

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture
(agency name)

Administrative Order No. 1822

(1) I, M. Keith Ellis, director of Washington State Department of Agriculture

do promulgate and adopt at Olympia, Washington (place) the annexed rules relating to:

WAC 16-470 Chapter, Quarantine - Agricultural Pests, Gypsy Moth and Apple Maggot

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 84-06-054 filed with the code reviser on March 7, 1984. These rules shall take effect: [] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [X] at a later date, such date being July 1, 1984.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 17.24 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of (name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON

FILED

APPROVED AND ADOPTED April 30, 1984

MAY 1 1984

By M. Keith Ellis

Director of Agriculture

Title

CODE REVISER'S OFFICE WSR 84-10-039

Chapter 16-470 WAC
QUARANTINE - AGRICULTURAL PESTS

WAC

- 16-470-010 DEFINITIONS
- 16-470-015 PENALTIES
- 16-470-020 QUARANTINE - GYPSY MOTH - AREA UNDER ORDER
- 16-470-030 QUARANTINE/GYPSY MOTH HOSTS AND CARRIERS
- 16-470-040 GYPSY MOTH QUARANTINE RESTRICTIONS - INTERIOR
- 16-470-050 GYPSY MOTH QUARANTINE RESTRICTIONS - EXTERIOR
- 16-470-060 SPECIAL PERMITS
- 16-470-100 QUARANTINE - APPLE MAGGOT - AREA UNDER ORDER
- 16-470-110 COMMODITIES UNDER QUARANTINE-APPLE MAGGOT HOSTS AND CARRIERS
- 16-470-120 APPLE MAGGOT QUARANTINE RESTRICTIONS INTERIOR/EXTERIOR
- 16-470-130 SPECIAL PERMITS

NEW SECTION

WAC 16-470-010 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of this state, or a duly authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Interior quarantine" means a quarantine within the state of Washington established against the movement of designated insect life stages, their hosts, and possible carriers from areas identified by the Washington state department of agriculture.

(4) "Exterior quarantine" means a quarantine established against the movement into Washington state of designated insect life stages, their hosts, and possible carriers.

(5) "Gypsy moth (Lymantria dispar)" means a lepidopterous insect of the family Lymantriidae which in the larval stage defoliates many species of trees and shrubs.

(6) "Apple maggot (Rhagoletis pomonella)" means dipterous insects belonging to the family Tephritidae which in the larval stage live within fruit of their host plants, with potential for causing extensive damage to fruit of certain crops.

(7) "Commercial orchard" means an orchard in which fruit is grown for commercial purposes and with the use of approved and accepted integrated pest management program pursuant to statutes, guidelines or rules approved by the agricultural extension service or regulatory officials of the state of origin.

NEW SECTION

WAC 16-470-015 PENALTIES. Any person who violates or fails to comply with any rule adopted under RCW 17.24.020 through 17.24.100 shall be guilty of a misdemeanor, and for a second and each subsequent violation with the same rule, shall be punished by imprisonment in the county jail for not less than thirty days or more than one year, or by a fine of not less than one hundred dollars, or more than one thousand dollars or both fine and imprisonment.

NEW SECTION

WAC 16-470-020 QUARANTINE - GYPSY MOTH - AREA UNDER ORDER.

(1) Interior Quarantine. Real and personal properties within Washington state and adjacent properties where the department has identified multiple gypsy moth life stages and where occupants and/or owners of those properties have been notified by the department of the gypsy moth infestation and to the effect that the subject property is under quarantine pursuant to Chapter 16-470 WAC rules and requirements.

(2) Exterior Quarantine. All areas of the United States and Canada that are declared high risk by the United States department of agriculture, animal, plant, health inspection service, plant protection and quarantine.

NEW SECTION

WAC 16-470-030 QUARANTINE/GYPSY MOTH HOSTS AND CARRIERS. The following articles and commodities are placed under quarantine when located within or originating from an area as described in WAC 16-470-020:

(1) Trees, shrubs with persistent woody stems, Christmas trees and parts of such trees and shrubs (except seeds, fruits and cones).

(2) Timber and building materials, including but not limited to such items as lumber, planks, poles, logs, firewood, pulpwood, fencing and building blocks.

(3) Mobile homes, recreational vehicles, trailers, boats, camping gear, and associated equipment.

(4) Outdoor household articles including but not limited to such items as furniture, toys, garden tools, garden machinery, animal houses.

(5) Any other items or means of conveyance not covered above when that item or conveyance presents a hazard of the spread of any life stage of gypsy moth.

NEW SECTION

WAC 16-470-040 GYPSY MOTH QUARANTINE RESTRICTIONS - INTERIOR. Items under quarantine are prohibited movement from the area under quarantine except as follows:

(1) Any item under quarantine may be inspected and certified for movement by a department inspector if, in the inspector's judgment, it is free of all stages of gypsy moth. Any item that in the judgment of the department inspector is too large or for other reasons cannot be adequately inspected for all stages of gypsy moth will not be certified except as indicated in WAC 16-470-040(3) and (4).

(2) Garden prunings from trees and shrubs may be moved under Washington state department of agriculture permit to the city or county dumps where such material is to be buried, incinerated, composted, or otherwise treated or handled in a manner that is approved by a department inspector and does not pose a hazard to the spread of gypsy moth life stages. A department permit is not necessary for such material picked up by city or county vehicles or trucking companies under contract to haul such material to county approved facilities for disposal.

(3) Any item which cannot be adequately inspected as stated in WAC 16-470-040(1) may be moved from the quarantine area if cleaned or treated as prescribed by the director and in a manner

satisfactory to the department inspector. Such items cleaned or treated shall be certified by a department inspector before movement from the quarantine area.

(4) Department inspectors may also certify items for movement when in their judgment the item has not been exposed to infestation, or has not been exposed to infestation after being properly inspected, cleaned or treated.

(5) Expense of cleaning or treatment of articles or commodities for gypsy moth shall be the responsibility of the person in possession of the articles or commodities, or the consignee in case of commercial shipment by common carriers of household goods.

NEW SECTION

WAC 16-470-050 GYPSY MOTH QUARANTINE RESTRICTIONS - EXTERIOR. Quarantined articles and commodities are prohibited entry into Washington state except as follows:

(1) Articles and commodities covered originating in the area under quarantine may enter this state: PROVIDED, That the articles or commodities are accompanied by a certificate issued by an authorized agricultural official in the state or province of origin which contains the following information:

(a) The designation of the articles and commodities.

(b) The county and state or province of origin.

(c) A statement verifying that all the articles and commodities were inspected for all stages of gypsy moth, and:

(i) They originated in non-infested premises in the area under quarantine and have not been exposed to gypsy moth while in the area under quarantine; or

(ii) Upon inspection, they were found to be free of any stage of gypsy moth; or

(iii) They were treated at origin under the direction of an agricultural official to destroy any stage of gypsy moth; the method of treatment used and the date of the treatment shall also be stated; or

(iv) They were grown, produced, manufactured, stored or handled in such a manner that no stage of gypsy moth would be transmitted on them.

(d) The original or facsimile signature of the authorized agricultural official.

(2) The certificate required under WAC 16-470-050(1) may be issued by a private enterprise: PROVIDED, That the enterprise has been approved by the director, or by the United States department of agriculture, animal and plant health inspection service, plant protection and quarantine as having employees who have successfully completed a training program approved by the director or the United States department of agriculture, conducted by private organizations or state government officials, in the inspection for and treatment of gypsy moth; and the inspection and any treatment was performed, and the certificate issued by, one of those employees.

(3) Any certificate issued by a private enterprise shall

contain the information required in WAC 16-470-050(1): PROVIDED, That the statement relating to treatment at origin in WAC 16-470-050(1)(c) shall verify that the articles and commodities were treated at origin by an employee who has successfully completed an approved training program in the inspection for and treatment of gypsy moth; and the signature required in WAC 16-470-050(1)(d), shall be that of the employee issuing the certificate.

(4) The certificate required in WAC 16-470-050(1) shall be securely attached to the outside of the container containing the articles or commodities, or securely attached to the article or commodity itself if not in a container, or securely attached to the consignee's copy of the weighbill or other shipping document.

(5) Any article or commodity covered in WAC 16-470-030 which originated in the area under quarantine and is not accompanied by the certificate required may:

(a) Enter Washington, if, in the determination of the department, the article or commodity is:

(i) Cleaned or treated to destroy gypsy moth at the point of entry; or

(ii) Cleaned or treated to destroy gypsy moth in the county of destination, under the supervision of the department, prior to release of the article or commodity. Any shipment containing articles or commodities to be cleaned or treated in the county of destination shall be sealed at point of entry or origin and held under quarantine in that county until the treatment or cleaning is to occur.

(b) Be refused entry in Washington, if, in the opinion of the department inspector that:

(i) Cleaning or treatment to destroy gypsy moth at the point of entry would interfere with the movement of interstate commerce; and/or

(ii) Cleaning or treatment to destroy gypsy moth in the county of destination presents a high risk of dissemination of gypsy moth during transit or it is not possible to effectively clean or treat due to lack of facilities and/or needed equipment or lack of personnel in that county.

(c) Expense of cleaning or treatment of articles and commodities for gypsy moth at point of arrival in Washington state, or in the county of destination shall be the responsibility of the person in possession of the articles and commodities or the consignee in the case of commercial shipment by common carrier of household goods.

(6) No certificate is required for movement into Washington of articles and commodities covered in WAC 16-470-030 that originated outside an area under quarantine when the point of origin is clearly indicated, their identity has been maintained and they have been safeguarded against infestation by gypsy moth while in the area under quarantine.

NEW SECTION

WAC 16-470-060 SPECIAL PERMITS. The director may issue special permits admitting articles or commodities covered in WAC

16-470-030 not otherwise eligible for entry from the area under quarantine, subject to such conditions and provisions deemed necessary for protection of Washington agriculture.

NEW SECTION

WAC 16-470-100 QUARANTINE - APPLE MAGGOT - AREA UNDER ORDER. The following areas are declared by the director to be under quarantine:

(1) Interior quarantine. All counties west of the crest of the Cascade mountain range, and Spokane, Skamania and Klickitat counties within the state of Washington.

(2) Exterior quarantine. All states where apple maggot is known to occur including but not limited to the states of North Dakota, South Dakota, Nebraska, Oklahoma and Texas, and all states east thereof including the District of Columbia, and the states of Oregon, Utah and California.

NEW SECTION

WAC 16-470-110 COMMODITIES UNDER QUARANTINE-APPLE MAGGOT HOSTS AND CARRIERS. The following commodities are hereby placed under quarantine:

(1) California, Oregon, Utah and Washington states - All fresh fruit of apple (including crabapple), pear and hawthorn (haw) except commercial fruit. For the purpose of this rule, commercial fruit shall be fruit that is:

(a) Grown in a commercial orchard and commercially packed and labeled; or

(b) Purchased from a grocery store or commercial orchard and accompanied by a receipt or certificate bearing the letterhead or name of the store or grower; or

(c) Fruit grown in a commercial orchard and destined to a commercial processing plant.

(2) The following commodities shipped from states including the District of Columbia listed in WAC 16-470-100: All fresh fruit of apple (including crabapple), apricot, blueberry, cherry, hawthorn (haw), huckleberry, nectarine, peach, pear, plum, prune and quince, and rose hips are prohibited except as noted in WAC 16-470-110(1), pertaining to commercial fruit from California, Oregon, Utah and Washington, except as provided in WAC 16-470-120 (1) through (7).

NEW SECTION

WAC 16-470-120 APPLE MAGGOT QUARANTINE RESTRICTIONS - INTERIOR/EXTERIOR.

(1) Certification required. Commodities described in WAC

16-470-110 that are produced in or shipped from the area under quarantine are prohibited entry into or movement within the state of Washington unless each lot and/or shipment is accompanied by a certificate issued by and bearing the original or facsimile signature of the authorized agricultural official of the state from which the commodity is shipped evidencing compliance with WAC 16-470-120(3), (4), (5) or (7). No certificate is required for commodities meeting the requirements of WAC 16-470-120 (2) or (6).

(2) Reshipments in original containers. Commodities in original unopened containers, each bearing labels or other identifying marks evidencing origin outside the area under quarantine, may be reshipped to this state from any point within the area under quarantine.

(3) Repacked commodities. Each lot or shipment of commodities certified by an authorized agricultural official to have been grown outside the area under quarantine and which has had continued identity maintained while within the area under quarantine, may be repacked and shipped by common carrier from any point within the area under quarantine to this state. The certificate shall contain the following information:

(a) The state in which commodities were grown,
(b) The point of repacking and reshipment,
(c) The amount and kind of commodities comprising the lot or shipment,

(d) The names and addresses of the shipper and consignee.

(4) Apples exposed to controlled atmosphere (CA) storage. Apples which are exposed to controlled atmosphere (CA) storage for a continuous period of ninety days, during which period the temperature within the storage room has been maintained at thirty-eight degrees Fahrenheit or less, may be admitted into Washington: PROVIDED, That the storage room or building is approved by the proper authorities in the state of origin as a controlled atmosphere facility, and each lot or shipment of such apples to Washington state is accompanied by a certificate, as provided in WAC 16-470-120(1).

(5) Shipments from cold storage. Commodities described in WAC 16-470-110 which are held in cold storage for a continuous period of forty days or more, during which period the temperature within the storage room is maintained at thirty-two degrees Fahrenheit or less, may be admitted into Washington state: PROVIDED, That each lot or shipment is accompanied by a certificate, as stated in WAC 16-470-120(1) evidencing compliance with the minimum temperature requirements.

(6) Solid frozen fruits exempt. No restrictions are placed on the entry into this state of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state.

(7) Fresh fruit from California, Utah, Oregon and Washington. All fresh fruit of apricot, blueberry, cherry, huckleberry, nectarine, peach, plum, prune and quince grown in and shipped from the states of California, Utah, Oregon and Washington may be shipped into or within Washington state: PROVIDED, That the origin state will assure that shipments originated in an area found to be free from apple maggot and was

grown in a commercial orchard.

NEW SECTION

WAC 16-470-130 SPECIAL PERMITS. The director may issue special permits admitting commodities covered in WAC 16-470-110 not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions which the director may prescribe to prevent introduction, escape or spread of the quarantined pests.