

RCW 15.09.080 Failure to control horticultural pests and diseases—Remedies.

(1) Whenever the horticultural pest and disease control board finds that an owner of land has failed to control and prevent the spread of horticultural pests and diseases on his or her land, as is his or her duty under RCW 15.09.060, it shall provide such person with written notice, which notice shall identify the pests and diseases found to be present and shall order prompt control or disinfection action to be taken within a specified and reasonable time period.

(2) If the person to whom the notice is directed fails to take action in accordance with this notice, then the board shall perform or cause to be performed such measures as are necessary to control and prevent the spread of the pests and diseases on such property and the expense of this work shall be charged to such person. Any action that the board determines requires the destruction of infested plants, absent the consent of the owner, shall be subject to the provisions of subsection (3) of this section.

(3) In the event the owner of land fails to control and prevent the spread of horticultural pests and diseases as required by RCW 15.09.060, and the county horticultural pest and disease board determines that actions it has taken to control and prevent the spread of such pests or diseases has not been effective or the county horticultural pest and disease board determines that no reasonable measures other than removal of the plants will control and prevent the spread of such pests or diseases, the county horticultural pest and disease board may petition the superior court of the county in which the property is situated for an order directing the owner to show cause why the plants should not be removed at the owner's expense and for an order authorizing removal of said infected plants. The petition shall state: (a) The legal description of the property on which the plants are located; (b) the name and place of residence, if known, of the owners of said property; (c) that the county horticultural pest and disease board has, through its officers or agents, inspected said property and that the plants thereon, or some of them, are infested with a horticultural pest or disease as defined by RCW 15.08.010; (d) the dates of all notices and orders delivered to the owners pursuant to this section; (e) that the owner has failed to control and prevent the spread of said horticultural pest or disease; and (f) that the county horticultural pest and disease board has determined that the measures taken by it have not controlled or prevented the spread of the pest or disease or that no reasonable measure can be taken that will control and prevent the spread of such pest or disease except removal of the plants. The petition shall request an order directing the owner to appear and show cause why the plants on said property shall not be removed at the expense of the owner, to be collected as provided in this chapter. The order to show cause shall direct the owner to appear on a date certain and show cause, if any, why the plants on the property described in the petition should not be removed at the owner's expense. The order to show cause and petition shall be served on the owner not less than five days before the hearing date specified in the order in the same manner as a summons and complaint. In the event the owner fails to appear or fails to show by competent evidence that the horticultural pest or disease has been controlled, then the court shall authorize the county horticultural pest and disease board to remove the plants at the owner's expense, to be collected as provided by this chapter. If the procedure provided

herein is followed, no action for damages for removal of the plants shall lie against the county horticultural pest and disease board, its officers or agents, or the county in which it is situated. [2010 c 8 § 6019; 1991 c 257 § 1; 1982 c 153 § 4; 1969 c 113 § 8.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.210.