



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.

The movement of non-commercial (for example, back yard trees) fruit from apple maggot infested areas to the pest-free areas of apple production poses an unacceptable risk to the tree fruit industry. Additionally, 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 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 the southeast portion of Lincoln County to the area under quarantine for apple maggot. Changes to the existing rule may better prevent or minimize possible movement of apple maggot from infested areas into uninfested areas, secure access to international and interstate markets, and protect the commercial tree fruit industry from an economically significant pest by quarantine modification.

*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 rule expands the quarantine area into the southeast quadrant of Lincoln County based on detections of apple maggot flies during the Department’s surveillance project.

No commercial apple orchards are present in the proposed quarantine area, therefore no apple growers will be impacted and the proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer.

Entities impacted by the proposed rule includes local government and businesses involved in waste management. Currently, unsorted municipal waste containing apple maggot host material is transported from the proposed quarantine area to transfer stations located in the pest-free area. Under an expanded quarantine, municipal waste could no longer leave the quarantine boundaries without a special permit issued by the Department.

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.

The Department has identified Lincoln County and Adams County as the primary entities that will be impacted by the rule change and the subcontractors that transport waste on the behalf of these counties. One subcontractor is a small business and the business could incur some additional costs in order to comply with any mitigations required for a special permit.

Individual households and other ‘self-haulers’ would also be prohibited from moving household waste from the proposed quarantine area to transfer stations in the pest-free area. These are not small businesses and are not considered in this assessment.

Industry and Stakeholder Participation

On August 8, 2016, the Department convened the Apple Maggot Working Group (AMWG) to consider the proposed quarantine boundary. The AMWG includes members from the tree fruit industry, researchers, federal regulators, county extension, and the Department. At that meeting the tree fruit industry supported the proposed, partial quarantine and rejected the idea of quarantining the entire county.

Economic Impact on Apple Growers

During discussions concerning the expansion of the quarantine, representatives of the apple industry repeatedly expressed concerns that the transport of apple maggot host material from an infested area into the pest-free area could have adverse economic impacts to the apple industry. The expansion of the apple maggot through unregulated human movement of infested materials 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, therefore limiting the spread of the pest by quarantine is a necessary regulation. 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 and any threat to that industry by large or small businesses is unacceptable to the Department under its mandate to protect agriculture.

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 any impacted county facilities known to transport municipal waste from the apple maggot quarantine area to the pest-free area cannot be determined until the conditions of the permit are determined for individual 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 and their subcontractors. One subcontractor is defined as a small business under RCW 19.85.020(3), however all county subcontractors would need to meet permitting requirements to move waste from the quarantined area into the pest-free area. 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 impacted county.