



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Washington Apple Commission	<input type="checkbox"/> Permanent Rule <input checked="" type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Rule Making
(1) Date of adoption: September 23, 2003	

(2) Purpose: To reduce the assessment from 54.3 cents on each one hundred pounds gross billing weight to 8.75 cents on each one hundred pounds net billing weight, which is equivalent to 7.60375 cents per hundred weight gross billing weight, to become effective September 1, 2003, for all varieties of apples except Red Delicious, Golden Delicious and Fuji. The reduced assessment will become effective on October 1, 2003, for Red Delicious, Golden Delicious and Fuji. The amendment also simplifies the billing method for assessments.

(3) Citation of existing rules affected by this order:

Repealed:
Amended: WAC 24-12-010
Suspended:

(4) Statutory authority for adoption: RCW 15.24.100
Other Authority: Federal Court Decision of Case # CS-01-0278

PERMANENT RULE ONLY (Including Expedited Rule Making)
Adopted under notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) 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.
- (b) 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: The Washington Apple Commission is currently operating under a Federal Court Settlement that was orally approved on July 23, 2003. The Federal Court found that the Commission's collection of mandatory assessments for advertising and promotion violated the First Amendment, but in the settlement of the case, the Federal Court approved the reduction of the assessment from 54.3 cents per hundred pounds gross billing weight to 7.60375 cents per hundred gross billing weight, which is equivalent to 8.75 cents per hundred net billing weight (or 3.5 cents per 40 pound box), effective Sept. 1, 2003, for all fresh apples except Red Delicious, Golden Delicious and Fuji. The reduced assessment for Red Delicious, Golden Delicious and Fuji will become effective on Oct. 1, 2003. The timing of the Federal Court hearing on the settlement made it impossible to comply with the permanent rule making time requirement prior to the effective date of the new assessment rate.

The billing method, which eliminates tare weights based on container type, has been simplified to accommodate a new computer system that will provide a more cost efficient and accurate billing service for the apple industry

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes No If Yes, explain:

(6) Effective date of rule:		CODE REVISER USE ONLY	
Permanent Rules <input type="checkbox"/> 31 days after filing <input type="checkbox"/> Other (specify) _____*		Emergency Rules <input checked="" type="checkbox"/> Immediately <input type="checkbox"/> Later (specify) _____	
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)			
Name (Type or Print) David Carlson			
Signature <i>David Carlson</i>			
Title Interim President	Date September 22, 2003		

(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	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 24-12-010 Amount of assessments. (1) There is hereby levied upon all fresh apples grown annually in this state, and upon all apples packed as Washington apples, an assessment of ~~((86.96))~~ 8.75 cents on each one hundred pounds ~~((gross))~~ net billing weight effective September 1, 2003, for all varieties of apples except Red Delicious, Golden Delicious, and Fuji. There is hereby levied upon all fresh Red Delicious, Golden Delicious, and Fuji apples grown annually in this state and upon all Red Delicious, Golden Delicious, and Fuji apples packed as Washington apples an assessment of 8.75 cents on each one hundred pounds net billing weight effective October 1, 2003. ~~((until September 30, 2001. On and after October 1, 2001 the assessment on fresh apples shall be 54.3 cents on each one hundred pounds gross billing weight. For the period October 1, 1998 through September 30, 2001, 32.66 cents of the assessment on each one hundred pounds gross billing weight shall be used only for direct consumer advertising.))~~

(2) Assessments shall be payable as provided in WAC 24-12-012, whether in bulk or loose in boxes or any other container, or packed in any style package. ~~((The gross billing weights for the following containers shall apply for the purpose of computing said assessments:~~

DESCRIPTION OF CONTAINER	GROSS BILLING WEIGHTS
1/3 Bushel box (packed or loose)	15 lbs.
1/2 Bushel box (loose)	23 lbs.
Bulk bushel container (loose)	Net weight plus 3 lbs. tare
9/4 and 12/3 Bag containers	41 lbs.
13/3 Bag container	44 lbs.
10/4 and 8/5 Bag containers	45 lbs.
12/4 Bag container	53 lbs.
Standard tray pack container	46 lbs.
Pocket cell tray pack container	46 lbs.
Cell pack containers, all counts	46 lbs.
2-Layer tray pack container	23 lbs.
Single-layer tray pack container	12 lbs.))