



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: The purpose of this rule making order is to adopt a rewritten, reformatted and reorganized chapter 16-409 WAC (Standards for Asparagus) that is easier to understand and use. **No new requirements are included in the rewritten chapter 16-409 WAC.** This rewritten chapter 16-409 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and the department's effort to comply with the executive order's "clarity criteria".

Citation of existing rules affected by this order:

Repealed: WAC 16-409-060; WAC 16-409-075; and WAC 16-409-085
Amended: WAC 16-409-015; WAC 16-409-020; WAC 16-409-030; WAC 16-409-035; WAC 16-409-065; and WAC 16-409-070
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 05-06-102 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

TITLE
Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

803

TIME _____

WSR _____ 05-10-09R

AM PM

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

	New	4	Amended	6	Repealed	3
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	4	Amended	6	Repealed	3
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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	4	Amended	6	Repealed	3

Chapter 16-409 WAC

WASHINGTON STANDARDS FOR ASPARAGUS

NEW SECTION

WAC 16-409-005 Must all Washington fresh asparagus comply with Washington state standards? The following table explains which Washington fresh asparagus is exempt from some of the requirements of this chapter:

If an individual shipment of fresh Washington asparagus:	Then the shipment is exempt from the requirements in:
(1) Consists of asparagus for home use and not for resale; and	● WAC 16-409-020 through 16-409-060;
(2) Does not exceed two hundred fifty pounds net weight.	● WAC 16-409-065 (2), (3), (4), (5), and (7); and ● WAC 16-409-070.

((WASHINGTON STANDARDS))

AMENDATORY SECTION (Amending Order 1848, filed 3/15/85)

WAC 16-409-015 ((Definitions-)) What definitions are important to this chapter? ((1) "Clean" means that the asparagus is free from excessive dirt, dust, residue or foreign matter.
(2) "Fresh" means that the stalk is not limp or flabby.
(3) "Well trimmed" means that at least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not stringy or

frayed.

~~(4) "Fairly well trimmed" means that at least one-third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not badly stringy or frayed.~~

~~(5) "Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.~~

~~(6) "Fairly uniform in length" means that stalks within a container shall vary not more than one and one-half inches in length.~~

~~(7) "White" means that portion of the stalk near the butt, which is white in color or light purple over white. White is measured from the extreme tip of the butt to the point of beginning of green color.~~

~~(8) "Green" means that portion of the stalk having green color, purplish-green or greenish-purple color, and purple at the tip.~~

~~(9) "Damage" means any defect, or combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the stalk.~~

~~(10) "Serious damage" means any defect, or combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the stalk.~~

~~(11) "Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.~~

~~(12) "Fresh asparagus" as used in the standards means a lot of asparagus marketed for the purpose of fresh consumption.~~

~~(13) "Lot" means any number of containers of fresh asparagus being offered as a unit for the purpose of inspection, sale, or shipment.~~

~~(14) "Shipment" means any number of containers of fresh asparagus transported on a single conveyance from the area of production.~~

~~(15) "Field container" means an open lug made of wood, plastic, or similar material and used repetitively for field harvesting.)~~ The following definitions are important to this chapter:

"Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

"Clean" means the asparagus is free from excessive dirt, dust, residue or foreign matter.

"Damage" means any defect or combination of defects that materially detract from the appearance, edible quality or marketing quality of the stalk.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Fairly uniform in length" means the stalks within a container must not vary in length more than one and one-half inches.

"Fairly well trimmed" means that:

(1) At least one-third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not badly stringy or frayed.

"Field container" means an open lug made of wood, plastic, or similar material that is repetitively used for field harvesting.

"Fresh" means that the stalk is not limp or flabby.

"Fresh asparagus" means asparagus marketed by lot for fresh consumption.

"Green" means the portion of the stalk having green, purplish-green or greenish-purple color with purple at the tip.

"Lot" means any number of containers of fresh asparagus offered as a unit for inspection, sale, or shipment.

"Serious damage" means any defect or combination of defects that seriously detract from the appearance, edible quality or marketing quality of the stalk.

"Shipment" means any number of containers of fresh asparagus transported from the production area by a single conveyance.

"Well trimmed" means that:

(1) At least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not stringy or frayed.

"White" means the portion of the stalk near the butt that is white or light purple over white in color. The white is measured from the extreme tip of the butt to the point where the green color begins.

AMENDATORY SECTION (Amending Order 6015, filed 2/19/97, effective 3/22/97)

WAC 16-409-020 ((Washington standards--Grades.)) **What standards apply to all asparagus marketed within Washington state?**

((1) Washington extra fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. Stalks shall have at least eighty-five percent green color.

(b) Stalks within individual containers shall meet one of the following designated sizes: Jumbo, large, or standard.

(2) Washington extra fancy tips shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips,

~~dirt, disease, insects, or mechanical or other means. Stalks shall be all green.~~

~~(b) Stalks within the individual containers shall meet one of the following designated sizes: Jumbo, large, standard, or small.~~

~~(3) Washington fancy shall consist of:~~

~~(a) Clean, fresh stalks of asparagus, fairly uniform in length, fairly well trimmed, not wilted and not badly misshapen, and which are free from decay and serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall have at least eighty-five percent green color.~~

~~(b) Each stalk shall have a diameter of not less than four-sixteenths inch.~~

~~(4) Washington consumer pack shall consist of:~~

~~(a) Clean, fresh stalks of asparagus, fairly uniform in length, fairly well trimmed, which are fairly straight, not wilted and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall have at least eighty-five percent green color.~~

~~(b) Each stalk shall have a diameter of not less than four-sixteenths inch.~~

~~(5) Culls:~~

~~(a) Asparagus which 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 shall be designated as "culls."~~

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

~~(6) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches, nor more than ten percent of stalks which are less than four-sixteenths inch in diameter.) 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.~~

NEW SECTION

WAC 16-409-022 What grades are used to identify asparagus in Washington state? (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
(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.

NEW SECTION

WAC 16-409-024 What are the size requirements for Washington asparagus grades? The following table identifies asparagus size requirements by Washington grades:

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:
"Extra Fancy Grade Asparagus"	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.
"Extra Fancy Grade Asparagus Tips"	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.
	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.

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:
"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.

NEW SECTION

WAC 16-409-026 Does the department adopt 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 Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-030 (~~((Tolerances for defects, color, diameter and trim.))~~) What tolerances are adopted for Washington asparagus? (~~((1) In order to allow for variations incident to proper grading~~

and handling in the Washington extra fancy, Washington extra fancy tips, Washington fancy, and Washington consumer pack grades, the following tolerances are provided as specified:

(a) Ten percent, by count, for stalks failing to meet the requirements of the grade other than for trim and color requirements, including therein, not more than one percent for stalks affected by decay.

(b) An additional ten percent, by count, for stalks having less than the specified amount of green color.

(c) An additional ten percent, by count, for stalks not meeting trim requirements.

(2) In order to allow for variations in diameter and length incident to proper sizing in the Washington extra fancy, Washington extra fancy tips, Washington fancy, and Washington consumer pack grades, the following tolerance is provided as specified. Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter, and/or length, as defined under, "fairly uniform in length" and "size designations.") The following table identifies and explains the tolerances adopted for Washington asparagus:

<u>Washington Asparagus Grades to Which Tolerances Apply</u>	<u>Defect, color and trim tolerances adopted for Washington asparagus</u>	<u>Diameter and length tolerances adopted for Washington asparagus</u>
<u>Washington extra fancy</u> <u>Washington extra fancy tips</u> <u>Washington fancy</u> <u>Washington consumer pack</u>	<u>To allow for variations incident to proper grading and handling, the following tolerances are adopted:</u>	<u>To allow for variations in diameter and length incident to proper sizing, the following tolerances are adopted:</u>
	(1) <u>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.</u>	(1) <u>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").</u>
	(2) <u>An additional ten percent, by count, for stalks having less than the required amount of green color.</u>	(2) <u>Ten percent, by count, for stalks failing to meet the required length as established in WAC 16-409-022.</u>
	(3) <u>An additional ten percent, by count, for stalks not meeting trim requirements.</u>	

AMENDATORY SECTION (Amending Order 1848, filed 3/15/85)

WAC 16-409-035 ((Application of tolerances.)) How does the department apply its asparagus tolerances during an inspection? ((Individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the

~~tolerances specified for the grade.~~

~~(1) For a tolerance of ten percent or more, individual samples shall contain not more than one and one-half times the tolerance specified.~~

~~(2) For a tolerance of less than ten percent, individual samples shall contain not more than double the tolerance specified.~~

~~(3) One decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk shall be permitted in any sample.)~~ (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 Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-065 ((Containers-)) What requirements apply to the containers used to market fresh asparagus? ~~((1) Fresh asparagus shall be marketed in containers which are clean and free from dirt, trash, and visible contaminates.~~

~~(2) Fresh asparagus of the Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades shall be marketed in containers with moisture pads.~~

~~(3) Fresh asparagus of the Washington consumer pack grade shall be marketed in pyramid type containers with moisture pads, or in fibre-board or wooden "western lug" containers having inside dimensions of approximately seven, by eleven and one-half, by eighteen inches, or capacity of thirteen hundred fifty to fifteen hundred fifty cubic inches.~~

~~(4) Western lugs shall contain not less than twenty pounds net weight.~~

~~(5) Culls shall be marketed in wooden pyramid containers with moisture pads.~~

~~(6) Fresh asparagus in field containers shall not be marketed.~~

~~(7) The director may allow the use of containers not specified in subsections (2), (3), (4), and (5) of this section, as experimental containers for the purpose of test or trial marketing.)~~ The following table identifies and explains the requirements that apply to the containers used to market fresh asparagus:

<u>Asparagus Grades:</u>	<u>Container Requirements:</u>
(1) <u>All fresh asparagus:</u>	<u>Must be marketed in containers that are clean and free from dirt, trash, and visible contaminants.</u>
(2) <u>All fresh asparagus:</u>	<u>Must not be marketed in field containers.</u>
(3) <u>For testing or trial marketing purposes, the director:</u>	<u>May allow the use of any experimental containers not specified in this table.</u>
(4) <u>Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades of fresh asparagus:</u>	<u>Must be marketed in containers with moisture pads.</u>
(5) <u>Washington consumer pack grade of fresh asparagus:</u>	<u>Must be marketed either in:</u> (a) <u>Pyramid type containers with moisture pads; or</u> (b) <u>Fiberboard or wooden "western lug" containers with:</u> (i) <u>Inside dimensions of approximately seven inches, by eleven and one-half inches, by eighteen inches; or</u> (ii) <u>A capacity of thirteen hundred and fifty to fifteen hundred and fifty cubic inches.</u> (iii) <u>Western lugs must contain at least twenty pounds net weight.</u>
(6) <u>Culls:</u>	<u>Must be marketed in wooden pyramid containers with moisture pads.</u>

AMENDATORY SECTION (Amending Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-070 ((~~Marking requirements.~~)) What marking requirements apply to fresh asparagus containers? ((~~(1) Containers shall be conspicuously and legibly marked with the name and address of the grower, packer, or distributor, the grade, and net weight, and a size designation or diameter size as defined in WAC 16-409-060 (1), (2), (3), (4), (5), and (6).~~

(~~2) The grade and size designation shall be marked in letters at least three-eighths inch in height.~~

(~~3) The following abbreviations of grade and size designation shall be acceptable. Washington may be abbreviated as Wash. or WA. Extra fancy may be abbreviated as ex fcy or extra fcy. Fancy may be abbreviated as fcy. Large may be abbreviated as lge. Standard may be abbreviated as std.~~

(~~4) The use of U.S. No. 1 or U.S. No. 2 grade markings shall be permitted subject to WAC 16-409-085.~~

(~~5) If culls are marketed, the word "culls" shall be conspicuously and legibly marked in letters at least one inch in height and shall be predominant in size over other markings.~~

(~~6) All required markings shall be placed on one end of the~~

container, and may be duplicated on opposite end of container.))

(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) Large as lge.

(e) Standard as std.

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

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

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

~~((UNITED STATES STANDARDS FOR FRESH ASPARAGUS))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-409-060

Washington standards--Size designations.

WAC 16-409-075

Exemption.

WAC 16-409-085

Adoption of United States standards as Washington state standards.