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**IDAPA 02
TITLE 06
CHAPTER 08**

02.06.08 - QUARANTINE RULES PERTAINING TO APPLES AND CHERRIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 20, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.08, "Quarantine Rules Pertaining to Apples and Cherries." (5-3-03)

02. Scope. These rules restrict the movement of regulated articles into and within Idaho from infested states, countries, and infested portions of Idaho, and set forth treatment procedures to minimize the chance of spreading regulated pests. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

IDAPA 02.06.08 does not incorporate any material by reference. (5-3-03)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (5-3-03)

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (5-3-03)

03. Street Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (5-3-03)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (5-3-03)

007. -- 009. (RESERVED).

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Commercial Fruit. Means fruit harvested from a commercial orchard and destined to a commercial processing plant, packing plant, or for retail or wholesale sales. (5-3-03)

02. Commercial Orchard. Means an orchard in which fruit is grown for commercial purposes under accepted industry, university agricultural extension service, and regulatory guidelines. (5-3-03)

03. Graded Culls. Means apples which have failed to meet industry quality standards for fresh markets, yet meet industry quality standards for processing purposes. (5-3-03)

04. Infested Area. Means an area where a regulated pest is known to be present and is capable of

reproducing and maintaining a viable population. (5-3-03)

05. Threatened With Infestation. Means the entire commercial orchard is threatened with infestation when an outside boundary is within one-half (1/2) mile of an established regulated pest even if a portion of the commercial orchard is beyond one-half (1/2) mile of an established regulated pest. (5-3-03)

011. (RESERVED).

012. FINDINGS.

The adoption of IDAPA 02.06.08 will confer benefits to the fruit industry. Cherry fruit fly and Apple maggot are insect pests known to be injurious to apples and cherries. The Apple maggot is known to exist in several counties in Idaho, as well as in several other states. Apple maggot is known to not exist in the commercial apple growing areas of Idaho. Cherry fruit fly is known to exist in portions of Gem and Canyon counties. The establishment of regulated areas and enforcement of restrictions placed on those areas prevents the further spread of these pests that would adversely affect the production and domestic and international marketing of Idaho fruit. (5-3-03)

013. -- 099. (RESERVED).

100. REGULATED PESTS.

01. Apple Maggot (*Rhagoletis pomonella*). (5-3-03)

02. Cherry Fruit Fly (*Rhagoletis cingulata* complex, including *R. indifferens* and *R. fausta*). (5-3-03)

101. REGULATED ARTICLES.

01. Apple Maggot. All fresh fruit of apple (including crabapple), 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, quince, and rose hips are regulated under quarantine for apple maggot. (3-29-10)

02. Cherry Fruit Fly. All domestic and wild cherries and cherry trees. (5-3-03)

102. -- 189. (RESERVED).

190. REGULATED AREAS -- APPLE MAGGOT.

01. Non-Infested Areas -- Within Idaho. The entire counties of Canyon, Owyhee and Payette; portions of the counties of Gem and Washington lying south of the quarantine areas as outlined in Subsections 190.02.a. and 190.02.b. (5-3-03)

02. Infested Areas -- Within Idaho. The following areas are declared by the director to be under quarantine for Apple maggot: the counties of Franklin, Oneida, Caribou, Ada, Boise and Gooding; and portions of Gem and Washington counties as outlined in Subsections 190.02.a. and 190.02.b. (5-3-03)

a. Gem County Quarantine Area. Those portions of Gem county lying northerly of a line described as follows: Commencing at the Northwest corner of Section 3, T.7N, R.2W; thence East along section lines to the Northwest corner of Section 6, T.7N, R.1W; thence South along section lines to the Southwest corner of Section 7; thence East along section lines to the Northeast corner of Section 15, T.7N, R.1W; thence South along section lines to the middle of the main channel of the Payette River; thence easterly along said river to the East line of the county. (5-3-03)

b. Washington County Quarantine Area. Those portions of Washington county lying northerly of a line described as follows. Commencing at the Snake River at the Southern boundary of T.12N, R.7W; thence East along section lines to the Southwest corner of Section 35, T.12N, R.5W; thence North along section lines to the Northwest corner of Section 23, T.12N, R.5W; thence East along section lines to the Northwest corner of Section 21, T.12N, R.4W; thence South along section lines to the Southwest corner of Section 33, T.12N, R.4W; thence East

along section lines to the Southwest corner of Section 31, T.12N, R.1E; thence East along section lines to the East line of the county. (5-3-03)

03. Infested Areas -- Outside of Idaho. All states or foreign countries or portion thereof where Apple maggot is known to occur. (5-3-03)

191. -- 299. (RESERVED).

300. RESTRICTIONS -- APPLE MAGGOT.

01. Certification Required. Regulated articles described in this quarantine that are produced in or shipped from infested areas are prohibited movement into or within the state of Idaho unless a certificate accompanies the shipment evidencing compliance with Subsections 300.03, 300.04, 300.05, or 300.07. No certificate is required for regulated articles meeting the requirements of Subsections 300.02 or 300.06. (5-3-03)

02. Reshipments in Original Containers. Regulated articles in original unopened containers, each bearing labels or other identifying marks evidencing origin outside an infested area, may be reshipped to the regulated area from any point within the area under quarantine. (5-3-03)

03. Repacked Regulated Articles. Regulated articles may be repacked and shipped by common carrier from any point within an infested regulated area provided that each lot or shipment is accompanied by a certificate stating that the regulated articles have been grown outside an infested regulated area and have had their identity continuously maintained while in an infested regulated area. The certificate shall contain the following information: (5-3-03)

- a.** The county in which the regulated articles were grown. (5-3-03)
- b.** The point of repacking and reshipment. (5-3-03)
- c.** The amount and kind of regulated articles comprising the lot or shipment. (5-3-03)
- d.** The names and addresses of the shipper and consignee. (5-3-03)

04. Apples Exposed to Controlled Atmosphere Storage. Apples exposed for a continuous period of ninety (90) days, during which period the temperature within the storage room has been maintained at thirty-eight (38) degrees Fahrenheit or less, may be admitted into the regulated area, provided that the storage room or building is approved by the Director of Agriculture as a controlled atmosphere facility, and each lot or shipment of such apples to the regulated area is accompanied by a certificate, as provided in Subsection 300.01. (5-3-03)

05. Shipments From Cold Storage. Regulated articles described in Subsection 101.01 which are held in cold storage for a continuous period of forty (40) days or more, during which period the temperature within the storage room is maintained at thirty-two (32) degrees Fahrenheit or less, may be admitted into the regulated area, provided that each lot or shipment is accompanied by a certificate as stated in Subsection 300.01 evidencing compliance with the minimum temperature requirements. (5-3-03)

06. Solid Frozen Fruits Exempt. No restrictions are placed on the movement of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state. (5-3-03)

07. Regulatory and Control Measures. Regulatory and control measures may be prescribed by the Director within designated areas to prevent or minimize the possible movement of Apple maggot from commercial orchards. When it has been determined that commercial fruit of apple (including crabapple), hawthorn (both native and ornamental), plum, prune, peach and apricot trees (except graded culls – see Subsection 300.07.b.iii.) may be infested with or threatened with infestation by Apple maggot, the fruit shall be sampled by an investigator, following accepted industry procedures for sampling and inspection for presence of Apple maggot. (5-3-03)

a. If found to be free from Apple maggot, a certificate as provided for in Subsection 300.01 shall be issued. (5-3-03)

b. If found to be infested with Apple maggot, one (1) or more of the following procedures shall be prescribed before fresh fruit of apple (including crabapple) and hawthorn (both native and ornamental) are moved from designated or regulated areas. (5-3-03)

i. Fresh fruit to be exposed to controlled atmosphere storage as provided in Subsection 300.04. (5-3-03)

ii. Fresh fruit to be exposed to cold storage as provided in Subsection 300.05. (5-3-03)

iii. Graded culls shall be subject to Subsections 300.07.b.i. or 300.07.b.ii. (5-3-03)

08. Infested or Damaged Regulated Articles. All regulated articles as described in Section 101.01 known, or found to be infested with, or damaged by Apple maggot shall not be sold, held for sale, or offered for sale, except as provided for in Subsections 300.04 and 300.05. (5-3-03)

301. -- 399. (RESERVED).

400. REGULATED AREAS -- CHERRY FRUIT FLY.

01. Canyon County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 22, 23, 26 and 27 of Township 4 North, Range 5 West, Boise, Meridian; thence South to the Snake River to the point formed by section line between Sections 11 and 14 in Township 2 North, Range 4 West, Boise, Meridian; then East along said section line projected to where said line meets Lake Lowell; thence northwesterly across Lake Lowell to a point on the section line between Sections 26 and 27 of Township 3 West, Range 3 North, Boise, Meridian where said line meets Lake Lowell; then North along said section line to a point which is the corner common to Sections 10, 11, 14 and 15 of Township 3 North, Range 3 West, Boise, Meridian; thence West to a point, the west corner common to Sections 7, 12, 13 and 18, Township 3 North, Range 3 West Boise, Meridian; thence North to a point the east corner common to Sections 1 and 12, Township 3 North, Range 4 West, Boise, Meridian; thence West to a point the corner common to Sections 2, 3, 10 and 11, Township 3 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 26, 27, 34 and 35 of Township 4 North, Range 4 West, Boise, Meridian; thence West to a point which is the section corner common to Sections 27, 28, 33 and 34 of Township 4 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 21, 22, 27 and 28, Township 4 North, Range 4 West, Boise, Meridian; thence West to the point of beginning. (5-3-03)

02. Gem County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 4 and 5 of T. 6 N., R. 3 W. B. M. and Sections 32 and 33 of T. 7 N., R. 3 W., B. M., which corner is on the West line of Gem County, Idaho; thence South along said county line to a point which is the Southwest corner of Section 33 of T. 6 N., R. 3 W., B. M.; thence East along the South line of said Section 33 to its Southeast corner; thence North along the East line of said Section 33; and continuing North along the extension of said line to a point which is the corner common to Sections 15, 16, 22 and 23 of T. 6 N., R. 3 W., B. M.; thence East along the section line between Sections 15 and 22 of T. 6 N., R. 3 W., B. M. to a point on the division line between Ranges 2 and 3 W., T. 6 N., B. M.; thence South along the division line between the said Ranges 2 and 3 W., T. 6 N., B. M., to the East corner common to Sections 24 and 25, T. 6 N., R. 3 W., B. M.; thence East to a point which is the East corner common to Sections 19 and 30 of T. 6 N., R. 2 W., B. M.; thence South to a point which is the East corner common to Sections 30 and 31, T. 6 N., R. 2 W., B. M.; thence East along the section line between said Sections 30 and 31, extended to a point which is the East corner common to Sections 29 and 32, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 20 and 29, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 21 and 28, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 16 and 21, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 15 and 22, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 8 and 10, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 2 and 11, T. 6 N., R. 1 W., B. M.; thence North to a point which would be the East corner common to Sections 23 and 26, T. 7 N., R. 1 W., B. M.; thence West to a point which is the Northwest corner of Section 25, T. 7 N., R. 2 W., B. M.; thence South to a point which is the Northwest corner of Section 1, T. 6 N., R. 2 W., B. M.; thence West to the point of beginning. (5-3-03)

401. -- 499. (RESERVED).

500. RESTRICTIONS -- CHERRY FRUIT FLY.

01. Treatments Required. Each person, or his agent, located in Cherry fruit fly regulated areas as stated in Section 400 shall treat, or cause to be treated at his own expense, each of the regulated articles as listed in Subsection 101.02 on their property in order to minimize the population of the Cherry fruit fly. (5-3-03)

02. Chemical Treatments. Chemical treatments shall be carried out utilizing proper timing, methods and pesticides as recommended by the University of Idaho Cooperative Extension Service, approved for use on the commodity by the Environmental Protection Agency, and registered with the Idaho State Department of Agriculture. The regulated articles will be treated so as to effect the best control of the Cherry fruit fly, as per the pesticide label and University recommendations. (5-3-03)

03. Emergence. The date of the emergence of the first Cherry fruit fly in the county will be made public in the Cherry fruit fly regulated areas by the Department. The date of first emergence shall be determined by historical evidence, a population model utilizing degree-day accumulations or by actual trapping of adult individuals. (5-3-03)

04. Additional Spraying Responsibilities. The duty to treat cherry trees includes a similar duty to treat all parts of any type of tree within twenty (20) feet of any portion of a cherry tree, using methods specified in Subsection 500.02. (5-3-03)

05. Failure to Treat. In the event that the person or his agent fails or refuses to effect the treatment specified in Subsection 500.02, the Director shall carry out the treatment at the expense of the person in charge or possession of the tree(s), as provided under Title 22, Chapter 20, Idaho Code. (5-3-03)

501. -- 509. (RESERVED).

510. SURVEY AND DETECTION METHODS.

Survey and detection methods for the Apple maggot will follow accepted national and international guidelines as they pertain to Idaho environment, host distribution, and growing conditions. (5-3-03)

511. -- 609. (RESERVED).

610. SPECIAL PERMITS.

The Director may issue special permits admitting regulated articles covered in this quarantine not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions, which the Director may prescribe to prevent introduction, escape or spread of the quarantine pests. (5-3-03)

611. -- 649. (RESERVED).

650. VIOLATIONS.

Any person violating any portion of these rules shall be subject to the penalty provisions of Title 22, Chapter 20, Idaho Code. (5-3-03)

651. -- 999. (RESERVED).

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