



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Dept. of Agriculture

- Preproposal Statement of Inquiry was filed as WSR 15-06-051 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Chapter 16-470 WAC, Quarantine - agricultural pests. The agency is considering amending the apple maggot quarantine by:

- (1) Adding municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine.
- (2) Establishing a special permit to allow transportation and disposition of municipal solid waste from the area under quarantine for disposal at a solid waste landfill or disposal facility in the apple maggot and plum curculio pest-free area; and
- (3) Establishing a special permit to allow transportation and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes from the area under quarantine for disposal at a solid waste landfill or treatment at a composting facility in the apple maggot and plum curculio pest-free area.

Hearing location(s):

WA State Dept. of Agriculture
21 North First Avenue
Yakima, WA 98902
Conference Room 238

WA State Dept. of Agriculture
1111 Washington Street SE
Olympia, WA 98504-2560
Conference Room 259

Date: October 8, 2015
Time: 1:30 PM

Date: October 9, 2015
Time: 10:00 AM

Submit written comments to:

Name: Teresa Norman
Address: PO Box 42560
Olympia, WA 98504-2560
e-mail wdsarulescomments@agr.wa.gov
fax (360) 902-2092 by (date) October 9, 2015

Date of intended adoption: October 23, 2015

(Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact

Henri Gonzales by October 1, 2015

TTY (800) 833-6388 or ()

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency has determined that municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes are host mediums for apple maggot because they may contain apples, crabapple, and native hawthorn and should be treated as regulated commodities subject to the apple maggot quarantine. The agency is proposing to modify the apple maggot quarantine to include these articles as regulated commodities and also allow the solid waste industry the ability to transport and dispose of municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest-free area under a special permit that stipulates the conditions necessary in order to protect the tree fruit industry from a potentially devastating invasive pest.

Reasons supporting proposal: The apple maggot is an invasive insect pest native to Eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. It is economically significant to the Washington apple crop not only due to its ability to cause physical crop damage, but also because fruit from demonstrated apple maggot free areas or locations has greater market access for international shipments. The exclusion of apple maggot from the pest-free areas of the state is a priority pursuant to chapter 17.24 RCW. Chapter 17.24 RCW directs the agency to protect the agricultural and horticultural industries of the state by regulating the movement and quarantining infested areas to prevent the public and private costs that result when an infestation becomes established. As a result, a quarantine was established in 1984 to limit the distribution of this harmful pest. In order to protect the tree fruit industry and also to address the needs of the solid waste industry, the agency is proposing to issue special permits for municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes that specify the requirements to address the risk associated with transportation and disposition of these host mediums in the apple maggot pest-free areas.

Statutory authority for adoption: RCW 17.24.011, 17.24.041 and chapter 34.05 RCW

Statute being implemented: RCW 17.24.011, 17.24.041

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: **August 28, 2015**

TIME: **10:54 AM**

WSR 15-18-071

DATE

August 28, 2015

NAME (type or print)

Brad White

SIGNATURE

TITLE

Assistant Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington State Dept. of Agriculture

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... James Marra	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2071
Implementation.... James Marra	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2071
Enforcement..... James Marra	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2071

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Teresa Norman

Address: PO Box 42560, Olympia, WA 98504-2560

phone (360) 902-2043

fax (360) 902-2092

e-mail wsdarulescomments@agr.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-101 Establishing quarantine for apple maggot and plum curculio. Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets.

(1) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the environmental quality and agricultural crops of the state.

(2) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that municipal solid waste originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such municipal solid waste from the pest free area is necessary to protect the environmental quality and agricultural crops of the state. The transport into and disposition of such municipal solid waste in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(1).

(3) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such waste from the pest free area is necessary to protect the environmental quality and agricultural crops of the state. The transport into and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(2).

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

WAC 16-470-108 Distribution of infested or damaged fruit is prohibited. Regulated commodities ((described)) specified in WAC 16-470-111(1) and 16-470-125(2) that are known or found to be infested or damaged by apple maggot or plum curculio may not be distributed, sold, held for sale, or offered for sale, unless the fruit has undergone cold storage treatment, in compliance with WAC 16-470-113 (1)(a) and (b) or 16-470-127 (1)(a) and (b), and the necessary certificate has been issued by the appropriate plant protection organization.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-111 ((What)) Commodities ((are)) regulated for apple maggot((?)). (1) All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot.

(2) Municipal solid waste as defined in WAC 173-350-100 is regulated under quarantine for apple maggot. Municipal solid waste from the quarantine areas is a host medium for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(3) Yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 are regulated under quarantine for apple maggot. Yard debris, organic feedstocks, organic materials, and agricultural wastes from quarantine areas are host mediums for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

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

WAC 16-470-113 ((What do you need)) Requirements to ship commodities regulated for apple maggot from a state under quarantine into the pest free area for apple maggot((?)). Shipment of ((regulated commodities)) fruit, as ((described)) specified in WAC 16-470-111(1), from an area under quarantine, as ((described)) specified in WAC 16-470-105(3), into the pest free area for apple maggot, as ((described)) specified in WAC 16-470-105(1), is prohibited, unless at least one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment is composed of apples, which ((have)) has undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths (37.9) degrees Fahrenheit or less.

(b) The shipment is composed of ((regulated commodities)) fresh fruit specified in WAC 16-470-111(1) other than apples, which ((have)) has undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (32) degrees Fahrenheit or less.

(c) The shipment is composed of ((regulated commodities)) fresh fruit specified in WAC 16-470-111(1) from Oregon, Idaho, or Utah, certified by the state of origin in compliance with WAC 16-470-122.

(d) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been ((identity)) identified and maintained ((while)) separately from any fruit specified in WAC 16-470-111(1) grown within the area under quarantine. For repacked fruit, the certificate must show the following information:

- (i) State in which the fruit was grown;
 - (ii) Point of repacking and reshipment;
 - (iii) Amount and kind of commodities comprising the lot or shipment; and
 - (iv) Names and addresses of the shipper and consignee.
- (2) The fruit originated outside the area under quarantine for apple maggot and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.
- (3) The fruit is frozen solid.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-115 ((Within Washington state, what is required to ship fruit)) Requirements for shipment of regulated commodities from the quarantine area for apple maggot into the pest free area ((for apple maggot from quarantined areas?)) within Washington state. Shipment of regulated commodities, as ((described)) specified in WAC 16-470-111, from an area under quarantine, as ((described)) specified in WAC 16-470-105(2), into the pest free area for apple maggot, as ((described)) specified in WAC 16-470-105(1), is prohibited, unless one of the following conditions is met:

(1) The shipment of fresh fruit is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3) are made available to the department, no reinspection is required by the department.

(2) The shipment of fresh fruit is accompanied by a permit issued by the department in fulfillment of WAC 16-470-118 (2) and (3), which specifies conditions for shipment from orchards and production sites that are infested or threatened with infestation.

(3) The shipment of municipal solid waste from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate disposal or treatment facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(1).

(4) The shipment of yard debris, organic feedstocks, organic materials, or agricultural wastes from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate treatment or composting facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-118 Requirement within Washington state(~~(, what is required)~~) to ship fruit into, within, or through the pest free area for apple maggot from an orchard or production site that is infested or threatened with infestation(~~(?)~~). All (~~(regulated commodities)~~) fresh fruit, as (~~(described)~~) specified in WAC 16-470-111(~~1~~), from an orchard or production site that is infested or threatened with infestation by apple maggot must be inspected (~~(except graded culls—See subsection (4) of this section)~~) by the department following accepted agency standards.

(1) If (~~(regulated commodities are)~~) the fruit is inspected and found free of apple maggot, the shipment must be accompanied by a permit for movement of fruit issued by the department.

(2) If (~~(regulated commodities are)~~) the fruit is found to be infested with apple maggot, a permit from the department, which specifies conditions for handling and shipment, is required to transport the fruit within or through the pest free area. No permit may be issued under this subsection for transportation of (~~(regulated commodities)~~) fresh fruit found to be infested with apple maggot into the pest free area for apple maggot.

(3) If (~~(regulated commodities are)~~) the fruit is found to be infested with apple maggot, one or more of the following treatments must be performed and verified by the department as specified in WAC 16-470-115 (1)(b) before the (~~(commodity)~~) fruit is moved from area(s) designated or quarantined by the department:

(a) Apples (including crab apples) cold treated as specified in WAC 16-470-113 (1)(a).

(b) (~~(Regulated commodities)~~) Fruit other than apples cold treated as specified in WAC 16-470-113 (1)(b).

(c) Other methods as prescribed in writing by the department.

(4) If the shipment contains graded culls, it must comply with the conditions specified in WAC 16-470-113 (1)(a) (~~(and)~~) or (b), dependent on the category of fruit.

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

WAC 16-470-122 (~~(What are the)~~) Requirements to ship regulated articles from Oregon, Idaho, or Utah into the pest free area for apple maggot(~~(?)~~). Commercially grown fresh fruit from Oregon, Idaho, or Utah may be shipped into the pest free area for apple maggot if both of the subsections of this section are complied with:

(1) A permit has been agreed to by the plant protection organization of the state of origin and the department. The permits must specify that the plant protection organization of the state of origin has conducted an adequate apple maggot detection program, which includes immediate written notification to the department of detections in counties where apple maggot has not previously been detected.

(2) The plant protection organization of the state of origin certifies that the fruit originated in areas in which apple maggot is not

established, was grown in a commercial orchard, and has not been placed under quarantine.

NEW SECTION

WAC 16-470-124 Special permits for solid waste transport and disposition. (1) The director may issue special permits admitting or allowing transportation and distribution of municipal solid waste for disposal at a solid waste landfill or appropriate disposal facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "solid waste" and "solid waste landfill" or "disposal facility" refer to solid waste and solid waste facilities regulated under chapters 70.95 RCW and 173-351 WAC by the Washington state department of ecology.

(2) The director may issue special permits admitting or allowing transportation and distribution of yard debris, organic feedstocks, organic materials, or agricultural wastes for treatment at a composting facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "yard debris," "organic feedstocks," "organic materials," and "agricultural wastes" or "composting facility" refer to waste and composting facilities regulated under chapters 70.95 RCW and 173-350 WAC by the Washington state department of ecology.

(3) When the owner of the waste identified in subsections (1) and (2) of this section transfers ownership of the waste to a different person receiving the waste for disposal or treatment in the pest free area, both owners must apply for and receive special permits under this section. A special permit to transport will not be issued to the transporting owner unless a special permit is concurrently issued to the receiving facility owner under conditions specified by the director.

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

WAC 16-470-127 ((~~What do you need~~)) Requirements to ship commodities regulated for plum curculio into Washington((?)). Shipment into the state of Washington of regulated commodities described in WAC 16-470-125 from states under quarantine for plum curculio is prohibited, unless one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment consists of apples, which have undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be main-

tained at thirty-seven and nine-tenths (~~((37.9))~~) degrees Fahrenheit or less.

(b) The shipment consists of regulated commodities, which have undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (~~((32))~~) degrees Fahrenheit or less.

(c) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been identity maintained while within the area under quarantine. For repacked fruit, the certificate must show the following information:

(i) State in which the fruit was grown;

(ii) Point of repacking and reshipment;

(iii) Amount and kind of commodities comprising the lot or shipment; and

(iv) Names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for plum curculio and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The shipment consists of fresh fruit from Utah counties where plum curculio is established and is made in compliance with terms of a permit agreed upon by both the Utah and Washington plant protection organizations.

(4) The shipment consists of fresh fruit from Utah counties where plum curculio is not established, and all of the following conditions are complied with:

(a) The Utah plant protection organization has conducted an adequate plum curculio detection program, which includes immediate written notification to the department of detections in counties where plum curculio has not previously been detected; and

(b) The Utah plant protection organization certifies that the fruit originated in areas in which plum curculio is not established, was grown in a commercial orchard, and has not been placed under quarantine.

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

WAC 16-470-130 Special permits for fresh fruit transport and distribution. The director may issue special permits admitting, or allowing transportation and distribution of, regulated commodities described in WAC 16-470-111 and 16-470-125(2), which would not otherwise be eligible for entry from the area under quarantine, or for transportation or distribution, subject to conditions and provisions which the director may prescribe to prevent introduction, escape or spread of the quarantined pests.



STATE OF WASHINGTON

DEPARTMENT OF AGRICULTURE

P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

SMALL BUSINESS ECONOMIC IMPACT STATEMENT FOR PROPOSED RULES TO CHAPTER 16-470 WAC

SUMMARY OF PROPOSED RULES

Chapter 17.24 RCW mandates “a strong system” to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The Washington State Department of Agriculture (Department) is charged with implementing that mandate by excluding plant and bee pests and diseases from the pest-free areas of the state through regulation of movement and quarantine of infested areas. RCW 17.24.041 authorizes the Director of the Department to adopt quarantine areas by rule and to prohibit the movement of all regulated commodities from the quarantined areas.

Currently, chapter 16-470 WAC establishes quarantine areas and pest-free areas for apple maggot. The apple maggot is an invasive insect pest native to Eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. The potential for damage is economically significant to the Washington apple crop because the apple maggot can cause extensive physical crop damage and because fruit from demonstrated apple maggot-free areas has greater market access for international shipments.

Municipal solid waste, yard debris, organic feedstock, organic materials, and agricultural wastes are host mediums for apple maggot because they may contain apples, crabapple, and native hawthorn and should be treated as regulated commodities subject to the apple maggot quarantine.

The Department is proposing to amend the apple maggot quarantine in chapter 16-470 WAC to protect the tree fruit industry in the state. The proposed rule adds municipal solid waste, yard debris, organic feedstock, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine. A special permit is established to allow the solid waste industry to transport municipal solid wastes from an area under quarantine and dispose of them at a solid waste landfill or disposal facility in the pest-free area. And, a special permit is established to allow transportation of yard debris, organic feedstock, organic materials, and agricultural wastes (“municipal green waste”) from an area under quarantine to treatment at a composting facility in the pest-free area.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

The following Small Business Economic Impact Statement was prepared in compliance with the Regulatory Fairness Act, chapter 19.85 RCW.

The purpose of chapter 17.24 RCW includes providing a “strong system” to protect the tree fruit industry from insect pests. The proposed rules define two categories of municipal waste originating in the quarantine area as regulated articles which may not be transported to or disposed of in the designated pest-free area for apple maggot unless the owner obtains a special permit.

The proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer in the pest-free area.

Any new regulatory requirements or costs imposed on the waste industry are necessary to protect the tree fruit industry from introduction of apple maggot through transport and disposition of waste from the quarantine area into the pest-free area. The Department will determine the special permit conditions on a case-by-case basis. Costs associated with meeting requirements in a special permit will be different for each category of waste situation and may be minimal in some situations.

Industry and Stakeholder Participation

In September of 2014, the Department formed a working group for the purpose of soliciting input from industry and other interested stakeholders on the creation of terms and conditions of a special permit that would allow the transportation of green waste across the apple maggot quarantine boundary. The working group included representatives of three compost facilities located in the apple maggot pest-free area that currently import green waste from the apple maggot quarantine area. Also included in the working group were representatives of the apple industry, Grant County Solid Waste, Washington State University Extension, the Washington State Department of Ecology, and the U.S. Department of Agriculture. The working group conducted onsite visits of four compost facilities to review current practices and to assess the impacts of a special permit. The Department held three working group meetings and received 14 written comments discussing the conditions of the permit and their potential impacts. Numerous individual meetings also occurred between the Department and members of the apple industry, the compost industry, and other government agencies to discuss the conditions of the permit. In addition, the Department has maintained an email distribution list of over 40 members to provide updates and email exchanges on the progress of the rule change and the special permit.

Economic Impact on Apple Growers

During these discussions representatives of the apple industry have repeatedly expressed concerns that the transport and disposal of any organic wastes from the infested quarantine area into the pest-free area could have adverse economic impacts to the apple industry. Municipal organic waste moving from the quarantined area is likely to contain large quantities of waste from backyard fruit, widely acknowledged as the primary pathway for introducing apple maggot into the pest-free area. The expansion of the apple maggot through such waste operations could have severe economic impacts on the state’s apple growers. Apple maggot is a regulated pest by many of the state’s international trading partners. Expansion of the infestation area will likely result in the imposition of costly restrictions on the export of apples. In addition, production costs would increase due to increased demands on the apple maggot certification program, increases in inspection fees, and the increased use of control measures. Based on the 2013 crop year data, the apple industry contributed an estimated \$2.19 billion a year to the state’s economy.

Economic Impact on Solid Waste Facilities

Under the proposed rule, municipal solid waste becomes a regulated article which may not be transported to or disposed of in the designated pest-free area unless the owner obtains a special permit. A special permit is established to allow the solid waste industry to transport municipal solid wastes from an area under quarantine and dispose of them at a solid waste landfill or disposal facility in the pest-free area.

The solid waste facilities impacted by the proposed rules are operated by governmental entities except for one solid waste facility operated by a commercial facility. Conditions of the permit go beyond current Washington State Department of Ecology rules for regulating pests and disease in solid municipal waste. Many of the conditions of the permit are currently in operation at these facilities.

The conditions in the permit are intended to prevent the introduction of the apple maggot through the movement of municipal solid waste from the quarantine area to the pest-free area. The Department continues to assess the permit conditions that may be necessary to mitigate the risk posed by apple maggot and may develop modifications to the conditions described here to address the risk. Specific operational conditions of the special permit may include:

- 1) Procedures to ensure that loads of municipal solid waste in transfer trailers are enclosed or securely covered with tarps to prevent material from escaping during transfer;
- 2) Proper disposal of all transfer trailer loads including compacting and covering of the material by other waste, soil/dirt, or an alternative daily cover material;
- 3) Apple maggot pest monitoring at and in the vicinity of the facility; and,
- 4) Procedures for performing at least three random load checks per week on loads received from outside the pest-free area and tracking and reporting the results of those random load checks.

Under the conditions in the permit the municipal solid waste facility may accept for disposal solid wastes from a quarantine area only if:

- 1) The transfer station from which the waste is exported has implemented procedures for diverting organic material from the municipal solid waste being exported; or
- 2) The exporting county or municipality includes in its Comprehensive Solid Waste Management Plan a program for segregating and diverting organic material from the residential and non-residential municipal solid stream.

Additional labor costs may be incurred by the owners of the landfill resulting from several (e.g., three) load checks per week for the purpose of checking and reporting the amount of organic matter content of the solid waste imported into the pest-free area. Other increased costs to the landfill include potential fees for apple maggot pest monitoring carried out by the Department's Pest Program.

Economic Impact on Commercial Composters

Under the proposed rule, yard waste, organic feedstock, organic materials, and agricultural waste become regulated articles which may not be transported to or disposed of in the designated pest-free area unless the owner obtains a special permit.

Of the more than 60 compost facilities in operation in Washington State, the proposed rule will affect a small number of compost facilities that choose to transport municipal solid waste or organic waste from the apple maggot quarantine area to the pest-free area. Only four composting facilities are currently

requesting coverage under a permit. The proposed rule will require these commercial composters to comply with the terms and conditions of a special permit before the Department authorizes the transport of regulated items across the quarantine boundary. Conditions of the permit go beyond current Washington State Department of Ecology rules for regulating pests and disease in solid municipal waste and green waste. These facilities, therefore, may be required to alter their current practices in ways that increase the cost of operations, if they choose to continue to transport green waste from the quarantine area. The financial cost of compliance will vary with each facility depending on their current practices and conditions at the facility.

The list of conditions in the permit represent a series of mitigation procedures currently not contained in Department of Ecology rules, but are intended to prevent the introduction of the apple maggot through the movement of green waste from the quarantine area to the pest-free area. The Department continues to assess the permit conditions that may be necessary to mitigate the risk posed by apple maggot and may develop modifications to the conditions described here to address the risk.

Specific conditions of the special permit may include a provision for one of two options: 1) grinding municipal green waste within the quarantine area prior to transporting the load into the pest-free area, or 2) delivering unprocessed municipal green waste from the quarantine area to the compost facility in secure containers then unloading and processing it within a containment facility designed to prevent the exposure of unprocessed municipal green waste to the external environment. Additional costs to facilities choosing to grind quarantined municipal green waste in the pest-free area would include the design and construction of a contained unloading and grinding building. Other conditions include, adding ground municipal green waste to the active compost pile within 24 hours of arrival when the facility is located within five miles radius of the nearest apple orchard or, 72 hours of arrival if located outside the five mile radius. Currently not all facilities add ground municipal green waste to the compost pile within that time frame. Other conditions include placing an insect proof barrier over the active compost pile till temperatures reach 55 degrees Celsius (131 degrees Fahrenheit) at a depth of eight inches. Adding an insect proof barrier during this stage of active composting is not commonly practiced during windrow composting. To insure compliance with the special permit, the Department will administer a monitoring and inspection program of the compost facilities. Other increased costs to the permittees include potential fees for apple maggot pest monitoring carried out by the Department's Pest Program at or in the vicinity of a permittee's composting facility or a permittee's solid waste facility. Commercial composting facilities will also incur additional costs related to training employees on handling green waste considered as an apple maggot pathway and for documenting the training.

Jobs Created or Lost

Under RCW 19.85.040, agencies must provide an estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule. The exact costs of compliance for the four compost facilities known to transport organic waste from the apple maggot quarantine area to the pest-free area cannot be determined until the conditions of the permit are determined for each of the four compost facilities. Therefore, an estimate of the number of jobs that will be created or lost, if any, cannot be determined at this time.

Disproportionate Impact to Small Businesses

RCW 19.85.040 directs agencies to determine whether the proposed rule will have a disproportionate cost impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the ten percent of the largest businesses required to comply with the proposed rules.

The solid waste facilities likely impacted by the proposed rules are operated by governmental entities except for one solid waste facility operated by a commercial facility. The commercial facility is a large company that does not meet the definition of a small business under RCW 19.85.020(3).

All four of the composting facilities likely impacted by the proposed rule meet the definition of a small business under RCW 19.85.020(3). Therefore, there is no disproportionate impact on small businesses. Those municipalities or counties from which green waste or solid waste originates may incur increased costs passed down from the landfill which in turn have the potential to be passed on to residential or commercial customers.

CONCLUSION

The intent of chapter 17.24 RCW is to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The proposed rule amendments protect the state's apple industry from apple maggot infestation and impose reasonable and necessary requirements on small businesses wanting to transport organic waste from the apple maggot quarantine area to the pest-free area. The proposed rule was drafted with input from stakeholders from the apple industry and the solid waste and composting industries.