

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on July 7, 2014 by the

Oregon Dept. of Agriculture, Division 52 Pest and Disease Control	603		
Agency and Division	Administrative Rules Chapter Number		
Sue Gooch	635 Capitol St. NE, Salem, OR 97301	sgooch@oda.state.or.us	503-986-4583
Rules Coordinator	Address		Telephone

RULE CAPTION

Protecting Willamette Valley Agriculture from Blackleg, a Seed-Borne Plant Disease

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT:

AMEND: OAR 603-052-0882

SUSPEND:

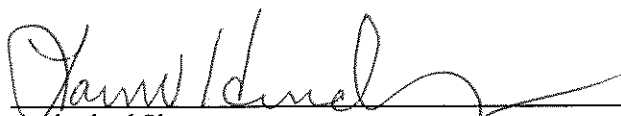
Stat. Auth.: ORS 570.305, 570.405, 570.450

Other Auth.: ORS 561.190, 183.335 (5)(6)

Stats. Implemented: ORS 570.450

RULE SUMMARY

The rapeseed production district rules in OAR 603-052-0860 – 0921 establish a control area for Brassica spp. including rapeseed and provide the conditions for the production of Brassica spp. and rapeseed to protect against plant diseases that may constitute a menace to the horticultural, agricultural or forest industries. Passage of HB 2427 (2013) [Oregon Laws Chapter 724, [published as a note following ORS 570.450] replaced previously existing administrative rules governing rapeseed production that assisted in preventing the introduction and spread of "blackleg" a plant disease caused by the fungus *Phoma lingam* that infects the seeds of Brassica crops. 2013 Oregon Laws Chapter 724 does not address treatment of seed to prevent the seed-borne disease known as blackleg. Blackleg has recently been discovered infecting field crops within the Willamette Valley Protected District area described in HB 2427, 2013 Oregon Laws Chapter 724. OSU and ODA Plant Pathologists believe uncertified, untreated seed is the cause of this outbreak. This temporary rule requires that seeds of susceptible crops be tested and certified as free from blackleg or the seed stock be treated with a fungicide or suitable alternative treatment prior to planting and management measures be implemented in known infected fields. The crops impacted include: *Brassica* (broccoli, Brussels sprouts, cabbage, canola, cauliflower, Chinese *Brassica* vegetables, collards, kales, mizuna, mustards, oilseed rape, oilseed turnip rape, rutabaga, turnip, etc), *Raphanus* (daikon or radish), and *Sinapis* (white and yellow mustard).


Authorized Signer

Lauren Henderson
Printed name

7/7/14
Date

Note: Temporary rulemakings must be submitted by the 15th day of the month to be included in the next month's *Oregon Bulletin* and online *OAR Compilation* updates.

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Dept. of Agriculture, Division 52 Pest and Disease Control

603

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amending OAR 603-052-0882

Rule Caption: Protecting Willamette Valley Agriculture from Blackleg, a Seed-borne Plant Disease

Statutory Authority: ORS 570.305, 570.405, 570.450

Other Authority: 561.190, 183.335 (5)(6)

Stats. Implemented: ORS 570.405; ORS 570.450

Need for the Temporary Rule(s):

The rapeseed production district rules in OAR 603-052-0860 – 0921 establish a control area for *Brassica* spp. including rapeseed and provide the conditions for the production of *Brassica* spp. and rapeseed to protect against plant diseases that may constitute a menace to the horticultural, agricultural and forest industries. "Blackleg" is a seed-borne plant disease caused by *Phoma lingam* (= *Leptosphaeria maculans*). *Phoma lingam* is a fungus that can infect most cruciferous crops and is a serious problem for all growers of fall- or spring-sown plantings of *Brassica* and *Raphanus* species within the Willamette Valley. Host plants include species of *Brassica* (broccoli, Brussels sprouts, cabbage, canola, cauliflower, Chinese Brassica vegetables, collards, kales, mizuna, mustards, oilseed rape, oilseed turnip rape, rutabaga, turnip, etc.), *Sinapis* (white and yellow mustard), *Raphanus* (daikon or radish), *Descurainia* (tansymustard), *Sisymbrium* (hedge mustard), and *Thlaspi* (penny-cress)

Introduction of blackleg would result in serious damage to the vegetable and oilseed industry in Oregon's Willamette Valley including plant mortality and crop losses. Rules governing production of *Brassica* spp. in the Willamette Valley Protected District as that area is described in 2013 Oregon Laws Chapter 274 must be immediately amended to prevent the introduction of blackleg into the Willamette Valley Protected District via infected seed. Existing laws governing the Willamette Valley Protected District as described in 2013 Oregon Laws Chapter 274 do not address treatment of seed in order to prevent the introduction or spread of blackleg into the Willamette Valley Protected District.

Recently, blackleg has been discovered infecting field crops in the Willamette Valley. OSU and ODA Plant Pathologists believe uncertified, untreated seed is the cause of this outbreak and that to prevent the spread of blackleg, the seeds of host plants must be tested and certified as free from blackleg or the seed stock be treated with a fungicide or suitable alternative treatment prior to planting. The crops governed by these rules include: *Brassica* (broccoli, Brussels sprouts, cabbage, canola, cauliflower, Chinese *Brassica* vegetables, collards, kales, mizuna, mustards, oilseed rape, oilseed turnip rape, rutabaga, turnip, etc), *Raphanus* (daikon or radish), and *Sinapis* (white and yellow mustard. Without passage of these temporary rules requiring official testing and treatment of host seeds for blackleg, and treatment of known infected fields, the disease will be further introduced and its spread into the Willamette Valley Protected District would result in crop infection and loss that would be a menace to the agricultural industries in the Willamette Valley Protected District.

Documents Relied Upon, and where they are available:

Disease Alert – Black leg in Brassiceae seed fields in the Willamette Valley – CM Ocamb

From: Cynthia Ocamb, Associate Prof. & Ext. Specialist, Bot. & Plant Pathology, OSU-Corvallis Email: ocambc@science.oregonstate.edu Phone: 541-737-4040

Black leg and Phoma leaf spot in Brassiceae fields in the Willamette Valley, 2014Excerpts:

Beginning on 23 March 2014, I found several leaf spot diseases in fall-sown crucifer crops and wild crucifers (Brassicaceae tribe) in the Willamette Valley. October 2013 surveys of fall-sown Oregon State University research plots of canola, forage Brassica, and "field" turnips showed no leaf spots, black leg, or seed/seedling diseases. However, since late March, leaf spots caused by the fungus *Phoma lingam* (sexual stage: *Leptosphaeria maculans*), the cause of black leg,

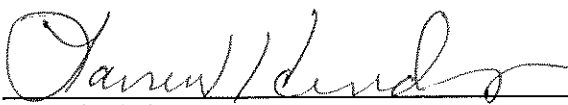
were observed in 13 of the 14 research sites examined, with stem cankers also found in a number of the turnip research sites. Surveys of a wider range of turnip seed fields as well as vegetable seed Brassica and other types of overwintering Brassicaceae revealed *P. lingam* to be causing disease in fall-planted seed fields and wild populations of several species within the Brassicaceae: including cultivated oilseed canola, field turnip, forage Brassica, Brassica cover crops, cruciferous vegetables (cabbage, collards, kale, and mizuna), volunteer giant mustard, volunteer turnip, volunteer black mustard, volunteer or wild radish, and in wild mustard. To date, I have found plants infected with *Phoma lingam* growing in Benton, Linn, Marion, Polk, and Yamhill counties.

Phoma lingam is a fungus that can infect most cruciferous crops and, as such, is a serious problem for all growers of fall- or spring-sown plantings of Brassica and Raphanus species within the Willamette Valley. Host plants include species of Brassica (broccoli, Brussels sprouts, cabbage, canola, cauliflower, Chinese Brassica vegetables, collards, kales, mizuna, mustards, oilseed rape, oilseed turnip rape, rutabaga, turnip, etc.), Sinapis (white and yellow mustard), Raphanus (daikon or radish), Descurainia (tansymustard), Sisymbrium (hedge mustard), and Thlaspi (penny-cress) (2).

Cultural control of black leg is critical for all Brassica and Raphanus growers in the Willamette Valley in order to avoid having this disease become established. It is imperative that each grower, regardless of whether growing a seed, oilseed, or vegetable crop: - Eradicate susceptible weeds and control volunteer crucifers. - **Plant only seed that has been certified to be free of Phoma and has been treated with a fungicide** [Emphasis added].

Justification of Temporary Rule(s):

The Department finds that failure to act promptly will result in serious prejudice to the public interest. The public interest includes preventing the spread of plant diseases and maintaining healthy and viable production of vegetables and vegetable seed in the Willamette Valley. These rules protect that public interest by requiring official testing and treatment of seeds for the fungus that causes blackleg. Official testing and seed treatment will prevent the introduction and spread into the Willamette Valley of the disease blackleg. The Department has determined that the risk of introduction of blackleg to the Willamette Valley via uncertified, untreated seed presents a menace to the agricultural industries in the Willamette Valley. Once established, blackleg causes serious crop losses and persists in the soil. The Department is preparing permanent rules that will amend OAR 603-052-0886 to require the use of certified, treated seed for *Brassica* crops and expand the requirement to other susceptible hosts. Because the process for permanently amending rules governing the Willamette Valley Protected District will take several months, and planting of host crops with non-certified, untreated seed will occur at any time, the Department must immediately promulgate rules requiring the official testing and treatment of host seeds to prevent blackleg introduction and spread via uncertified, untreated seed. Without passage of these temporary rules, blackleg would be introduced and/or spread into the Willamette Valley Protected District resulting in crop infection and loss that would create an immediate and severe menace to the agricultural industries in the Willamette Valley.



Authorized Signer

Lauren Henderson

Printed name

2/7/14

Date

Temporary Rule: Blackleg Disease Prevention in the Willamette Valley

603-052-0882

Willamette Valley Protected District

(1) In addition to the provisions governing canola in the Willamette Valley Protected District as provided in 2013 Oregon Laws Chapter 724, the following rules preventing the introduction and spread of blackleg are applicable within the Willamette Valley Protected District as that district is described in HB 2427 (2013).

(2) As authorized by OAR 183.335(5)(6), the Department establishes a temporary rule to protect Willamette Valley crops against blackleg, a plant disease caused by *Phoma lingam* (= *Leptosphaeria maculans*). This temporary rule is established under ORS 561.190 and 570.405 to protect Oregon's agricultural seed and oilseed industries from the artificial spread of blackleg in the Willamette Valley. This seed-borne disease causes mortality in all ages of susceptible host species within the family Brassicaceae, including but not limited to the following genera, *Brassica*, *Raphanus*, *Sinapis*, *Sisymbrium*, *Descurainia*, *Rorippa*, and *Thlaspi*.

(3) Commodities covered. All seed and plants of susceptible species within the family Brassicaceae, including *Brassica* (broccoli, Brussels sprouts, cabbage, canola, cauliflower, Chinese *Brassica* vegetables, collards, kales, mizuna, mustards, oilseed rape, oilseed turnip rape, rutabaga, turnip, etc.), *Raphanus* (daikon or radish), and *Sinapis* (white and yellow mustard). Exemption: Prepackaged seed lots of *Brassica*, *Raphanus*, and *Sinapis* of one-half (0.5) ounce or less and transplants for home use are exempt from the requirements of this rule.

(4) Provisions of temporary rule. All lots of the covered commodities intended for entry or for commercial planting within the Willamette Valley Protected District are prohibited from planting within the District unless they meet the conditions below:

(a) All seed stock of covered commodities must meet one of the following conditions:

(i) Be accompanied by a certificate stating that the untreated seed is free from blackleg (*Leptosphaeria maculans*, asexual stage = *Phoma lingam*) based on official sampling and testing. Alternatively, a seed lot that initially tests positive for blackleg by official testing must be treated in a manner approved by the Department for blackleg control and the treatment officially documented; or,

(ii) The seed lot must be treated in a manner approved by the Department for blackleg control and records documenting said treatment provided to the Department upon request.

(b) All plants of covered commodities intended for transplanting for commercial production must be certified as having originated from seed stock that was found free of blackleg based on official testing or was treated prior to planting with a method that has been approved by the Department for blackleg control.

(5) The following management practices are required to prevent buildup of blackleg, blackrot, and other diseases and pests:

(a) Covered commodities may not be grown on the same plot of land in two consecutive years and not more than two years in every five.

(b) Any volunteer or uncontrolled Brassicaceae in or around production fields must be rogued out or otherwise eliminated by the producer.

(c) All planting, harvest, and transportation equipment shall be cleaned to prevent any inadvertent spread of covered commodities from the field.

(d) All unbagged loads of covered commodities transported within the Protected District must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss.

(6) Seed dealers and producers are required to maintain all pertinent records in accordance with Oregon Revised Statutes 633.511 to 633.750 and to make these records available to the Department upon request. Similarly, seed dealers and producers are required to maintain all pertinent records of seed treatment as described in OAR 603-056-0431 and to make these records available to the Department upon request.

(7) Special permits: The Department, upon receipt of an application in writing, may issue a special permit allowing research on blackleg disease within this Protected District on regulated commodities not otherwise eligible for such under the provisions of this quarantine order. Research on blackleg disease on such commodities will be subject to any conditions or restrictions stipulated in the permit and these conditions and restrictions may vary depending upon the intended research on the commodity and the potential risk of escape or spread of *Leptosphaeria maculans* (= *Phoma lingam*).

(8) Violations. Violation of this temporary rule is a Class A violation as provided by ORS 570.410 and 570.990. Violators may also be subject to civil penalties of up to \$10,000 as provided by ORS 570.995. Covered commodities shipped into or planted in violation of this temporary rule may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the state.

(9) This temporary rule shall be effective upon filing with the Secretary of State's office for 180 days unless terminated, amended, or replaced by an amended version of OAR-052-0860 to 0921.

[ED. NOTE: A map of the Willamette Valley Protected District is available on the ODA website at: <<http://www.oregon.gov/ODA/pages/canola.aspx>>]

Stat. Auth.: ORS 561.190, 570.305, 570.405, 570.412, 570.415 & 570.450 Stats.

Implemented: 2013 HB 2427, ORS 570.305, 570.405, 570.410, 570.412, 570.415 & 570.450

Hist.: DOA 1-2013, f. & cert. ef. 2-6-13; DOA 11-2013, f. & cert. ef. 10-21-13

Temporary Rule: Blackleg Disease Prevention in the Willamette Valley

603-052-0882

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