundation source of registered (~~(grapevines)~~) vines (G2/G3) and certified grape planting stock (G4) and provide these records to the department upon request.

(3) The applicant shall take suitable precautions in cultivation, irrigation, movement and use of equipment, and in other farming practices, to guard against spread of soil-borne pests to planting stock entered in this program. The applicant shall keep all registered blocks (G2/G3) and certified grape planting stock (G4) clean cultivated, except for approved cover crops.

(4) Following notification by the department, the applicant shall remove and destroy immediately any registered grapevine or certified planting stock found to be off-type or affected by a virus or virus-like disease or a quarantine pest.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-021 Requirements for registered blocks (G2/G3). (1)

All registered grapevines must be identified by the number assigned to the single grapevine (G1) source in the foundation block from which they were ~~((taken))~~ derived.

(2) With the exception of practices allowed in subsections (3), (4), and (5) of this section, registered ~~((plants))~~ (G2) vines must be propagated directly from cuttings or tissue cultures taken from a G1 grapevine.

(3) Plants propagated from a G1 grapevine and grown entirely under laboratory or ~~((greenhouse))~~ screenhouse conditions may serve as a source of softwood cuttings ~~((or shoot tip culture))~~ used to establish a registered block of G2 grapevines or a registered (G2) tissue culture line.

(4) ~~((G3))~~ Registered G3 grapevines may be propagated from ~~((G2))~~ registered G2 grapevines within the same registered block, for the purpose of increasing the size of the block or for replacement grapevines.

(5) Participating nurseries must obtain written permission from the department to propagate G3 grapevines from G2 grapevines, for the purpose of establishing or increasing other registered blocks within the nursery ~~((if))~~. All of the following conditions ~~((are))~~ must be complied with:

(a) The mother vines were registered G2 ~~((grapevines))~~ vines;

(b) Propagation occurs in a laboratory or insect proof greenhouse by tissue culture or softwood cuttings; and

(c) The mother vine ~~((is no more than two years old, or the department))~~ has been tested by the department within the last two growing cycles and has been determined ((the mother vine is)) to be free of regulated viruses and pests in WAC 16-462-050.

(6) Prior to planting a registered block (G2/G3), the growing area and its contiguous borders of not less than ten feet must be tested by the department for the presence of ~~((the))~~ nematodes of the genus ~~((Xiphenema))~~ Xiphinema, which can be virus vectors. If a ~~((Xiphinema))~~ Xiphinema nematode is detected, the growing area must be fumigated in accordance with rates and practices recommended by Washington State University and then retested to verify efficacy of the fumigation. This treatment must be carried out under the supervision of the department.

(7) Registered blocks must be located at least one hundred feet from noncertified or nonregistered grapevines. This does not apply to registered ~~((stock))~~ vines grown in a fully enclosed greenhouse, screenhouse or laboratory, ~~((providing the))~~ as long as that facility does not contain noncertified grapevines.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-022 Requirements for certified grape planting stock (G4). (1) Certified grape planting stock, including all components of budded or grafted plants, must be propagated from cuttings taken from G1, G2, or G3 grapevines.

(2) Cuttings from registered blocks must be sorted and kept separate by variety and selection number or clone.

(3) Treatment to control nematodes and other soil-borne pests may be required at any time by the department.

(4) ~~((All certified planting stock other than greenhouse grown plants must comply with the grades and standards for Washington certified grape planting stock as listed in WAC 16-462-055.~~

~~(5))~~ Certified grape planting stock must be separated from non-certified grapevines by one of the following distances. This requirement does not apply to certified grape planting stock grown in a fully enclosed greenhouse, screenhouse or laboratory, ~~((providing the))~~ as long as that facility does not contain noncertified grapevines.

(a) Ten feet for any land treated to control nematodes; or

(b) Twenty feet for land not specifically treated to control nematodes.

~~((6))~~ (5) Certification is based solely on compliance with the requirements prescribed in WAC 16-462-050 and other requirements of this chapter.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-025 ((Foundation,)) Registered((,)) grapevines (G2/G3) and certified grape planting stock (G4)—Inspections. (1) Inspections ~~((and indexing))~~ of registered grapevines and certified grape planting stock will be performed by the department at times determined to be suitable for the detection of virus and virus-like disease symptoms. ~~((The Clean Plant Center Northwest will inspect and index the foundation block (G1).~~

~~(2) The department will index registered grapevines by methods consistent with those utilized by the Clean Plant Center Northwest.~~

~~(3))~~

(2) The department will conduct at least two inspections of registered ~~((grapevines))~~ (G2/G3) vines during each growing season.

~~((4))~~ (3) The department will inspect certified grape planting stock (G4) at least ~~((three))~~ two times per year ~~((, twice during the growing season and once during or after harvest))~~.

~~((5))~~ (4) The department will refuse or withdraw registration or certification for any planting stock that is infested or infected with any ~~((regulated))~~ pest regulated under this chapter, or any quarantine pest listed in WAC 16-483-001.

NEW SECTION

WAC 16-462-027 Virus sampling and testing requirements for registered (G2/G3) grapevines. (1) In addition to required visual inspections, all registered (G2/G3) grapevines may be tested by the department for regionally occurring viruses regulated under this chapter, on a five-year rotation. Regionally occurring viruses are those that can be vectored within the registered block. Pests to be tested for will be recommended annually by consensus of an agency recognized industry stakeholder group with representation for the Pacific Northwest region.

(2) Testing will be prioritized as follows:

(a) All vines showing symptoms upon visual inspection by the department will be tested immediately.

(b) Vines of varieties with the highest distribution by the nursery.

(c) Vines of varieties considered unlikely to show visual symptoms of virus shall be sampled and tested at twenty percent per year, or as directed by the department.

(d) Other vines not described above.

(3) The department and entities authorized by the department will test registered G2 grapevines by methods consistent with those utilized by the Clean Plant Center Northwest.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-030 (~~(Certified grape planting stock)~~) Application and fees. (1) The applicant shall ~~((furnish))~~ submit an application form developed by the department, furnishing all information requested ~~((on the application form and shall give))~~, giving consent to the department to inspect and take samples from any planting stock enrolled in the program as registered grapevines or certified ~~((grapevines for inspection or indexing))~~ grape planting stock.

(2) Such application for registration and certification shall be filed with the department by January ((1)) 10 of each year accompanied by a one hundred seventy-five dollar application fee.

(3) ~~((Inspection, phytosanitary certification, indexing and testing fees are due upon completion of services.~~

~~(4) Fees for inspection and phytosanitary certification shall be assessed at the appropriate rate established in chapter 16-401 WAC. Fees for indexing shall be assessed at the appropriate rate established in chapter 16-470 WAC. Mileage for inspections and other on-site services shall be charged at a rate established by the state office of financial management.)~~ Fees for inspection and sampling shall be charged at the appropriate rate established in WAC 16-401-027. Mileage for inspections and other on-site services shall be charged at a rate established by the state office of financial management.

(4) Laboratory testing fees for nematode presence shall be charged at the appropriate rate established in WAC 16-470-912.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-035 Certified grape planting stock (G4)—Tagging and identity. (1) Certification (~~(tags issued)~~) language approved by the department must be (~~(securely attached)~~) affixed by the grower to each bundle, box or other unit of certified grape planting stock (G4) by means of tag, stamp, sticker, or preprinted language prior to shipping. If all vines in a single shipment are considered certified, the certification language may alternatively be affixed to or printed on the invoice or bill of lading.

(2) Any person selling Washington certified grape planting stock (G4) is responsible for the identity of such planting stock. Persons (~~(issued tags authorized by this chapter)~~) authorized to use certification language must account by variety for the certified grape planting stock produced and sold. They must keep and allow the department to inspect and copy records necessary to verify this.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-050 Requirements—Targeted pests and pathogens. (~~(Certified plants)~~) All grapevines produced under this program must be free of Grapevine fanleaf virus, Grapevine leafroll-associated viruses, Grapevine virus A, Grapevine virus B, (~~(Grapevine rupestris stem pitting virus,)~~) Arabis mosaic virus, Tomato ringspot virus, Grapevine red blotch virus, Grapevine vein clearing virus, *Xylella fastidiosa*, *Daktulosphaira vitifoliae*, (~~(and)~~) *Planococcus ficus* (~~(Certified plants)~~) and all other quarantine pests listed in WAC 16-483-001. Grapevines produced under this program must also be apparently free of nematode root knots, crown gall, and other visible signs of diseases or serious pest injuries.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-462-055 Certified grape planting stock—Grades and standards.