



STATE OF WASHINGTON

## DEPARTMENT OF AGRICULTURE

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### SMALL BUSINESS ECONOMIC IMPACT STATEMENT FOR PROPOSED AMENDMENTS 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. These materials pose an unacceptable risk if allowed to move from infested to pest-free areas as documented in the **Pest Risk Analysis (PRA) for Apple Maggot (*Rhagoletis pomonella*) Moving on Municipal Green Waste into the Pest-Free Area (PFA) of the State of Washington, USA**, Dr. C. E. Sansford, Mr. V. Mastro, Mr. J. R. Reynolds, April, 2016.\*

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.

\*[http://agr.wa.gov/PlantsInsects/InsectPests/AppleMaggot/docs/FINAL\\_PRA\\_30\\_4\\_2016\\_2.pdf](http://agr.wa.gov/PlantsInsects/InsectPests/AppleMaggot/docs/FINAL_PRA_30_4_2016_2.pdf)

## **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.

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 five 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 60 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 three 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 will include at a minimum:

- A. Grinding municipal green waste, and
- B. Heat treatments within the quarantine area prior to transporting the load into the pest-free area.

The heat treatments include three thermophilic options or three direct heat options:

### *Thermophilic*

- 1) Temperature of at least 55°C (131°F) for a continuous period of two weeks, or
- 2) Temperature of at least 65°C (149°F) over a continuous period of one week, or
- 3) In the case of enclosed composting facilities: at least 60°C (140° F) for one week.

### *Direct heat*

- 1) 74°C (165°F) for 4 hours, or
- 2) 80°C (176°F) for 2 hours, or
- 3) 90°C (194°F) for 1 hour using wet heat.

## **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 three 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 three

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 three 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.