

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1839

(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 Apple Maggot Quarantine

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

This action is taken pursuant to Notice No. filed with the code reviser on These rules shall take effect: [ ] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [ ] at a later date, such date being

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

I, M. Keith Ellis, 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:

Apple maggot has been found in commercial orchard areas and these changes are necessary to place restrictions on the movement of commercial fruit.

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

APPROVED AND ADOPTED September 5

SEP 5 1984

By

M. Keith Ellis

Director of Agriculture Title

CODE REVISER'S OFFICE WSR 84-18-056

AMENDATORY SECTION (Amending Order No. 1822, filed 5/1/84)

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 from areas identified by the Washington state department of agriculture.

(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 programs pursuant to statutes, guidelines or rules approved by the agricultural extension service or regulatory officials of the state of origin.

(8) "Commercial fruit" means 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 or packing plant.

(9) "Threatened with infestation" means that adult apple maggot flies or apple maggot larva have been found within one-quarter mile of production site including any portion of an orchard outside or beyond the one-quarter mile boundary if any portion of the orchard is within the one-quarter mile area.

AMENDATORY SECTION (Amending Order No. 1822, filed 5/1/84)

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. Commercial

fresh fruit of apple (including crabapple) and hawthorn (haw) shall be quarantined and/or regulated as provided for in WAC 16-470-120 (8).

(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 Idaho, Oregon, Utah and California. Commercial fresh fruit of apple (including crabapple) and hawthorn (haw) shall be quarantined and/or regulated as provided for in WAC 16-470-120 (8).

(3) Regional area quarantine. When mutually agreed upon, and formally accepted by the directors of the Washington state department of agriculture and Oregon state department of agriculture the following shall apply. In Oregon state the counties of Wasco and Hood River and in Washington state the counties of Skamania and Klickitat will be considered a single production area. Commercial fruit produced in the area may move freely throughout these areas unless regulatory measures as prescribed in WAC 16-470-120 (8) are implemented.

AMENDATORY SECTION (Amending Order No. 1822, filed 5/1/84)

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 all states including the District of Columbia listed in WAC 16-470-100 are hereby placed under quarantine: All fresh fruit of apple (including crabapple), apricot, blueberry, cherry, hawthorn (haw), huckleberry, nectarine, peach, pear (commercial pears from California, Idaho, Oregon, Utah and Washington are exempt from the provisions of this order), 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})) (8).

AMENDATORY SECTION (Amending Order No. 1822, filed 5/1/84)

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), ~~((e))~~ (7) or (8). 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))~~ Commercial fresh fruit from California, Idaho, Utah, Oregon and Washington. All fresh fruit of apple

(including crabapple), apricot, blueberry, cherry, hawthorn (haw), huckleberry, nectarine, peach, plum, prune and quince grown in and shipped from the states of California, Idaho, Utah, Oregon and Washington may be shipped into or within Washington state: PROVIDED, That the origin state ((with)) shall assure that shipments originated in an area found to be free from apple maggot and was grown in a commercial orchard and has not been placed under quarantine by the director.

(8) All commercial fresh fruit of apple (including crabapple), and hawthorne (haw) produced in or shipped from the states of California, Idaho, Oregon, Utah or other states and any location in Washington state. The director may pursuant to RCW 17.24.105 prescribe specific regulatory or control measures to apply within designated areas to prevent or minimize the possible movement of apple maggot from commercial orchards. The following action shall be taken when it has been determined that the commercial fruit may be infested with or threatened with infestation by apple maggot.

(a) All fresh fruit of apple (including crabapple), and hawthorne (haw) (except graded culls - see (8)(b) of this section) shall be sampled by an authorized agency inspector, following accepted agency and industry standards.

(i) If found to be free from apple maggot, a certificate as provided for in WAC 16-470-120(1) shall be issued;

(ii) One or more of the following procedures shall be prescribed before any fresh fruit of apple (including crabapple), and hawthorne (haw) may be moved from designated or quarantined areas when apple maggot is found in the fruit.

(A) Fresh fruit to be exposed to controlled atmosphere (CA) storage as provided in WAC 16-470-120(4).

(B) Fresh fruit to be exposed to cold storage as provided in WAC 16-470-120(5).

(C) Other methods as may be prescribed by the director.

(b) Graded culls shall be subject to (8)(a)(ii)(A) or (B) of this section or other requirements as prescribed by the director.

(9) All commodities as described in WAC 16-470-110 of this order known or found to be infested with apple maggot larva shall not be sold, held for sale, or offered for sale, except as provided for in WAC 16-470-120 (4) or (5).