



# RULE-MAKING ORDER

**R-103 (June 2004)**  
**(Implements RCW 34.05.360)**

Agency: Dept. of Agriculture

- Permanent Rule
- Emergency Rule

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) August 15, 2005 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** This rulemaking order amends WAC 16-470-105 (Area under order for apple maggot – Pest free area – Quarantine areas) by changing the boundaries of the existing area under quarantine for apple maggot to (1) add a portion of Yakima County; and (2) remove a portion of the existing area under quarantine in Kittitas County. In addition, this order amends WAC 16-470-103 (Definitions) by eliminating the requirement that once an orchard is designated as "threatened with infestation" from apple maggot or plum curculio it must remain that way for two harvest seasons.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: WAC 16-470-103 & 16-470-105  
 Suspended:

**Statutory authority for adoption:** Chapter 17.24 & 34.05 RCW

**Other authority:**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 05-05-099 on February 16, 2005.  
 Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**DATE ADOPTED**

April 7, 2005

**NAME (TYPE OR PRINT)**

Valoria H. Loveland

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

CODE REVISER USE ONLY  
 STATE OF WASHINGTON  
 FILED  
 APR 7 2005  
 845  
 WSR 05-09-005

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>0</u>	Amended	<u>2</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>2</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

**WAC 16-470-103 Definitions.** The following definitions shall apply to WAC 16-470-101 through 16-470-130:

(1) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(2) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of an orchard or other production site, including any portion of an orchard outside or beyond the one-half mile area. Orchards or production sites in a quarantined area, which are not surveyed by a plant protection organization, are considered to be threatened with infestation. An orchard or other production site will be removed from threatened with infestation status, if control measures are performed at the detection site, and survey by the department shows no further detection(s) within the one-half mile area around the orchard or other production site throughout the subsequent full growing season. (~~Once an orchard or other production site meets the criteria for threatened with infestation status, it must remain in that status through at least two harvest seasons.~~)

AMENDATORY SECTION (Amending WSR 04-09-027, filed 4/13/04, effective 8/16/04)

**WAC 16-470-105 Area under order for apple maggot--Pest free area--Quarantine areas.** (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman(~~, and Yakima~~)).

(b) The portion of Kittitas County designated as follows: Beginning at the (~~northwest corner of Wanapum Dam and Huntzinger Road, south along Huntzinger Road to the Yakima County line, east to the Columbia River, north along the Columbia River to the Wanapum Dam, and west~~) point where Interstate Highway No. 90 crosses longitude 120°31' W; thence southerly to the Kittitas - Yakima County line; thence easterly along said county line to the Columbia River; thence northerly along said Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) The portions of Yakima County east of longitude 120°48' W.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) The counties of Kittitas ((County)) and Yakima, except for the areas designated in subsection (1)(b) and (c) of this section.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.