



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: This rule making order adopts a rewritten, reformatted and reorganized chapter 16-445 (Standards for Italian Prunes) that is easier to understand and use. **No new requirements are included in the rewritten chapter 16-445 WAC.** The rewritten chapter is a result of the department's ongoing Executive Order 97-02 rule review effort and the department effort to comply with the executive order's "clarity criteria".

Citation of existing rules affected by this order:

Repealed: WAC 16-445-001; WAC 16-445-050; WAC 16-445-080; and WAC 16-445-090
Amended: WAC 16-445-040; WAC 16-445-060; and WAC 16-445-070
Suspended: None

Statutory authority for adoption: Chapter 15.17 RCW and Chapter 34.05 RCW

Other authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-06-101 on March 2, 2005.
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: May 4, 2005

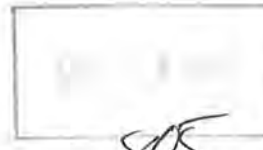
NAME (TYPE OR PRINT)
Valoria H. Loveland

SIGNATURE
Valoria H. Loveland

TITLE
Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON



TIME 8:05 AM
WSR 05-10-093

(COMPLETE REVERSE SIDE)

**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:

Federal statute:	New	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

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

	New	0	Amended	0	Repealed	0
--	-----	---	---------	---	----------	---

The number of sections adopted in the agency's own initiative:

	New	3	Amended	3	Repealed	4
--	-----	---	---------	---	----------	---

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	3	Amended	3	Repealed	4
--	-----	---	---------	---	----------	---

The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	3	Amended	3	Repealed	4

Chapter 16-445 WAC

WASHINGTON STANDARDS FOR ITALIAN PRUNES

NEW SECTION

WAC 16-445-015 What definitions are important to this chapter? The following definitions are important to this chapter and apply only to Italian prunes:

"Badly misshapen" means prunes so malformed or rough that they appear to be seriously damaged. Doubles that have approximately equal sized halves are not considered "badly misshapen."

"Culls" mean prunes that are immature, or seriously damaged by growth cracks, hail, insect pests, mechanical or other means.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest distance measured through the center of a prune at right angles to a line running from the stem to the blossom end.

"Fairly uniform size" means that the prunes in each packed container must not show a variation of more than one-fourth of an inch in diameter.

"Fairly well colored" means that at least three-fourths of the surface of a prune is purple color.

"Mature" means that a prune has reached the stage of maturity that will insure proper completion of the ripening process.

"Sunscald" means an apparent softening or collapse of a prune's flesh that is caused by the sun.

"Well colored" means that except for the portion of allowed russeting, ninety-five percent of the surface of a prune is purple color.

"Well-formed" means that a prune has the shape characteristic of the variety. Doubles are not considered well-formed.

NEW SECTION

WAC 16-445-025 What does "damage" and "serious damage" mean? The following table explains the differences between "damage" and "serious damage" as the terms apply to Italian prunes:

"Damage" means:	"Serious damage" means:
(1) Any injury or defect that materially affects the prune's appearance, or its edible or shipping quality.	(1) Any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality.
Note: Internal growth cracks, cavities or gum spots are not considered damage.	
(2) Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "damage":	(2) Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "serious damage":
<p>(a) Broken skins that are unhealed.</p> <p>Note:</p> <ul style="list-style-type: none"> ● Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. ● Broken skins that have healed are considered scars. 	<p>(a) Broken skins that are unhealed and more than one-eighth inch in diameter or depth.</p> <p>Note:</p> <ul style="list-style-type: none"> ● Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not serious damage. ● Broken skins that have healed are considered scars.
(b) Heat injury that is extensive or not light in color.	<p>(b) Heat injury that causes any softening or dark discoloration of the flesh.</p> <p>Note:</p> <ul style="list-style-type: none"> ● Heat injury may cause internal or external discoloration, and may or may not be serious. ● Heat injury should not be confused with sunscald, which causes softening or collapse of the tissue, and which is always classed as serious damage.

"Damage" means:	"Serious damage" means:
<p>(c) External growth cracks, when:</p> <ul style="list-style-type: none"> ● There are more than one on a prune; or ● One is deep; or ● One is not well healed; or ● One is more than 1/4 inch in length. 	<p>(c) External growth cracks that are:</p> <ul style="list-style-type: none"> ● Not well healed; or ● More than 3/16 inch in depth; or ● More than 1/2 inch in length.
<p>(d) Sunburn that has:</p> <ul style="list-style-type: none"> ● Materially changed the normal color of a prune; or ● Caused the skin to blister or crack. 	<p>(d) Sunburn that causes:</p> <ul style="list-style-type: none"> ● Decided flattening of a prune; or ● Blistering, cracking, or noticeable brownish discoloration of the skin.
<p>(e) Split pit that:</p> <ul style="list-style-type: none"> ● Causes a readily apparent crack at the stem end; or ● Affects a prune's shape so it is not well-formed. 	<p>(e) Split pit that:</p> <ul style="list-style-type: none"> ● Causes a crack at the stem end more than 3/16 inch in length, including any part that may be covered by the stem; or ● Affects the shape to the extent that the fruit is badly misshapen.
<p>(f) Hail marks, or other similar depressions or scars that:</p> <ul style="list-style-type: none"> ● Are not shallow or superficial; or ● Total more than 3/8 inch in diameter; or ● Break the skin. 	<p>(f) Hail marks that:</p> <ul style="list-style-type: none"> ● Are more than 3/16 inch deep; or ● Total more than 1/2 inch in diameter.
<p>(g) Drought spots or external gum spots that are more than 1/4 inch in diameter.</p>	<p>(g) Drought spots or external gum spots that total more than 1/2 inch in diameter.</p>
<p>(h) Russetting that is:</p> <ul style="list-style-type: none"> ● Not excessively rough but totals more than 1/10 of a prune's surface; or 	<p>(h) Russetting that is:</p> <ul style="list-style-type: none"> ● Not excessively rough but totals more than 1/3 of a prune's surface; or

"Damage" means:	"Serious damage" means:
<ul style="list-style-type: none"> ● Excessively rough and totals more than 1/4 inch in diameter. 	<ul style="list-style-type: none"> ● Excessively rough and totals more than 1/2 inch in diameter.
<p>(i) Scars:</p> <ul style="list-style-type: none"> ● Dark, rough or depressed scars totaling more than 1/4 inch in diameter. ● Fairly smooth, superficial scars that total more than 1/2 inch in diameter. An example is fairly light discoloration such as that caused by handling or packing or by prunes rubbing against each other while on the tree. ● Thorn and limb scratches that are not well healed, or that total more than 1/2 inch in length. 	<p>(i) Scars that are:</p> <ul style="list-style-type: none"> ● Very dark or excessively rough and total more than 1/2 inch in diameter; or ● More than 3/16 inches deep.

AMENDATORY SECTION (Amending Order 1549, filed 3/31/78)

WAC 16-445-040 What is a "Washington No. 1 grade ((and tolerances-))" Italian prune? ((-1) Defined. Washington No. 1 grade shall consist of prunes of one variety which are well formed (1), mature (2) but not overripe, soft or shriveled, and which are free from decay and sunscald (3), and from damage (4) caused by broken skins (4a), heat injury (4b), growth cracks (4c), sunburn (4d), split pits (4e), hail marks (4f), drought spots (4g), russeting (4h), scars (4i), dirt or other foreign material, disease, insects or mechanical or other means. Italian type prunes shall have two-thirds of the surface with purplish color characteristic of the particular area where grown, and unless otherwise specified, the minimum size of such prunes shall be not less than 1-1/4 inches in diameter (7).

(2) Tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances are

specified:

~~(a) At shipping point: Not more than a total of ten percent, by count, of the prunes in any container may not meet the requirements of this grade for defects other than color and size, but not more than five percent by count, may be allowed for defects causing serious damage and not more than one percent may be allowed for decay. In addition, not more than ten percent, by count, in any container may not meet the color requirements and not more than ten percent, by count, may not meet the size specifications, but the combined tolerance for all defects shall not exceed fifteen percent.~~

~~(b) At destination or en route: Not more than a total of eighteen percent of the prunes in any container may not meet the requirements of this grade and not more than the following percentages shall be allowed for the defects listed:~~

~~Ten percent which fail to meet the color requirement,
Ten percent which fail to meet the minimum size requirement,
Ten percent which fail to meet the requirements of the grade because of other permanent defects,~~

~~Seven percent for defects causing serious damage, including therein not more than five percent for serious damage by permanent defects and not more than two percent decay.)~~ To be labeled "Washington No. 1 grade," Italian prunes must be:

(1) Of one variety;
(2) A purplish color over at least 2/3 of their surface;
(3) Well-formed;
(4) At least 1-1/4 inches in diameter unless otherwise specified;

(5) Mature but not overripe, soft or shriveled;

(6) Free from decay and sunscald; and

(7) Free from damage caused by:

(a) Broken skins;

(b) Heat injury;

(c) Growth cracks;

(d) Sunburn;

(e) Split pits;

(f) Hail marks;

(g) Drought spots;

(h) Russetting;

(i) Scars; or

(j) Dirt, other foreign material, disease, insects or mechanical or other means.

NEW SECTION

WAC 16-445-045 What tolerances apply to Italian prunes? The following tolerances apply to prunes in any container and are adopted to allow for variations that are incidental to proper

grading and handling:

(1) Tolerances that apply at the shipping point:	(2) Tolerances that apply to the destination or en route to the destination:
(a) Other than color and size, no more than ten percent, by count, may fail to meet the grade requirements for defects.	(a) No more than eighteen percent, by count, may fail to meet grade requirements.
(b) No more than five percent, by count, may have serious damage defects.	(b) No more than ten percent, by count, may fail to meet grade requirements due to other permanent defects.
(c) No more than one percent, by count, may be decayed.	(c) No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay.
(d) No more than ten percent, by count, may fail to meet the color requirements.	(d) No more than ten percent, by count, may fail to meet color requirements.
(e) No more than ten percent, by count, may fail to meet the size specifications.	(e) No more than ten percent, by count, may fail to meet minimum size requirements.
(f) The combined tolerance for all defects must not exceed fifteen percent by count.	

AMENDATORY SECTION (Amending Order 1262, filed 5/5/72)

WAC 16-445-060 (~~(Application of tolerances.)~~) How does the department apply its Italian prune tolerances during an inspection?

~~(The contents of individual containers in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified:~~

~~(1) When a tolerance is 10 percent or more, individual containers in any lot shall have not more than one and one-half times the tolerance specified, except that at least one defective and one undersized fruit may be permitted in a container.~~

~~(2) When a tolerance is less than 10 percent, individual containers in any lot shall have not more than double the tolerance~~

specified, except that at least one defective and one undersized fruit may be permitted in a container.)) If the averages for an entire lot are within the specified tolerances, the following limitations apply to the contents of the individual containers in the lot. Based upon sample inspections, the individual containers in the lot:

(1) May contain at least one defective and one undersized prune.

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

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

AMENDATORY SECTION (Amending Order 1262, filed 5/5/72)

WAC 16-445-070 ((Standard pack.)) What are the "standard pack" requirements for Italian prunes? ((~~(1) The prunes shall be of fairly uniform size (10) and tightly packed according to the approved and recognized methods. The fruits in the top layer shall not be noticeably superior in quality or size to those in the remainder of the package.~~

~~(2) The size of prunes packed in 4-basket crates shall be indicated as follows: 4x4, 4x5, 5x5, etc., in accordance with the arrangement in the top layer of the basket. These packs shall not be more than 3 layers deep. Arrangements such as 4-3x5 and 5-4x5 shall not be considered standard packs.~~

~~(3) The arrangement of the bottom layer shall be one row less one way, and may be one row less each way than the arrangement of the top layer. The arrangement of the middle layer may be the same as the top layer, or may be one row less one way than the arrangement of the top layer. Straight, offset, and diagonal packs in the layers are permitted. For example: A pack with 5x5 in the top layer may have 5x5 in the middle layer, and shall have 4x5 or 4-3x5 in the bottom layer; or it may have 4x5 or 4-3x5 in the middle layer, and shall have 4x5, 4-3x5, or 4x4 in the bottom layer.~~

~~(4) In layer-packed California peach or lug boxes, the count in the entire container shall be marked on the package.~~

~~(5) In double-faced and filled special lugs the number of rows, lengthwise of the lugs, shall be marked on the package to indicate size, as "nine row."~~

~~(6) In order to allow for variations incident to proper packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements of the standard pack.))~~

(1) A standard pack of Italian prunes must:

(a) Contain prunes of fairly uniform size;

(b) Be tightly packed according to industry-approved methods;

and

(c) Contain prunes in the top layer that are not noticeably superior in quality or size to those below the top layer.

(2) In order to allow for variations incident to proper packing, no more than ten percent of the containers in any lot, by count, may fail to meet the standard pack requirements of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-445-001	Promulgation.
WAC 16-445-050	Culls.
WAC 16-445-080	Definitions of terms.
WAC 16-445-090	Effective date.