



# RULE-MAKING ORDER

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

Agency: Department of Agriculture

- Permanent Rule  
 Emergency Rule

Effective date of rule:  
**Permanent Rules**  
 31 days after filing.  
 Other (specify) \_\_\_\_\_ (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:** Chapter 16-409 WAC, Washington Standards for Asparagus, adopts modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2, and sets the standards by which asparagus grown in Washington is graded and packaged for sale. The proposed amendments are necessary to bring these standards in line with other states and countries, thereby increasing sales and marketing opportunities for growers, packers, and shippers.

**Citation of existing rules affected by this order:**  
 Repealed:  
 Amended: WAC 16-409-020, -022, -024, -026, -030, -035, -065, -070.  
 Suspended:

**Statutory authority for adoption:** Chapters 15.17 and 34.05 RCW

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**  
 Adopted under notice filed as WSR 07-01-106 on December 19, 2006 (date).  
 Describe any changes other than editing from proposed to adopted version: None

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: March 1, 2007

NAME (TYPE OR PRINT)  
 Valoria Loveland

SIGNATURE

TITLE  
 Director

**CODE REVISER USE ONLY**

STATE OF WASHINGTON  
 FILED

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6206-047

**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	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	<u>5</u>	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>3</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>8</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-020** (~~(What)~~) Standards that apply to all asparagus marketed within Washington state(~~(?)~~). Any lot of fresh asparagus, including "culls," marketed within Washington state must have no more than ten percent of the stalks that (~~(-~~  
~~(1))~~) have white in excess of two inches(~~(, and~~  
~~(2) Are less than 4/16 inch in diameter)~~).

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-022** (~~(What grades are used to identify asparagus in Washington state?)~~) Asparagus grades. (1) The following table identifies and describes the asparagus grades used in Washington state:

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(a) Clean;	Yes	Yes	Yes	Yes	No
(b) Fresh;	Yes	Yes	Yes	Yes	No
(c) Fairly uniform in length;	Yes	Yes	Yes	Yes	No
(d) Well trimmed;	Yes	Yes	No	No	No
(e) Fairly well trimmed;	No	No	Yes	Yes	No
(f) Fairly straight;	Yes	Yes	No	Yes	No
(g) Not wilted;	Yes	Yes	Yes	Yes	No
(h) Not badly misshapen;	No	No	Yes	No	No
(i) Free from decay;	Yes	Yes	Yes	Yes	No
(j) Free from damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means;	Yes	Yes	Yes	Yes	No

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(k) At least eighty-five percent green in color;	Yes	No	Yes	Yes	No
(l) All green.	No	Yes	No	No	No

(2) "Culls" describes asparagus that:

(a) Is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2; and

(b) Must not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

WAC 16-409-024 (~~What are the~~) Size requirements for Washington asparagus grades (~~(?)~~). The following (~~table identifies asparagus~~) size (~~requirements by Washington grades~~) designations apply to all grades of asparagus in Washington state.

<del>(Washington Asparagus Grades)</del>	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
<del>"Extra Fancy Grade Asparagus"</del>	Jumbo	Washington extra fancy jumbo or Washington jumbo	Washington extra fancy jumbo or Washington jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington extra fancy large or Washington large	Washington extra fancy large or Washington large must have stalks at least 7/16 inch in diameter.
	Standard	Washington extra fancy standard or Washington standard	Washington extra fancy standard or Washington standard must have stalks at least 6/16 inch in diameter.
<del>"Extra Fancy Grade Asparagus Tips"</del>	Jumbo	Washington extra fancy tips jumbo	Washington extra fancy tips jumbo must be 13/16 inch in diameter or larger.
	Large	Washington extra fancy tips large	Washington extra fancy tips large must be 7/16 inch in diameter or larger.

((Washington Asparagus Grades	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
	Standard	Washington extra fancy tips standard	Washington extra fancy tips standard must be 6/16 inch in diameter or larger.
	Small	Washington extra fancy tips small	Washington extra fancy tips small must have a diameter of at least 4/16 inch.
"Fancy Grade Asparagus"	Small	Minimum diameter, or Washington fancy small or Washington small	Washington fancy grade asparagus lots must be designated by minimum diameter. However, when at least ninety percent, by count, of the stalks in any lot are at least 4/16 inch in diameter, the lot may be designated as Washington fancy small or Washington small.
"Washington consumer pack"	N/A	Washington consumer pack	Washington consumer pack lots must be designated by minimum diameter and stalks must be at least 4/16 inch in diameter.
"U.S. No. 1 grade"	N/A	Minimum diameter, or	N/A
	Jumbo	Washington jumbo	U.S. No. 1 grade jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington large	U.S. No. 1 grade large must have stalks at least 7/16 inch in diameter.
	Standard	Washington standard	U.S. No. 1 grade standard must have stalks at least 6/16 inch in diameter.
"U.S. No. 2 grade"	N/A	Minimum diameter, or	N/A
	Small	Washington small	U.S. No. 2 grade small must have stalks at least 4/16 inch in diameter.))

(1) Jumbo: Stalks at least 13/16 inch in diameter.

(2) Extra large: Stalks at least 10/16 inch in diameter.

(3) Large: Stalks at least 7/16 inch in diameter.

(4) Standard: Stalks at least 5/16 inch in diameter.

(5) Small: Stalks less than 5/16 inch in diameter.

(6) All size designations, as defined in WAC 16-409-024, may be packed in all grades and in all containers.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-026** (~~((Does the department adopt))~~) Adoption of U.S. standards for fresh asparagus as Washington state standards((?)).

(1) In addition to the Washington state fresh asparagus standards contained in this chapter, the Washington state department of agriculture has adopted, as Washington state standards, modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2.

(2) The department's modifications to the U.S. standards are as follows:

(a) U.S. No. 1 must (~~((be at least 6/16 inch in diameter and must))~~) meet or exceed Washington extra fancy grade requirements.

(b) U.S. No. 2 must (~~((be at least 4/16 inch in diameter and must))~~) meet or exceed Washington fancy grade requirements.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-030** (~~((What))~~) Tolerances (~~((are adopted for Washington asparagus?))~~). The following table identifies and explains the tolerances adopted for Washington asparagus:

Washington Asparagus Grades to Which Tolerances Apply	Defect, color and trim tolerances adopted for Washington asparagus	Diameter and length tolerances adopted for Washington asparagus
Washington extra fancy Washington extra fancy tips Washington fancy Washington consumer pack	To allow for variations incident to proper grading and handling, the following tolerances are adopted:	To allow for variations in diameter and length incident to proper sizing, the following tolerances are adopted:
	(1) Ten percent, by count, for stalks failing to meet grade requirements other than for trim and color, including no more than one percent for decayed stalks.	(1) Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter defined in WAC 16-409-015 ("fairly uniform in length").
	(2) An additional ten percent, by count, for stalks having less than the required amount of green color.	(2) Ten percent, by count, for stalks failing to meet the required length as established in WAC 16-409-022.
	(3) An additional ten percent, by count, for stalks not meeting trim requirements.	

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-035** (~~((How does the department apply its))~~)

**Application of asparagus tolerances during an inspection**((?)). (1)

If the averages for an entire lot are within the tolerances specified in WAC 16-409-030, the limitations in this section, based upon sample inspections, apply to the contents of individual containers in the lot.

(2) Individual containers:

(a) May contain one decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk.

(b) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.

(c) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-065** (~~((What))~~) **Container requirements** (~~((apply to the containers used to market fresh asparagus?))~~).

~~((The following table identifies and explains the requirements that apply to the containers used to market fresh asparagus:))~~

<b>Asparagus Grades:</b>	<b>Container Requirements:</b>
(1) All fresh asparagus:	Must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.
(2) All fresh asparagus:	Must not be marketed in field containers.
(3) For testing or trial marketing purposes, the director:	May allow the use of any experimental containers not specified in this table.
(4) Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades of fresh asparagus:	Must be marketed in containers with moisture pads.
(5) Washington consumer pack grade of fresh asparagus:	Must be marketed either in: <ul style="list-style-type: none"> <li>(a) Pyramid type containers with moisture pads; or</li> <li>(b) Fiberboard or wooden "western lug" containers with:                             <ul style="list-style-type: none"> <li>(i) Inside dimensions of approximately seven inches, by eleven and one-half inches, by eighteen inches; or</li> <li>(ii) A capacity of thirteen hundred and fifty to fifteen hundred and fifty cubic inches.</li> <li>(iii) Western lugs must contain at least twenty pounds net weight.</li> </ul> </li> </ul>
(6) Culls;	Must be marketed in wooden pyramid containers with moisture pads:))

(1) All fresh asparagus must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.

(2) All fresh asparagus must not be marketed in field containers.

(3) For testing or trial marketing purposes, the director may allow the use of any experimental container.

(4) Culls must be marketed in wooden pyramid containers with moisture pads.

AMENDATORY SECTION (Amending WSR 05-10-092, filed 5/4/05, effective 6/4/05)

**WAC 16-409-070** ((What)) Container marking requirements ((apply to fresh asparagus containers?)). (1) All required markings must be placed on one end of the container, but may be duplicated on the opposite end.

(2) Containers must be conspicuously and legibly marked with the:

- (a) Name and address of the grower, packer, or distributor;
- (b) Grade;
- (c) Net weight; and
- (d) Size designation or diameter size as defined in WAC 16-409-024.

(3) The grade and size designation required in subsection (2) of this section must be marked in letters at least 3/8 inch in height.

(4) The following abbreviations of grade and size designation are acceptable:

- (a) Washington as Wash. or WA.
- (b) Extra fancy as ex fcy or extra fcy.
- (c) Fancy as fcy.
- (d) Jumbo as jbo.
- (e) Extra large as ex lge.
- (f) Large as lge.
- ((+e)) (g) Standard as std.
- (h) Small as sm.

(5) The use of U.S. No. 1 or U.S. No. 2 grade markings is permissible subject to the requirements in WAC 16-409-026.

(6) If culls are marketed:

((+a)) The word "culls" must be:

((+i)) (a) Conspicuously and legibly marked in letters at least one inch in height; and

((+ii)) (b) Predominant in size over any other markings on the container.

((+b) ~~They must be marketed only in wooden pyramid containers with moisture pads.~~)