

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF AGRICULTURE

(agency name)

Administrative Order No. 1854

(1) I, C. Alan Pettibone, director of Washington State Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to: CHAPTER WAC 16-470 APPLE MAGGOT AND PLUM CURCULIO 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, C. Alan Pettibone, 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 and plum curculio are known to occur in specific states or areas of states including Washington. These rules require specific actions such as detection and inspection procedures to assure that tree fruits imported and shipped with Washington are apple maggot and plum curculio free and are necessary to protect the commercial tree fruit production areas of Washington. 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.

APPROVED AND ADOPTED STATE OF WASHINGTON FILED

May 22

85

By C. Alan Pettibone

Director

Title

[Form CR-7: Rev. 7/23/82]

MAY 22 1985

CODE REVISER'S OFFICE WSR 85-11-087

AMENDATORY SECTION (Amending Order 1822, filed 5/1/84, effective 7/1/84)

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 a dipterous insect ~~(s)~~ belonging to the family Tephritidae which in the larval stage live within fruit of ~~((their))~~ its host plants, with potential for causing extensive damage to fruit of certain crops.

(7) "Plum curculio (*Conotrachelus nenuphar*)" means a coleopterous insect of the family Curculionidae which in the larval stage lives within the fruit of its host plants with potential for causing extensive damage to fruit of certain crops.

(8) "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.

(9) "Commercial fruit" means fruit that is:

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

(b) Fruit grown in a commercial orchard and destined to a commercial processing plant or packing plant.

(10) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of production site including any portion of an orchard outside or beyond the one-half mile boundary if any portion of the orchard is within the one-half mile area.

(11) "Honey bee tracheal mite" means *Acarapis woodi*; an internal tracheal mite of honey bees.

(12) "Honey bee" means bees of the species *Apis mellifera*.

(13) "Colony" means a man-made hive including five or more combs of bees.

(14) "Hive" means a man-made domicile of honey bees including their combs in the various sizes used by the apiculture industry.

(15) "Queen" means the fertile female honey bee, singly, in a shipping cage with attendant honey bees or in plurality with other queens in a shipping cage having common honey bee attendants.

(16) "Nuclei" means a shipping container or hive having five or less combs of bees and a queen.

(17) "Package" means a combless shipping container of bees with or without a queen.

(18) "Apiarist" means any person who owns bees or is a keeper of bees.

(19) "Net(s)" means fabricated material which is designed and utilized to prevent the escape of bees from bee colonies or hives during transit.

(20) "Onion" means any *Allium* spp. including but not limited to onion, garlic, leek, chive, or shallots.

AMENDATORY SECTION (Amending Order 1822, filed 5/1/84, effective 7/1/84)

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)) of 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.

AMENDATORY SECTION (Amending Order 1822, filed 5/1/84, effective 7/1/84)

WAC 16-470-100 QUARANTINE--APPLE MAGGOT AND PLUM CURCULIO--AREA UNDER ORDER. (1) The following areas are declared by the director to be under quarantine for apple maggot:

((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)) (a) Exterior quarantine. All states or foreign countries 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, and any other areas where apple maggot is detected.

(b) Interior quarantine. All counties west of the crest of the Cascade mountain range, and Spokane, Skamania, and Klickitat counties within the state of Washington, and any other counties where apple maggot is detected.

(c) 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 these counties may move freely throughout this production area unless regulatory measures as prescribed in WAC 16-470-120 are implemented.

(2) The following areas are declared by the director to be under quarantine for plum curculio: Utah, and, in the eastern United States, all states and districts east of and including the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where plum curculio is detected.

AMENDATORY SECTION (Amending Order 1822, filed 5/1/84, effective 7/1/84)

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

~~(e)-Fruit-grown-in-a-commercial-orchard-and-destined-to-a-commercial-processing-plant:~~

~~(2)) (1) The following commodities shipped from all states including the District of Columbia as listed in WAC 16-470-100(1) are hereby placed under quarantine for apple maggot: 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 chapter), plum, prune ((and)), quince, and rose hips are prohibited entry into the state of Washington except as ((noted in WAC 16-470-110(4), --pertaining--to--commercial--fruit--from California,--Oregon,--Utah--and--Washington,--except--as)) provided in WAC 16-470-120 (1) through ((7)) (9).~~

~~(2) The following commodities shipped from all states including the District of Columbia as listed in WAC 16-470-100(2) are hereby placed under quarantine for plum curculio: All fresh fruit of apple (including crabapple), apricot, blueberry, cherry, currant, grape, hawthorn (haw), huckleberry, nectarine, peach, pear, persimmon, plum, prune, and quince, are prohibited entry into the state of Washington except as provided in WAC 16-470-120 (1) through (9).~~

AMENDATORY SECTION (Amending Order 1822, filed 5/1/84, effective 7/1/84)

WAC 16-470-120 APPLE MAGGOT AND PLUM CURCULIO 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), (8), or (9). 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) Commercial fresh fruit from California, Idaho, Utah, Oregon, and Washington. All commercial fresh fruit ((of apricot, blueberry, cherry, huckleberry, nectarine, peach, plum, --prune--and--guinee)) as described in WAC 16-470-110 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 assure)) department of agriculture conducts an adequate apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) detection program and provides the Washington state department of agriculture immediate written notification of detections in counties where apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) has not been previously detected, and the origin state shall certify that shipments originated in an area found to be free from apple maggot (and plum curculio in Utah and in any other state where plum curculio is detected) and ((was)) were grown in a commercial orchard and have not been placed under quarantine by the origin state or the director.

(8) All commercial fresh fruit of apple (including crabapple), cherry, hawthorn (haw), plum, and prune produced in counties in the states of California, Idaho, Oregon, and Utah where apple maggot is known to occur, or all commercial fresh fruit listed in WAC 16-470-110 produced in counties in the state of Utah where plum curculio is known to occur may move into Washington under permit, when permit provisions have been authorized by the director and formally accepted by the origin state.

(9) All commercial fresh fruit of apple (including crabapple) and hawthorn (haw) produced in or shipped from 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 or plum curculio.

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

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

(ii) If found to be infested with apple maggot or plum curculio, one or more of the following procedures shall be prescribed before any fresh fruit of apple (including crabapple) and hawthorn (haw) are moved from designated or quarantined areas.

(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 (a) (ii) (A) or (B) of this subsection or other requirements as prescribed by the director.

(10) All commodities as described in WAC 16-470-110 known or found to be infested with or damaged by apple maggot or plum curculio shall not be sold, held for sale, or offered for sale, except as provided for in WAC 16-470-120 (4) or (5).