

WSR 07-08-012
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed March 23, 2007, 1:14 p.m.]

Title of Rule and Other Identifying Information: WAC 220-56-235 Possession limits—Bottomfish, the Pacific Fisheries Management Council has changed the size limit for lingcod in Management and Catch Reporting Areas 1 through 3. The proposed action will be complementary to federal rules and will provide for coordinated enforcement in these areas. The council process has provided extensive public input to these actions.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Preuss, Rules Coordinator, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The council's rebuilding program for lingcod has been achieved, and the council is liberalizing sport fishing rules that were imposed when the rebuilding process was begun.

Reasons Supporting Proposal: The council, working with the National Marine Fisheries Service and the western coastal states, has determined that lingcod are no longer in need of special management consideration because the stock has achieved its rebuilding objective.

Statutory Authority for Adoption: RCW 77.04.020 and 77.12.047.

Statute Being Implemented: RCW 77.04.020 and 77.12.047.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris Barker, PhD, 1111 Washington Street S.E., Olympia, WA, (360) 902-2826; Implementation: Phil Anderson, 1111 Washington Street S.E., Olympia, WA, (360) 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, WA, (360) 902-2929.

March 23, 2007
 Lori Preuss
 Rules Coordinator

AMENDATORY SECTION (Amending Order 04-218, filed 8/17/04, effective 9/17/04)

WAC 220-56-235 Possession limits—Bottomfish. It is unlawful for any person to take in any day more than the following quantities of bottomfish for personal use. The possession limit at any time shall not exceed the equivalent of two daily limits in fresh, frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

(1) Coastal (Catch Record Card Areas 1 through 4) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

- (a) Lingcod - 2 fish (~~minimum length 24 inches~~):
 - (i) Minimum length 22 inches in Catch Record Card Areas 1 through 3.
 - (ii) Minimum length 24 inches in Catch Record Card Area 4.

(b) Rockfish - 10 fish. Release all canary and yelloweye rockfish.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) Wolfeel - 0 fish from Catch Record Card Area 4.

(e) Cabezon - 2 fish east of the Bonilla-Tatoosh line.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish except	1 fish May 1 through September 30
in Marine Area 5 west of Slip Point	3 fish of which no more than 1 may be other than black rockfish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish	1 fish May 1 through September 30
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pollock	2 fish
Pacific hake	2 fish

(c) Catch Record Card Areas 8-1 through 11 and 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish in Area 9 May 1 through September 30 and in Areas 8-1, 8-2, 10, 11 and 13 when lingcod or salmon seasons are open. Rockfish closed in Area 12	1 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	0 fish

(d) Catch Area 12: Closed.

(e) It is unlawful to possess lingcod taken by angling less than 26 inches in length or greater than 40 inches in length.

(f) The daily limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily limit if taken by spear fishing.

(g) It is unlawful to retain cabezon taken from Catch Record Card Areas 5 through 11 and 13 from December 1 through April 30.

(h) It is unlawful to retain six-gill shark taken from Catch Record Card Areas 5 through 13.

(i) It is unlawful to retain canary or yelloweye rockfish taken from Catch Record Card Areas 5 through 13.

(j) It is unlawful to take rockfish by spear fishing in Catch Record Card Areas 5 through 13.

(k) In Catch Record Areas 5 through 11 and 13, the daily limit for rockfish is the first legal rockfish caught, except in Area 5 west of Slip Point the daily limit for rockfish is the first three legal rockfish caught, provided that no more than one of the three may be other than black rockfish. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, or deliver to Blake Office Park East, 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department inadvertently omitted repealing WAC 388-535-1265 when replacing this section with WAC 388-535-1271. To correct this oversight, the department is filing an emergency CR-103 to repeal WAC 388-535-1265 effective April 1, 2007. (WAC 388-535-1271, filed on March 1, 2007, under WSR 07-06-041, is effective on April 1, 2007.) The emergency repeal of WAC 388-535-1265 will be in place until a permanent repeal of WAC 388-535-1265 takes effect.

Reasons Supporting Proposal: Repealing this rule is necessary because the replacement rule WAC 388-535-1271, is effective on April 1, 2007.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09-500, 74.09.520.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1342; Implementation and Enforcement: Dr. John Davis, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1748.

March 27, 2007

Jim Schnellman, Chief

Office of Administrative Resources

**WSR 07-08-066
EXPEDITED RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)

[Filed March 29, 2007, 3:31 p.m.]

Title of Rule and Other Identifying Information: Repealing WAC 388-535-1265 Covered dental-related services—Adults.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-535-1265 Dental-related services not covered—Adults.

**WSR 07-08-081
EXPEDITED RULES
DEPARTMENT OF CORRECTIONS**

[Filed April 2, 2007, 11:08 a.m.]

Title of Rule and Other Identifying Information: WAC 137-04-020, structure of the department; WAC 137-08-010, 137-08-060, 137-08-150, and 137-08-160, public records; WAC 137-10-005, petition for rule; WAC 137-67-015, transfer of foreign citizens; WAC 137-68-010, interstate correc-

tions compact; WAC 137-70-060, 137-70-070, criminal justice costs; WAC 137-75-020, jail costs; and WAC 137-80-020, correctional industries.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO John Nispel, Department of Corrections, P.O. Box 41114, Olympia WA 98504-1114, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To make administrative changes to existing WACs to reflect the reorganization of the department, name changes and update changed statutory references.

Reasons Supporting Proposal: Update references, titles, addresses, etc. to reflect legislative and organizational changes within the agency.

Statutory Authority for Adoption: RCW 72.01.090.

Statute Being Implemented: Various.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Harold W. Clarke, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Nispel, Rules Coordinator, P.O. Box 41117, Olympia, WA 98504-1114, (360) 725-8365.

April 2, 2007

H. W. Clarke
Secretary

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-80-020 Definitions. (1) "Secretary" means the secretary of the department of corrections or his/her designee.

(2) "Program administrator" means the administrator of the institutional industries program appointed by the secretary.

(3) "Institutional industries board of directors" means the board established by the authority of the Corrections Reform Act of 1981, RCW 72.09.070.

(4) "Free venture industries" means any industry producing goods or services for sale to both the public and private sector which is operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. Inmates shall be paid a wage by the organization of not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director, or minimum wage, whichever is greater.

(5) "Tax reduction industries" means any state-owned and operated enterprises designed to reduce the cost for services and goods for tax supported agencies and for nonprofit organizations which assist persons who are poor or infirm. Products of these enterprises may be sold to public agencies and to nonprofit organizations which assist persons who are poor or infirm. Inmates shall be paid for their work on a gratuity scale, approved by the director, which shall not exceed the federal minimum wage.

(6) "Institutional support industries" means any industry operated by the department of corrections designed and managed to provide basic work training and experience to the inmate. All able and eligible inmates who are assigned work and who are not working in other classes of industries are included in this class. Inmates shall be paid for their work in accordance with an inmate gratuity scale adopted by the secretary.

(7) "Community work industries" means any industry operated by the department of corrections designed and managed to provide services in the inmate's resident community at a reduced cost. Services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations which assist the poor or infirm. Inmates shall receive a gratuity from a unit of local government which shall not exceed the minimum wage.

(8) "Community restitution programs" means any program operated by the state, local unit of government, or a nonprofit agency which assists persons who are poor or infirm which is subject to supervision by the department of corrections which enables an offender, placed on probation, to work off all or part of a community service order as ordered by the sentencing court.

(9) "Department" means the department of corrections.

(10) "Institutional industries" means the program within the department of corrections (~~(office of correctional operations)~~) charged with developing and managing comprehensive work programs to provide work skills, work experience and exposure to the work ethic for offenders under the jurisdiction of the department.

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-75-020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections or the secretary's designee;

(2) "Department" shall mean the department of corrections;

(3) "Deputy secretary" shall mean the deputy secretary, (~~(office of correctional operations)~~) prisons division or his/her designee.

(4) "Institution" shall mean a facility designated in RCW 72.01.050(2), any similar facility hereafter established, and a work release facility;

(5) "Work release facility" shall mean a community residence operated pursuant to chapter 72.65 RCW;

(6) "Jail" shall mean a city or county holding facility as defined in RCW 70.48.020(1);

(7) "Parole hold" shall mean a detention of a person pursuant to an order of parole suspension or revocation issued in accordance with RCW 9.95.120;

(8) All references to the singular shall include the plural, unless otherwise noted.

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-70-060 Billing procedure. (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, showing the total reimbursement requested, accompanied by a completed request for reimbursement form issued by the department. The vouchers and form should be mailed or delivered to the Department of Corrections, ~~((Office of Administrative Services,))~~ Contracts and Legal Affairs, P.O. Box 41114, Olympia, Washington 98504-1114.

(2) The department may require the requesting political subdivision to submit such other documentation and information the department deems necessary to further support or explain the request.

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-70-070 Department review. (1) All requests for reimbursement shall be reviewed by the administrator.

(2) The administrator shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the administrator shall notify the requesting political subdivision in writing, setting forth the reasons for disapproval.

(3) The administrator's decision shall be final unless appealed to the department's impact appeals panel within twenty days after a political subdivision receives notice of disapproval. The impact appeals panel shall be composed of the deputy secretary, ~~((office of correctional operations))~~ prisons division and the deputy secretary, ~~((office of))~~ administrative services division, or his/her designee.

(4) An appeal from the administrator's decision disapproving a political subdivision's request for reimbursement must be in writing and must set forth the reasons why the political subdivision believes its request should be approved. The appeal shall be addressed to the Impact Appeals Panel, Department of Corrections, P.O. Box 41114, Olympia, WA 98504-1114, attention: Contracts and Legal Affairs.

(5) The decision of the impact appeals panel shall be deemed to be the department's final administrative action with respect to the appeal.

AMENDATORY SECTION (Amending WSR 01-03-079, filed 1/16/01, effective 2/16/01)

WAC 137-04-020 Structure of the department. (1) The executive head of the department is the secretary who is appointed by the governor with the consent of the senate, and serves at the pleasure of the governor. The secretary manages the department and is responsible for the administration of adult correctional programs, including but not limited to the

operation of all state correctional institutions or facilities used for the confinement of convicted felons.

(2) The department is organized into three ~~((offices: The office of the secretary; the office of correctional operations; and the office of administrative services. The office of correctional operations and the office of administrative services are))~~ divisions and three subdepartments: The prisons division, the community corrections division, the administrative services division, the communications department, the health services department and the risk management department. Each division is headed by a deputy ((secretaries)) secretary who reports to the secretary. The responsibilities of ((these offices)) each division are:

(a) ~~((The office of the secretary is responsible for providing a variety of services for the department, including, government relations and constituent affairs, public information, planning and research, quality programs, workplace diversity, and victim witness and community protection.~~

~~((b))~~ The ((office of correctional operations)) prisons division is responsible for ((the supervision of adult felony offenders placed under the department's jurisdiction by the superior courts or the indeterminate sentencing review board and)) the operation of all adult correctional facilities, including the Washington State Penitentiary; the Washington Corrections Center; the Monroe Correctional Complex; the McNeil Island Corrections Center; the Airway Heights Corrections Center; the Clallam Bay Corrections Center; the Stafford Creek Corrections Center; the Washington Corrections Center for Women; the Cedar Creek Corrections Center; the Coyote Ridge Corrections Center; the Larch Corrections Center; the Olympic Corrections Center; the Ahtanum View assisted living facility; the Pine Lodge ((prerelease facility)) Corrections Center for Women; ~~((the Tacoma prerelease facility))~~ the Mission Creek Corrections Center for Women; and such other state correctional institutions, camps or facilities as may hereafter be established. ~~((The office of correctional operations is also responsible for the supervision of adult felony offenders within the community, including offenders in the work release program and other community residential programs.))~~ The ~~((office also administers))~~ division includes the correctional industries((-, all offender)) program ~~((s, and policy)).~~

(b) The community corrections division is responsible for the supervision of adult felony offenders within the community, including offenders in the work release program and other community residential programs.

(c) The ~~((office of))~~ administrative services division is responsible for providing a variety of services to the other ~~((offices))~~ divisions of the department including financial and management services; information technology; capital planning and development; ~~((siting;))~~ rules, contracts, ~~((and public disclosure;))~~ budget development and planning and research; and human resources((-, and risk management and safety)).

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of correc-

tions with the provisions of the Public Records (~~(Disclosure)~~) Act, chapter 42.56 RCW (~~((42.17.250 through 42.17.340))~~).

AMENDATORY SECTION (Amending Order 86-05, filed 4/29/86)

WAC 137-08-060 Public records available. (1) Requests for any identifiable public record may be initiated at any office of the department during normal business hours.

(2) The department shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ~~((ten))~~ five working days of receipt of the request for disclosure. The department's failure to so respond shall entitle the person seeking disclosure to petition the public disclosure officer pursuant to WAC 137-08-140.

AMENDATORY SECTION (Amending Order 85-06, filed 6/10/85)

WAC 137-08-150 Exemptions to public records disclosure. The department reserves the right to determine if a public record requested in accordance with the procedures outlined in WAC 137-08-090 is exempt or nondisclosable under RCW ~~((42.17.250 through 42.17.340))~~ 42.56.210 through 42.56.480.

Nondisclosable records include, but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by RCW ~~((42.17.310 (1)(a)))~~ 42.56.230(1); however, disclosure may be made to that person or that person's representative, except as otherwise prohibited by these rules;

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW ~~((42.17.310 (1)(d) and (e)))~~ 42.56.240, 10.97.080 and chapter 446-20 WAC;

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(4) Personal information in files maintained for an employee of the department to the extent required by RCW ~~((42.17.310 (1)(b)))~~ 42.56.230;

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intraagency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW ~~((42.17.310 (1)(i)))~~ 42.56.290;

(6) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Criminal history records information the disclosure of which is prohibited by chapter 10.97 RCW.

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-160 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW ~~((42.17.310(2)))~~ 42.56.210 (1).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW ~~((42.17.310(3)))~~ 42.56.210(2), or an order of the office of hearings enforcing a subpoena.

AMENDATORY SECTION (Amending Order 85-11, filed 12/31/85)

WAC 137-10-005 Purpose. The purpose of this rule is to establish the procedures by which an interested party may petition the department of corrections for the promulgation, amendment, or repeal of a rule pursuant to RCW ~~((34.04-060))~~ 34.05.330, or for a declaratory ruling pursuant to RCW ~~((34.04.080))~~ 34.05.240.

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-67-015 Definitions. (1) "Department" is the department of corrections.

(2) "Adult correctional institution" and "institution" is a facility identified in RCW 72.01.050(2) and any similar facility hereafter established.

(3) "Secretary" is the secretary of the department of corrections or the secretary's designee.

(4) "Deputy secretary" is the deputy secretary, ~~((office of correctional operations))~~ prisons division, of the Washington state department of corrections or his/her designee.

(5) "Superintendent" is a superintendent of an adult correctional institution or the superintendent's designee.

(6) "Treaty nation" is a country which has entered into a treaty with the United States on the execution of penal sentences.

(7) "Treaty" is a treaty under which an offender, sentenced in the courts of one country, may be transferred to the country of which the offender is a citizen or national, for the purpose of serving the sentence.

(8) "Country of origin or citizenship" is the country in which the inmate was born or in which the inmate has duly recognized citizenship.

(9) "OIA" is the Office of International Affairs, Criminal Division, United States Department of Justice.

(10) "United States" is the United States of America.

(11) "Detainer" is a hold or request for notification placed by any local, state, or federal law enforcement, penal, or prosecutorial agency based on untried charges, parole or

probation violation, escape, unexpired sentence, bond-jumping, or any other fugitive matter.

AMENDATORY SECTION (Amending WSR 03-21-088, filed 10/17/03, effective 11/17/03)

WAC 137-68-010 Definitions. (1) "Compact" is the interstate compact for supervision of probationers and parolees as codified in RCW 9.95.270.

(2) "Compact administrator" is the deputy secretary, (~~(office of correctional operations)~~) prisons division, department of corrections, who is responsible for the administration of the interstate compact for the supervision of adult probationers and parolees.

(3) "Deputy compact administrator" is a person appointed by the compact administrator and delegated responsibility for the administration of the interstate compact.

(4) "Sending state" is the state in which the individual was granted probation or parole and in which the jurisdiction of the case is retained.

(5) "Receiving state" is the state providing supervision of the parolee or probationer under the interstate compact.

(6) "Probationer" is a person under jurisdiction of a state superior or circuit court who is being supervised under the compact.

(7) "Parolee" is a person under jurisdiction of a paroling authority who is being supervised under the interstate compact.

(8) "Parole officer" is a state community corrections officer (CCO) employed by the department of corrections.

(9) "Supervising community corrections officer" is a CCO assigned to supervise a probationer or parolee as required by the interstate compact and to act in regard to all matters connected with hearings conducted pursuant to the interstate compact rules.

(10) "Violations specified" are charges and/or allegations made against probationer or parolee by a parole officer in regard to violation of law or failure to comply with the general conditions of probation or parole or special instructions and conditions as set forth by the court of jurisdiction or the paroling authority.

(11) "Preliminary hearing" is a hearing conducted in accordance with RCW 10.88.290.

(12) "Hearing officer" is a person authorized by the compact administrator to hear cases involving alleged violations of conditions of parole or probation. Neither the person making the allegations of violation or his or her direct supervisor shall act as hearing officer.

WSR 07-08-092
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed April 3, 2007, 11:18 a.m.]

Title of Rule and Other Identifying Information: WAC 458-18-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest, this rule explains how equity value is determined relative to the deferral of

property taxes on residences of qualifying (senior or disabled) claimants. Equity value takes the interest on the deferred taxes into account.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO James A. Winterstein, Department of Revenue, P.O. Box 47471, Olympia, WA 98504-7471, fax (360) 586-7602, e-mail JimWi@dor.wa.gov, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2006, the legislature amended the statute (RCW 84.38.100) to change the interest rate on deferred taxes from 8% to 5%, from and after the effective date of the legislation. This amendment to the rule (WAC 458-18-060) implements the legislative change (chapter 275, Laws of 2006).

A copy of the draft rule is available for viewing and printing on our web site at <http://dor.wa.gov/content/laws/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: The change to this rule is needed to recognize a statutory amendment.

Statutory Authority for Adoption: RCW 84.38.180.

Statute Being Implemented: RCW 84.38.100.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5880; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

April 3, 2007

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending Order PT 88-9, filed 6/9/88)

WAC 458-18-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest. No deferral shall be granted if the liens created by the deferrals of special assessments and/or real property taxes equal or exceed eighty percent of the claimant's equity value in said property. Equity value will be determined as of January 1 in the year the taxes are to be deferred.

The liens shall include:

(1) The total amount of special assessments and/or real property taxes deferred, plus

(2) Interest on the amount deferred. For deferrals granted before June 7, 2006, the interest accrues at the rate of

eight percent per year, from the time it could have been paid before delinquency until ~~((said))~~ the lien is paid. For deferrals granted after June 7, 2006, involving special assessments or taxes due prior to January 1, 2007, the interest accrues at the rate of eight percent per year, from the time it could have been paid before delinquency until the lien is paid. For deferrals granted after June 7, 2006, involving special assessments or taxes to be collected in 2007 and thereafter, the interest accrues at the rate of five percent per year, from the time it could have been paid before delinquency until the lien is paid. When a declaration is filed ~~((after the taxes are delinquent, interest at the rate of eight percent per year on the amount deferred will begin accruing on))~~ as a result of the requirement under RCW 84.64.050 related to a treasurer's foreclosure action, the interest accrues from the date the declaration is filed and ~~((will))~~ continues until the obligation is paid, at the appropriate rate as set forth above.

WSR 07-08-113

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 4, 2007, 11:40 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-414 WAC, Washington standards for cherries, this chapter establishes the requirements and standards for Washington grown fresh sweet cherries and sulphured cherries.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jim Quigley, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal makes the following housekeeping changes: (1) Clarifying section titles for ease of use; and (2) replacing tables with standard text format in WAC 16-414-010, 16-414-012, 16-414-045, 16-414-065, 16-414-107, 16-414-108, 16-414-125, 16-414-145, and 16-414-155. There are no substantive changes to chapter 16-414 WAC.

Reasons Supporting Proposal: The current table format makes the rules nearly unreadable and unusable when the WAC is accessed via the internet.

Statutory Authority for Adoption: Chapters 15.17 and 34.05 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2043; Implementation and Enforcement: Jim Quigley, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1833.

April 3, 2007
Dennis Hannapel
Assistant Director

AMENDATORY SECTION (Amending WSR 06-12-116, filed 6/7/06, effective 7/8/06)

WAC 16-414-005 (~~(What)~~) Definitions (~~(are important to this chapter?)~~). "Clean" means cherries are practically free from dirt, dust, spray residue, or other foreign material. For example, clean means the product is practically free from leaves, fruit spurs, bark, twigs, dirt or foreign material.

"Condition defects" means defects that may develop or change during shipment or storage. Condition defects include, but are not limited to, decayed or soft cherries and such other factors as pitting, shriveling, sunken areas, brown discoloration and bruising that, because of its location appears to have occurred after packing.

"Damage" means any injury or specific defect described in WAC 16-414-045 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

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

"Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

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

"Face packed" means the cherries in the top layer of any container are placed so the stem ends are pointing downward toward the bottom of the container.

"Fairly well colored" means that at least ninety-five percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

"Firm" means the cherries:

- (1) Possess a firm, fleshy texture;
- (2) Retain their approximate original shape;
- (3) Are not shriveled; and
- (4) Do not show more than slight collapsed areas of flesh.

"Mature" means cherries have reached the stage of growth that will insure the proper completion of the ripening process. Rainier cherries or other varieties of "light colored sweet cherries" shall meet a minimum of seventeen percent soluble solids as determined from a composite sample by refractometer prior to packing, at time of packing, or at time of shipment; provided that individual lots shall not be combined with other lots to meet soluble solids requirements.

"Permanent defects" means defects that are not subject to change during shipping or storage. Permanent defects include, but are not limited to, factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical

injury that, because of its location, appears to have occurred before shipment.

"Off-size" means a cherry whose diameter fails to meet a designated size when measured at right angles to a line from its stem to its blossom end.

"Serious damage" means any specific defect described in WAC 16-414-065 or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance, edible quality or marketing quality of cherries.

"Shipping point" means:

(1) The point of origin of the shipment in the producing area or at the port of loading; or

(2) The port of entry into the United States in the case of shipments from outside the continental United States.

"Similar varietal characteristics" means the cherries in any container are similar in color and shape.

"Well formed" means a cherry has the normal shape characteristic of the variety. Mature well-developed doubles are considered well formed if the halves are approximately evenly formed with a variation of no more than 2/64 of an inch.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-010 ((What are)) Washington No. 1 grade and Northwest No. 1 grade sweet ((cherries?)) cherry requirements. ((The following table describes the characteristics of Washington No. 1 grade and Northwest No. 1 grade sweet cherries:

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
Washington No. 1 sweet cherries must meet the following requirements:	Northwest No. 1 sweet cherries must meet the:
(1) Similar varietal characteristics;	(1) Quality requirements of Washington No. 1 sweet cherries listed in this table; and
(2) Mature;	(2) Size requirements listed in WAC 16-414-011.
(3) Not soft overripe or shriveled;	
(4) Fairly well colored;	
(5) Well formed;	
(6) No underdeveloped doubles;	
(7) Clean;	
(8) Free from decay, insect larvae or holes caused by them and sunscald; and	
(9) Free from damage by any other cause.))	

(1) Washington No. 1 grade and Northwest No. 1 grade sweet cherries are cherries with similar varietal characteristics that are:

(a) Mature;

(b) Not soft, overripe or shriveled;

(c) Fairly well colored;

(d) Well formed;

(e) Clean;

(f) Free from underdeveloped doubles, decay, or sunscald;

(g) Free from insect larvae or insect holes; and

(h) Free from damage by any other cause.

(2) Northwest No. 1 grade sweet cherries must meet the size requirements listed in WAC 16-414-011.

AMENDATORY SECTION (Amending WSR 06-12-116, filed 6/7/06, effective 7/8/06)

WAC 16-414-011 ((What)) Size requirements ((apply to))—Sweet cherries((?)). (1) The minimum diameter of each cherry must be at least 54/64 inch.

(2) The maximum diameter of the cherries in any lot may be specified according to the facts.

(3) For the Rainier variety and similar varieties commonly referred to as "light colored sweet cherries," at least ninety percent, by count, of the cherries in any lot shall measure not less than 61/64 inch in diameter and not more than five percent, by count, may be less than 57/64 inch in diameter.

(4) When containers of cherries are marked with a row count/row size designation, the row count/row size marked must comply with the corresponding minimum diameter size as shown in the following table:

((If containers of cherries are marked with the following row count/row size designations:)) Row count/Row size	((Then minimum diameter size of the cherries in inches must be:)) Minimum diameter in inches
8	84/64
8 1/2	79/64
9	75/64
9 1/2	71/64
10	67/64
10 1/2	64/64
11	61/64
11 1/2	57/64
12	54/64

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-012 ((What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination?)) Tolerances for Washington No. 1 and Northwest No. 1 grade sweet cherries. (1) **Washington No. 1:**

(a) To allow for variations incident to proper grading and handling at the shipping point, ((en route or at their destination,)) the following tolerances, by count, are established ((for Washington No. 1 and Northwest No. 1 grade sweet cherries)):

((Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(1) Tolerances applied at shipping point	(1) Tolerances applied at shipping point
(a) Eight percent for cherries that fail to meet the requirements for Washington No. 1 grade.	(a) Ten percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of eight percent, no more than four percent is allowed for defects causing serious damage.	(b) Of the total tolerance of ten percent, no more than five percent is allowed for defects causing serious damage.
(c) Of the four percent tolerance for serious damage defects, no more than one-half of one percent is allowed for cherries affected by decay.	(c) Of the five percent tolerance for serious damage defects, no more than one percent is allowed for cherries affected by decay.
	(d) The contents of individual samples or containers in any lot must not be limited to the percentage of grade defects discussed in WAC 16-414-020.
(2) Tolerances applied en route or at destination	(2) Tolerances applied en route or at destination
(a) Twenty-four percent for cherries in any lot that fail to meet the requirements for Washington No. 1 grade.	(a) Twenty-four percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of twenty-four percent, no more than eight percent is allowed for cherries that fail to meet the requirements for Washington No. 1 grade because of permanent defects.	(b) Of the total tolerance of twenty-four percent, no more than ten percent, by count, is allowed for cherries that fail to meet the requirements for Northwest No. 1 grade because of permanent defects.
(c) Of the total tolerance of twenty-four percent, no more than six percent is allowed for cherries that are seriously damaged, including no more than:	(c) Of the total tolerance of twenty-four percent, no more than seven percent, by count, is allowed for cherries that are seriously damaged, including no more than:

((Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(i) Four percent for cherries seriously damaged by permanent defects; and (ii) Two percent for cherries affected by decay.	(i) Five percent for cherries seriously damaged by permanent defects; and (ii) Two percent for cherries affected by decay.)

(i) Eight percent of cherries that fail to meet the requirements of the grade are allowed.

(ii) Of the total tolerance of eight percent, no more than four percent is allowed for defects causing serious damage.

(iii) Of the four percent tolerance for serious damage defects, no more than one-half of one percent is allowed for cherries affected by decay.

(b) To allow for variations incident to proper grading and handling en route or at destination, the following tolerances, by count, are established:

(i) Twenty-four percent of cherries in any lot may fail to meet the requirements of the grade.

(ii) Of the total tolerance of twenty-four percent, no more than eight percent is allowed for cherries that fail to meet the grade requirements because of permanent defects.

(iii) Of the total tolerance of twenty-four percent, no more than six percent is allowed for cherries that are seriously damaged, including no more than four percent of cherries seriously damaged by permanent defects and two percent for cherries affected by decay.

(2) Northwest No. 1:

(a) To allow for variations incident to proper grading and handling at the shipping point, the following tolerances are established:

(i) Ten percent of cherries in any inspection lot that fail to meet the requirements of the grade are allowed.

(ii) Of the total tolerance of ten percent, no more than five percent is allowed for defects causing serious damage.

(iii) Of the five percent tolerance for serious damage defects, no more than one percent is allowed for cherries affected by decay.

(iv) The contents of individual samples or containers in any lot must not be limited to the percentage of grade defects discussed in WAC 16-414-020.

(b) To allow for variations incident to proper grading and handling en route or at destination, the following tolerances, by count, are established:

(i) Twenty-four percent of cherries in any lot may fail to meet the requirements of the grade.

(ii) Of the total tolerance of twenty-four percent, no more than ten percent, by count, is allowed for cherries that fail to meet the grade requirements because of permanent defects.

(iii) Of the total tolerance of twenty-four percent, no more than seven percent, by count, is allowed for cherries that are seriously damaged, including no more than five percent for cherries seriously damaged by permanent defects and two percent for cherries affected by decay.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-014 ((What) Tolerances ((apply to) for "off-size" sweet cherries ((that are "off-size"?)). To allow for variations in size incident to proper grading and handling, the following tolerances, by count, are established for off-size grade sweet cherries:

(1) No more than ten percent of the cherries in any inspection lot must measure less than 54/64 inches in diameter.

(2) Ten percent for cherries that fail to meet any specified maximum diameter when that maximum diameter is marked on the container or specified in terms of fractions of inches.

(3) When containers are marked with row count/row size or a lot is specified by row count/row size, no more than ten percent of the cherries in any inspection lot may fail to meet the corresponding diameter size listed in the table in WAC 16-414-011(3).

(4) When containers are marked with a "minimum diameter," no more than five percent of the cherries in the container may fail to meet the corresponding diameter.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-016 ((Does) Washington state adopts the U.S. standards for grades of sweet cherries((?)). In addition to the standards for sweet cherries contained in this chapter, the Washington state department of agriculture adopts the United States standards for grades of sweet cherries (effective May 7, 1971) as they apply to U.S. No. 1 grade cherries, except the minimum size of cherries and tolerances for undersize cherries must meet the requirements for Washington No. 1 grade.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-020 ((How are individual sample tolerances applied to) Washington No. 1 and Northwest No. 1 grade sweet cherries((?))—Individual sample tolerances. Tolerances are applied to Washington No. 1 and Northwest No. 1 sweet cherries as follows:

(1) Individual samples must have no more than double the tolerances specified. However, if the averages for the entire lot are within the tolerances specified for the grade, at least two defective and two off-size specimens may be allowed in any sample.

(2) When containers are marked with row count/row size or when a lot is specified by row count/row size, the individual samples or containers must not be limited by the percentage of cherries that are smaller than the diameter corresponding to the particular row count/row size. However, no more than twenty percent, by count, of the cherries in any sample or container must measure less than 54/64 inches in diameter.

(3) When marked with minimum size, individual samples may have no more than double the tolerances specified.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-045 ((What) Damage to fresh, sweet cherries—Specific defects ((are considered damage to Washington standards?)). ((The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Cracks within the stem cavity	Cracks within the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The cherry's appearance is affected to a greater extent than a cherry that has a superficial well-healed crack one sixteenth inch in width extending one-half the greatest circumference of the stem cavity.
(2) Cracks outside of the stem cavity	Cracks outside of the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling; or • Materially affecting the cherry's appearance.
(3) Hail marks	Hail marks are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The aggregate area exceeds the area of a circle three-sixteenths inch in diameter.
(4) Evidence of insects	Evidence of insects is considered damage when: <ul style="list-style-type: none"> • Scale or more than one scale mark is present; or • Any insect materially affects the cherry's appearance.
(5) Limb rubs	Limb rubs are considered damage when they affect the cherry's appearance more than the amount of scarring that is permitted.
(6) Pulled stems	Pulled stems are considered damage when the skin or flesh is slightly torn.
(7) Russetting	Russetting is considered damage when affecting the cherry's appearance more than the amount of scarring permitted.
(8) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> • Bird peeks; • Sunburn;

DEFECT	DESCRIPTION
	<ul style="list-style-type: none"> • Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or • Any cherry with flesh that is materially discolored.
(9) Scars	Scars are considered damage when: <ul style="list-style-type: none"> • Excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter; or • Smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter.
(10) Skin-breaks	Skin breaks are considered damage when: <ul style="list-style-type: none"> • Not well healed; or • The cherry's appearance is materially affected.
(11) Sutures	Sutures are considered damage when: <ul style="list-style-type: none"> • Excessively deep; or • Causing the cherry's shape to be less than well formed.)

The following defects are considered damage to fresh, sweet cherries:

(1) Cracks within the stem cavity when they are deep or not well healed, or when the cherry's appearance is affected to a greater extent than a cherry that has a superficial well healed crack 1/16 inch in width and extending one-half the greatest circumference of the stem cavity.

(2) Cracks outside the stem cavity when they are deep or not well healed, or when they materially affect the cherry's appearance, or when the crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling.

(3) Hail marks when they are deep or not well healed, or when the aggregate area exceeds 3/16 inch in diameter.

(4) Evidence of insects when scale is present, or when any insect materially affects the cherry's appearance.

(5) Limb rubs when they affect the cherry's appearance more than the amount of scarring that is allowed.

(6) Pulled stems when the skin or flesh is slightly torn.

(7) Russeting when it affects the cherry's appearance more than the amount of scarring that is allowed.

(8) Blemishes including bird pecks, sunburn, other blemishes or combinations of blemishes that materially affect the appearance of the cherry, or any materially discolored flesh.

(9) Scars when excessively deep or rough or dark colored and when the aggregate area exceeds 3/16 inch in diameter, or when smooth or fairly smooth, light colored, superficial, and the aggregate area exceeds 1/4 inch in diameter.

(10) Skin breaks when they are not well healed, or when the cherry's appearance is materially affected.

(11) Sutures when they are excessively deep or cause the cherry's shape to be less than well formed.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-065 ((What) Serious damage to fresh, sweet cherries—Specific defects ((are considered "serious damage" to Washington standards?)), ((The defects listed in the following table are considered "serious damage":

DEFECT	DESCRIPTION
(1) Cracks	Cracks are considered serious damage if they are not well healed.
(2) Insect larvae or holes caused by them	The presence of insect larvae or holes caused by insect larvae is considered serious damage.
(3) Pulled stems	Pulled stems are considered serious damage if they cause: <ul style="list-style-type: none"> • A more than slight tear in the cherry skin or flesh; or • The cherry to leak.
(4) Skin breaks	Skin breaks are considered serious damage if they are not well healed.
(5) Decay	Any sign of decay is considered serious damage.)

The following defects are considered serious damage to fresh, sweet cherries:

(1) Cracks when they are not well healed;

(2) Insect larvae or insect holes;

(3) Pulled stems if they cause more than a slight tear in the cherry skin or flesh, or when they cause the cherry to leak;

(4) Skin breaks when they are not well healed; and

(5) Decay.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-090 ((What marking requirements apply to)) Sweet cherry container((s?)) marking requirements. (1) Containers must be conspicuously and legibly stamped with the:

(a) Name and the address of the grower, packer or shipper;

(b) Net weight; and

(c) True variety name or "sweet cherries."

(2) The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-105 ((What) Definitions ((are important to))—Sulphured cherries((?)), "Damage" means any injury or specific defect described in WAC 16-414-145 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially

detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Fairly well bleached" means the cherries possess a reasonably uniform color typical of reasonably well bleached sulphured cherries for that variety.

"Pit" means an entire pit or portion of a pit that is attached to a sulphured cherry or located within the pit cavity.

"Properly matured" means that stage of ripeness when a cherry is ready for brining.

"Serious damage" means any injury that seriously affects the appearance or market quality of the product.

"Sulphured cherries" means properly matured whole cherries of similar varietal characteristics packed in a solution of sulphur dioxide of sufficient strength to preserve the cherries without adding hardening agents.

"Sulphured cherries with pits" means whole cherries, with or without stems, from which the pits have not been removed. If:

(1) Without stems, not more than twenty percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Sulphured cherries without pits" means whole cherries with or without stems from which the pits have been removed. If:

(1) Without stems (cocktail), not more than seven percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Unclassified cherries" means sulphured cherries that do not conform to the descriptions of "sulphured cherries with pits" or sulphured cherries without pits.

"Well bleached" means the cherries possess a practically uniform color that is typical of well bleached sulphured cherries for that variety.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-107 (~~What are the~~) **Washington state grades for sulphured cherries**(~~(?)~~). ~~((The following table lists and describes the various grades of Washington state sulphured cherries:~~

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> • Portions of sliced cherries with no particle smaller than an estimated one-third or larger than an estimated two-thirds of a whole cherry; • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> • Properly matured cherries; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> • A combination of Washington No. 1 and Washington No. 2 cherries of any style; and • Unless otherwise specified, packed in a lot that averages at least fifty percent Washington No. 1 quality cherries.

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(6) Washington No. 3 grade sulphured cherries	<ul style="list-style-type: none"> • Cherries that fail to meet the requirements of the above grades; and • Practically free of stems, leaves, fruit spurs, bark, dirt or foreign material.)

(1) Washington No. 1 grade sulphured whole cherries are cherries of similar varietal characteristics that are:

- (a) Properly matured;
- (b) Clean;
- (c) Firm;
- (d) Well formed;
- (e) Well bleached; and
- (f) Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes, or other means.

(2) Washington No. 1 grade sulphured halved cherries are portions of sliced cherries of similar varietal characteristics where no particle is smaller than an estimated one-third or larger than an estimated two-thirds of a whole cherry and are:

- (a) Properly matured;
- (b) Clean;
- (c) Firm;
- (d) Well formed;
- (e) Well bleached; and
- (f) Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes, or other means.

(3) Washington No. 2 grade sulphured whole cherries are cherries of similar varietal characteristics that are:

- (a) Properly matured;
- (b) Clean;
- (c) Fairly firm;
- (d) Well formed;
- (e) Fairly well bleached; and
- (f) Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes, or other means.

(4) Washington No. 2 grade sulphured halved cherries are portions of sliced cherries of similar varietal characteristics that are:

- (a) Properly matured;
- (b) Fairly firm;
- (c) Well formed;
- (d) Fairly well bleached; and
- (e) Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes, or other means.

(5) Washington combination grade sulphured cherries are a combination of Washington No. 1 and Washington No. 2 cherries of any style that are, unless otherwise specified, packed in a lot that averages at least fifty percent Washington No. 1 quality cherries.

(6) Washington No. 3 grade sulphured cherries are cherries that fail to meet the requirements of the above grades and are practically free of stems, leaves, fruit spurs, bark, dirt, or foreign material.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-108 ((What are the)) Tolerances for Washington sulphured cherries((?)). ((The following table describes the tolerances for various grades of Washington sulphured cherries:

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> • At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." • In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> • At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." • In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> • At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." • In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> • At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." • In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> • A tolerance of not more than ten percent is allowed for cherries that are below the requirements of Washington No. 2 grade.

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
	<ul style="list-style-type: none"> • The tolerances for combination grade sulphured cherries are on a container basis. However, individual containers in any lot may vary from the specified tolerances, if the averages for the entire lot, based on sample inspections, are within the specified tolerances. • For the entire lot, no part of any tolerance must reduce the requirement that fifty percent of cherries in the combination must be of the higher grade. However, individual containers may have at least thirty-five percent of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade. • When other combinations are specified, individual containers may not have more than fifteen percent less than the percentage specified of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.
(6) Washington No. 3 grade sulphured cherries	There are no applicable tolerances for Washington No. 3 grade sulphured cherries.)

- (1) Washington No. 1 grade sulphured whole cherries:
 (a) At least ninety-five percent of the cherries in any lot must meet the requirements of "firm."
 (b) Not more than ten percent of the cherries in any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
- (2) Washington No. 1 grade sulphured halved cherries:
 (a) At least ninety-five percent of the cherries of any lot must meet the requirements of "firm."
 (b) Not more than ten percent of the cherries in any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
- (3) Washington No. 2 grade sulphured whole cherries:
 (a) At least ninety-five percent of the cherries of any lot must meet the requirements of "fairly firm."
 (b) Not more than ten percent of the cherries in any lot may be below the remaining requirements of this grade.
- (4) Washington No. 2 grade sulphured halved cherries:
 (a) At least ninety percent of the cherries in any lot must meet the requirements of "fairly firm."
 (b) Not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.

- (5) Washington combination grade sulphured cherries:
 (a) A tolerance of not more than ten percent is allowed for cherries that are below the requirements of Washington No. 2 grade.
 (b) The tolerances for combination grade sulphured cherries are on a container basis. However, individual containers in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspections, are within the specified tolerances.
 (c) For the entire lot, no part of any tolerance must reduce the requirement that fifty percent of cherries in the combination must be of the higher grade. However, individual containers may have at least thirty-five percent of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.
 (d) When other combinations are specified, individual containers may not have more than fifteen percent less than the percentage specified of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.
- (6) Washington No. 3 grade sulphured cherries: There are no applicable tolerances for Washington No. 3 grade sulphured cherries.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-110 ((What are the)) Size requirements for all grades of Washington sulphured whole cherries((?)). (1) The following table lists the standard sizes for all grades of Washington whole sulphured cherries.

SIZE DESIGNATION	SIZE RANGE
Extra small	14 mm to and including 16 mm
Small	16 mm to and including 18 mm
Medium	18 mm to and including 20 mm
Large	20 mm to and including 22 mm
Extra large	22 mm and over

- (2) The following tolerances are allowed:
 (a) Five percent for cherries that fail to meet the specified minimum diameter; and
 (b) Ten percent for cherries that fail to meet the specified maximum diameter.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-120 ((What are the)) Tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries((?)). (1) Tolerances for the certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries must be on a container basis.
 (2) At least one-sixth of the individual containers in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspection, are within the specified tolerances.

(3) For a tolerance of ten percent or more, individual containers in any lot may contain no more than one and one-half times the specified tolerance.

(4) For a tolerance of less than ten percent, individual containers in any lot may contain no more than double the specified tolerances.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-125 ((What) Tolerances ((apply to)) for sulphured pitted cherries(?)). The following tolerances apply to sulphured pitted cherries:

((IF THE CHERRY SIZE IS:	THEN THE TOLERANCE IS:
(1) Extra small and small sizes	No more than two pits per each forty ounces of cherries
(2) Medium, large or mixed sizes	No more than one pit per each forty ounces of cherries
(3) Extra large size	No more than one pit per each sixty ounces of cherries))

(1) For extra small and small sized cherries, the tolerance is no more than two pits per each forty ounces of cherries.

(2) For medium, large, or mixed size cherries, the tolerance is no more than one pit per each forty ounces of cherries.

(3) For extra large size cherries, the tolerance is no more than one pit per each sixty ounces of cherries.

AMENDATORY SECTION (Amending WSR 05-12-037, filed 5/25/05, effective 6/25/05)

WAC 16-414-145 ((What specific defects are considered)) ~~Damage to ((Washington standards for)) sulphured cherries(?))—Specific defects.~~ The following defects ((listed in the following table)) are considered ("damage") damage for sulphured cherries:

((DEFECT	DESCRIPTION
(1) Mechanical injury	Any of the following mechanical injuries are considered damage: <ul style="list-style-type: none"> ▪ Open pitter hole; or ▪ Pitter hole where there is a material loss of flesh; or ▪ Pitter tear or pitter tears; or ▪ Other mechanical injuries that materially affect the appearance of the cherry.
(2) Surface discoloration	Surface discoloration for Washington No. 1 whole cherries is considered damage when any: <ul style="list-style-type: none"> ▪ Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or

((DEFECT	DESCRIPTION
(3) Surface discoloration	Surface discoloration for Washington No. 1 halved cherries is considered damage when any: <ul style="list-style-type: none"> ▪ Dark surface discoloration exceeds, in the aggregate, the area of a circle three-sixteenths inches in diameter, but does not exceed, in the aggregate, one-eighth of the cherry's surface. ▪ Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or ▪ Dark surface discoloration exceeds, in the aggregate, the area of a circle one-sixteenth inch in diameter.
(4) Rain cracks	Rain cracks on Washington No. 1 whole cherries are considered damage if: <ul style="list-style-type: none"> ▪ In the stem basin and more than one-fourth inch in length; or ▪ Outside the stem basin and more than three-sixteenths of an inch in length, measured on the circumference.
(5) Rain cracks	Rain cracks on Washington No. 1 halved cherries are considered damage if: <ul style="list-style-type: none"> ▪ In the stem basin and more than one-eighth inch in length; or ▪ Outside the stem basin. (Note: No rain cracks are allowed outside the stem basin.)
(6) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> ▪ Insect injury; ▪ Bird pecks; ▪ Limb rub; ▪ Hail marks; ▪ Sunburn; ▪ Solution cracks; ▪ Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or ▪ Any cherry with flesh that is materially discolored.)

(1) Mechanical injury. Any of the following mechanical injuries are considered damage:

(a) Open pitter hole;

(b) Pitter hole where there is a material loss of flesh;

(c) One or more pitter tears; or
 (d) Other mechanical injuries that materially affect the appearance of the cherry.

(2) Surface discoloration of Washington No. 1 whole cherries when:

(a) Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or

(b) Dark surface discoloration exceeds, in the aggregate, an area 3/16 inch in diameter, but does not exceed one-eighth of the cherry's surface.

(3) Surface discoloration of Washington No. 1 halved cherries when:

(a) Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or

(b) Dark surface discoloration exceeds, in the aggregate, an area 1/16 inch in diameter.

(4) Rain cracks on Washington No. 1 whole cherries if they are in the stem basin and more than 1/4 inch in length, or if they are outside the stem basin and are more than 3/16 inch in length, measured on the circumference.

(5) Rain cracks on Washington No. 1 halved cherries if they are in the stem basin and more than 1/8 inch in length. No rain cracks are allowed outside the stem basin.

(6) Blemishes including insect injury, bird pecks, limb rub, hail marks, sunburn, solution cracks, other blemishes or combinations of blemishes that materially affect the appearance of the cherry, or any materially discolored flesh.

AMENDATORY SECTION (Amending WSR 05-20-075, filed 10/4/05, effective 11/4/05)

WAC 16-414-155 (~~What specific defects are considered~~) Serious damage to ((Washington standards for)) sulphured cherries((?))—Specific defects. The following defects ((listed in the following table)) are considered serious damage for sulphured cherries:

((DEFECT	DESCRIPTION
(1) Deformed-cherry or double-cherry	Any deformed sulphured cherry or double sulphured cherry is considered serious damage.
(2) Mechanical injury	Mechanical injury to Washington No. 2 whole cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh; • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.
(3) Mechanical injury	Mechanical injury to Washington No. 2 halved cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh;

((DEFECT	DESCRIPTION
	<ul style="list-style-type: none"> • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.
(4) Surface discoloration	Surface discoloration is considered serious damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, 1/2 of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, 1/8 of the cherry's surface.
(5) Rain cracks	Rain cracks on Washington No. 2 whole cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/2 inch in length; or • Outside the stem basin and more than 3/8 of an inch in length, measured on the circumference.
(6) Rain cracks	Rain cracks on Washington No. 2 halved cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/4 inch in length; or • Outside the stem basin more than 3/16 of an inch in length, measured on the circumference.
(7) Blemished	Any blemish or combination of blemishes are considered serious damage if they seriously: <ul style="list-style-type: none"> • Affect the appearance of the cherry; or • Discolor the flesh of the cherry.))

(1) Any deformed or double sulphured cherry.
 (2) Mechanical injury to Washington No. 2 whole and No. 2 halved cherries if it causes:
 (a) Open pitter holes;
 (b) Pitter hole with a serious loss of flesh;
 (c) Pitter tears; or
 (d) Other mechanical injury that seriously affects the cherry's appearance.
 (3) Surface discoloration when:
 (a) Light surface discoloration exceeds, in the aggregate, one-half of the cherry's surface; or
 (b) Dark surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface.
 (4) Rain cracks on Washington No. 2 whole cherries if they are in the stem basin and more than 1/2 inch in length, or are outside the stem basin and more than 3/8 inch in length, measured on the circumference.
 (5) Rain cracks on Washington No. 2 halved cherries if they are in the stem basin and more than 1/4 inch in length, or

are outside the stem basin and more than 3/16 inch in length, measured on the circumference.

(6) Blemishes when they affect the appearance of the cherry or discolor the cherry's flesh.

WSR 07-08-114
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 4, 2007, 11:41 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-436 WAC, Washington standards for peaches, this chapter establishes the requirements and standards for Washington grown fresh peaches.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jim Quigley, Washington State Department of Agriculture, P.O. Box 14560, Olympia, WA 98504-2560, AND RECEIVED BY June 4, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal is the result of the department's ongoing commitment to review and revise its rules, when necessary, as mandated by Executive Order 97-02. The purpose of this filing is to use the expedited rule-making process to rewrite the peach standards in a clear and usable format in order to clarify the language of the rule. Two sections of the chapter (WAC 16-436-002 Promulgation and 16-436-003 Promulgation) will be repealed because the rules represent an outdated method of rule writing that is no longer used and are no longer necessary. WAC 16-436-150 Cull peach requirements, will be repealed and the language merged with WAC 16-436-140 Cull peaches. WAC 16-436-166 Tolerances—Size, will be repealed and the language added to WAC 16-436-160 and 16-436-165. WAC 16-436-200 Definitions, will be repealed and replaced with WAC 16-436-060 Definitions, at the beginning of the chapter. WAC 16-436-225 will be repealed and the language moved to WAC 16-436-080 Standards and grades of Washington grown peaches. WAC 16-436-230 Effective date, will be repealed because this rule is no longer necessary. No proposed amendments change the rules' effects.

Statutory Authority for Adoption: Chapters 15.17 and 34.05 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: [Department of agriculture], governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2043; Implementation and Enforce-

ment: Jim Quigley, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1833.

April 3, 2007
Dennis Hannapel
Assistant Director

NEW SECTION

WAC 16-436-060 Definitions. The following definitions are important to this chapter, and where appropriate, apply to all Washington state commercial grades of peaches:

"At destination" means the final point of delivery by a commercial carrier or the wholesale or retail facility where the peaches are held.

"Damage" means any injury or defect that materially affects a peach's appearance, edible quality, or shipping quality.

"Department" means the Washington state department of agriculture.

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

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

"En route" means the peaches have left their original shipping point and are in transit or are being held in an intermediate storage facility before arriving at their final destination.

"Fairly well formed" means that the shape of the peach must be consistent with the characteristic shape of the variety and must not be so misshapen that the appearance is more than moderately affected.

"Loose or jumble pack" means the peaches are not placed in the container in cups, compartments, or trays.

"Mature" means a peach has reached a stage of growth that will ensure a proper completion of the ripening process.

"Not badly misshapen" means a peach may be more irregularly shaped than "fairly well formed" but must not be deformed as to seriously affect its utility or general appearance.

"Serious damage" means any injury or defect that seriously affects the appearance, edible quality, or shipping quality of the peach.

"Soft or overripe" means a peach has very little resistance to pressure. Such peaches are also called "dead ripe."

"Standard peach box" means a container with minimum inside dimensions of 4-1/4 to 6 inches by 11-1/2 to 16 inches.

NEW SECTION

WAC 16-436-080 Standards and grades of Washington grown peaches. (1) The following grades apply to peaches grown in Washington state:

- (a) Washington extra fancy;
- (b) Washington fancy;
- (c) Washington combination extra fancy and fancy; and
- (d) Cull peaches.

(2) In addition to the standards contained in this chapter for Washington grown peaches, the department adopts the

United States Standards for Grades of Peaches, effective May 21, 2004, for use by producers or shippers. Peaches must meet the Washington state standards contained in this chapter.

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-100 Washington extra fancy ((~~grade~~) peaches. (1) ~~((Shall))~~ Washington extra fancy peaches consist ~~((of peaches))~~ of one variety ~~((which))~~ that are:

- (a) Mature, but not soft or overripe;
- (b) Fairly well formed; ~~((and which are))~~
- (c) Free from decay, broken skin, worms, or worm holes; ~~((and))~~

(d) Free from damage caused by bruises; ~~((;))~~ dirt or other foreign material; ~~((;))~~ bacterial spot; ~~((;))~~ scab; ~~((;))~~ scale; ~~((;))~~ growth cracks; ~~((;))~~ hail injury; ~~((;))~~ leaf or limb rubs; ~~((;))~~ russeting; ~~((;))~~ split pits; ~~((;))~~ stem pull; ~~((;))~~ rough suture; ~~((;))~~ and other diseases, insects or mechanical or other means.

(2) ~~((Size. Such peaches shall measure not less than 2-1/4 inches in diameter. Provided, That such peaches shall also meet requirements of WAC 16-436-187 Minimum size. Definitions for the above grade will be found under WAC 16-436-160, 16-436-180, 16-436-185, 16-436-190, 16-436-200, 16-436-210, and 16-436-220.))~~ Washington extra fancy peaches must be at least 2-1/4 inches in diameter and must also meet the minimum size requirements of WAC 16-436-187.

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-110 Washington fancy ((~~grade~~) peaches. (1) ~~((Shall))~~ Washington fancy peaches consist ~~((of peaches))~~ of one variety ~~((which))~~ that meet all ~~((of the requirements of))~~ Washington extra fancy requirements, except: ~~((Provided;))~~

- (a) Split pits ~~((not to exceed))~~ no more than 3/8 inch in length ~~((shall be))~~ are allowed; ~~((;))~~ and
- (b) Damage, but not serious damage, for rough suture ~~((shall be))~~ is allowed ~~((in this grade))~~.

(2) ~~((Size. Such))~~ Washington fancy peaches ~~((shall measure not less than))~~ must be at least 2-1/4 inches in diameter ~~((; Provided, That such peaches shall))~~ and must also meet the minimum size requirements of WAC 16-436-187 ~~((Minimum size. Definitions for the above grade will be found under WAC 16-436-165, 16-436-180, 16-436-185, 16-436-190, 16-436-200, 16-436-210, and 16-436-220))~~.

AMENDATORY SECTION (Amending Order 1203, filed 5/14/71, effective 6/14/71)

WAC 16-436-120 Washington combination extra fancy and fancy ((~~grade~~) peaches. ~~((When extra fancy and fancy peaches are packed together, the box shall be marked))~~

(1) Washington combination ~~((extra fancy and fancy and shall))~~ peaches consists of extra fancy and fancy peaches packed together in the same container.

(2) Containers must be marked "Washington combination extra fancy and fancy" and must contain at least ((75%))

seventy-five percent Washington extra fancy peaches. ~~((Definitions for the above grade will be found under WAC 16-436-160, 16-436-180, 16-436-185, 16-436-190, 16-436-200, 16-436-210, and 16-436-220.))~~

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-140 Cull ((~~grade~~) peaches. ~~((Shall consist of))~~ Cull peaches ~~((which))~~ are peaches not graded in conformity with the foregoing grades described in this chapter.

(1) The words "cull peaches" must be marked clearly and legibly in at least 2-1/2 inch letters on the top and side of the container and on any container label.

(2) The container lid or labels must be marked in at least 1/2 inch letters with the:

- (a) Name and address of the grower, shipper, or packer;
- (b) Variety;
- (c) Minimum diameter; and
- (d) Net weight.

(3) Peaches identified as culls must be packed in one-bushel baskets with lids and ring faced with the peaches in the ring representative of the size and quality of those in the container.

(4) Every bill of lading, invoice, memorandum, or other document referring to the peaches must identify the peaches as culls.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-160 Tolerances for Washington extra fancy and combination extra fancy and fancy peaches. In order to allow for variations incident to proper grading ~~((and))~~ handling, and sizing the following tolerances ~~((shall))~~ by count, apply to ~~((the))~~ Washington extra fancy ~~((WAC 16-436-100;))~~ and ~~((the))~~ Washington combination extra fancy and fancy ~~((WAC 16-436-120;))~~ peaches.

(1) Not more than ((10% by count;)) ten percent of the peaches in any lot may fail to meet ~~((the))~~ grade requirements ~~((of this grade but))~~.

(a) Not more than ((1/2 of this amount, or 5%, shall be)) five percent is allowed for defects causing serious damage ~~((; as defined under WAC 16-436-220, and))~~.

(b) Not more than ((1/5 of this amount, or 1%, shall be)) one percent is allowed for decay at the shipping point ~~((; Provided;))~~.

(2) At the time of packing, an additional tolerance of not more than ((10% by count, of the peaches)) ten percent is allowed in any lot ~~((may be damaged))~~ for damage, but not ~~((seriously damaged))~~ serious damage, by bruising ~~((at packing time as defined under WAC 16-436-210 and 16-436-220))~~.

(3) Not more than ten percent of the peaches in any lot may be below the specified minimum size.

(4) Not more than fifteen percent of the peaches in any lot may be above any specified maximum size.

(5) When applying ((the foregoing)) these tolerances to ((the)) combination grades, no part of any tolerance ((shall be)) is allowed to reduce, for the lot as a whole, the ((75%))

seventy-five percent of peaches of the higher grade required in the combination ~~(, but)~~. Individual containers ~~((shall))~~ must have ~~((not less than 65%))~~ at least sixty-five percent of the higher grade.

~~(6) En route or at destination,~~ an additional tolerance of ~~((2% shall be))~~ two percent is allowed for soft, overripe, or decayed peaches ~~((en route or at destination as defined under WAC 16-436-200))~~.

AMENDATORY SECTION (Amending Order 1977, filed 5/16/88)

WAC 16-436-165 Tolerances for Washington fancy peaches. In order to allow for variations incident to proper grading ~~((and))~~, handling, and sizing, the following tolerances ~~((shall))~~, by count, apply to ~~((the))~~ Washington fancy ~~((WAC 16-436-110;))~~ peaches.

~~(1) Not more than ((20% by count))~~ twenty percent of the peaches in any lot may fail to meet the grade requirements ~~((of this grade, but))~~.

~~(a) Not more than ((1/4 of this amount, or 5% shall be))~~ five percent is allowed for defects causing serious damage ~~((, as defined under WAC 16-436-220 and))~~.

~~(b) Not more than ((1/5 of this amount, or 1% shall be))~~ one percent is allowed for decay ~~((at shipping point))~~.

~~(2) Not more than ten percent of the peaches in any lot may be below the specified minimum size.~~

~~(3) Not more than fifteen percent of the peaches in any lot may be above any specified maximum size.~~

~~(4) En route or at destination,~~ an additional tolerance of ~~((2% shall be))~~ two percent is allowed for soft, overripe, or decayed peaches ~~((en route or at destination as defined under WAC 16-436-200))~~.

AMENDATORY SECTION (Amending Order 1203, filed 5/14/71, effective 6/14/71)

WAC 16-436-180 Application of tolerances to individual packages. ~~((Applying to all grades.~~

~~(1))~~ The contents of individual packages of peaches in ~~((the))~~ a lot ~~((, based on sample inspection;))~~ are subject to the following limitations ~~((: Provided;))~~ as long as the average ~~((s))~~ for the entire lot ~~((are))~~ of peaches of a specific grade is within the tolerances specified for ~~((this))~~ that grade.

~~((2) For)~~ ~~(1) Packages~~ ~~((which contain))~~ containing more than ~~((10))~~ ten pounds ~~((, and))~~ with a tolerance of ~~((10%))~~ ten percent or more ~~((is provided, individual packages in any lot shall))~~ must have ~~((not))~~ no more than 1-1/2 times the tolerance specified. ~~((For))~~

~~(2) Packages~~ ~~((which contain))~~ containing more than ~~((10))~~ ten pounds ~~((and))~~ with a tolerance of less than ~~((10% is provided, individual packages in any lot shall))~~ ten percent must have ~~((not))~~ no more than double the tolerance specified.

~~(3) (For)~~ ~~Packages~~ ~~((which contain 10))~~ containing ten pounds or less ~~((, individual packages in any lot))~~ are not restricted as to the percentage of defects and sizes ~~((: Provided, That not more than))~~. However, only one peach ~~((which))~~ that is seriously damaged by insects or affected by decay may be ~~((permitted))~~ in any package.

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-185 Requirements for Washington standard packs. ~~((Applies))~~ To allow for variations incident to proper packing, no more than ten percent of the packages in any lot may be out of compliance with the following requirements. These requirements apply to all grades except culls.

(1) Each package ~~((shall))~~ must be packed so that the peaches in the shown face ~~((shall be))~~ are reasonably representative in size, color, and quality of the contents ~~((of))~~ in the package.

~~(2) ((Baskets;))~~ Peaches packed in U.S. Standard bushel baskets ~~((;))~~ or half-bushel baskets ~~((shall))~~ with lids must be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the peaches within the packages ~~((when lidded))~~.

~~(3) ((Boxes;))~~ Peaches packed in standard western boxes ~~((shall))~~ must comply with the following:

~~(a) The peaches must~~ be reasonably uniform in size and arranged in ~~((the))~~ packages, such as tray packed, place packed, or jumble filled, according to the approved and recognized methods.

~~((Each))~~ ~~(b) When~~ wrapped, each peach ~~((shall))~~ must be fairly well enclosed by its individual wrapper.

~~(c) All packages~~ ~~((shall))~~ must be well filled and tightly packed but the contents ~~((shall))~~ must not show excessive or unnecessary bruising because of being over-filled ~~((packages))~~.

~~(d) The number of peaches~~ ~~((in the box shall))~~ must not vary by more than ~~((4))~~ four from the number indicated on the ~~((box))~~ container.

~~((4) Peaches packed in other type boxes such as fibre-board boxes or corrugated cartons may be place packed, or jumble packed faced, and all packs shall be well filled.~~

~~(5) Peaches packed in boxes equipped with cell compartments or molded trays shall be of the proper size for the cells or the molds in which they are packed.~~

~~(6) Peaches placed in individual paper cups and packed in boxes shall be in cups of the proper size for the peaches.~~

~~(7) In order to allow for variations incident to proper packing, not more than 10% of the packages in any lot may not meet these requirements.)~~

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-187 Minimum size requirements. (1) Fresh peaches ~~((of any variety)),~~ except ~~((peaches of the))~~ for Elberta varieties, must be at least 2-3/8 inches in diameter when packed and marketed in any container except ~~((the))~~ a standard peach box ~~((, shall measure not less than 2 3/8 inches in diameter)).~~

(2) Fresh peaches of any variety must be at least 2-1/4 inches in diameter when packed and marketed in ~~((the))~~ a standard peach box ~~((shall measure not less than 2 1/4 inches in diameter)).~~

(3) Fresh Elberta varieties of peaches ~~((of the Elberta varieties))~~ must be at least 2-1/4 inches in diameter when

marketed in any container (~~((shall measure not less than 2 1/4 inches in diameter))~~).

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-190 Marking requirements. (~~((Applies))~~)
The following marking requirements apply to all grades except culls.

(1) All containers (~~((shall))~~) must be conspicuously and legibly stamped with the:

(a) Name and address of the grower, shipper or packer(~~(; the)~~);

(b) Fruit variety(~~(;)~~);

(c) Grade(~~(;)~~); and

(d) Numerical count(~~(;)~~) or minimum diameter.

(2) When the numerical count is not shown on the container, the minimum diameter and net weight (~~((shall))~~) must be plainly stamped or otherwise marked on the container.

(3) Minimum size must be stated on the container in terms of:

(a) Whole inches, such as 3 inches minimum; or

(b) Whole and half inches, such as 2-1/2 inches minimum; or

(c) Whole and quarter inches, such as 2-1/4 inches minimum; or

(d) Whole and eighth inches, ((as 3 inches minimum, 2-1/4 inches minimum, 2-3/8 inches minimum, in accordance with the facts. The)) such as 2-3/8 inches minimum.

(4) Both minimum and maximum diameters may (~~((both))~~) be stated (~~((in accordance with the facts))~~) on the container.

(~~((3))~~) (5) The grade (~~((shall))~~) must be stamped on the container in letters that are at least 1/4 inch high. The following abbreviations may be used:

(a) Washington (~~((may be abbreviated as))~~); Wash(~~(;)~~) or (~~((Wa-))~~) WA;

(b) Extra fancy (~~((may be abbreviated as ex. fey-))~~); Ex fcy or extra fcy(~~(;)~~);

(c) Fancy (~~((may be abbreviated as))~~); Fcy(~~(;)~~); and

(d) Combination (~~((may be abbreviated as))~~); Comb.

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-210 ((Definition))Damage—Specific defects. (~~((Applies to Wash. ex. fancy (WAC 16-436-100); Wash. fancy (WAC 16-436-110); Wash. comb. ex. fancy and fancy (WAC 16-436-120). "Damage" means any injury or defect which materially affects the appearance or the edible or shipping quality of the peach.))~~) Any (~~((one))~~) of the following defects(~~(;)~~) or (~~((any))~~) combination (~~((thereof))~~) of them are considered damage when the seriousness of ((which)) the combination exceeds the maximum allowed for any ((one)) specific defect((, shall be considered as damage)).

(1) Bruises ((where any bruise discolors)) on peaches 2-1/4 inches or smaller in diameter are considered damage if they:

(a) Discolor the flesh to a depth greater than 3/16 of an inch; or

(b) Discolor(~~(s))~~) the skin in an area greater than 1/2 inch in diameter; or

(c) Are an aggregate of smaller bruises ((aggregating)) totaling more than 1/2 inch in diameter. ((Areas or depths of bruises are applicable to a peach 2-1/4 inches or smaller in diameter. Correspondingly greater areas or depths shall be allowed on larger peaches as follows:

2-1/2 inches in dia. 5/9 in. area dia. 5/24 in. deep

2-3/4 inches in dia. 11/18 in. area dia. 11/48 in. deep

3 inches in dia. 2/3 in. area dia. 1/4 in. deep

3-1/4 inches in dia. 13/18 in. area dia. 13/48 in. deep

3-1/2 inches in dia. 7/9 in. area dia. 7/24 in. deep

3-3/4 inches in dia. 15/18 in. area dia. 5/16 in. deep

4 inches in dia. 8/9 in. area dia. 1/3 in. deep))

(2) Bruises on peaches larger than 2-1/4 inches in diameter are considered damage when any discoloring of the flesh or skin affects correspondingly greater areas or depths than identified in subsection (1) of this section. The following lists the depths and diameters of flesh discoloration allowed before the discoloring is considered damage on peaches that are:

(a) 2-1/2 inches in diameter: Discoloration 5/24 inch deep and 5/9 inch in diameter;

(b) 2-3/4 inches in diameter: Discoloration 11/48 inch deep and 11/18 inch in diameter;

(c) 3 inches in diameter: Discoloration 1/4 inch deep and 2/3 inch in diameter;

(d) 3-1/4 inches in diameter: Discoloration 13/48 inch deep and 13/18 inch in diameter;

(e) 3-1/2 inches in diameter: Discoloration 7/24 inch deep and 7/9 inch in diameter;

(f) 3-3/4 inches in diameter: Discoloration 5/16 inch deep and 15/18 inch in diameter;

(g) 4 inches in diameter: Discoloration 1/3 inch deep and 8/9 inches in diameter.

(3) Bacterial spot(~~(;)~~) when cracked(~~(;)~~) or (~~((when))~~) aggregating more than 3/8 inch in diameter(~~(;)~~).

(~~((3))~~) (4) Scab spot(~~(;)~~) when cracked(~~(;)~~) or (~~((when))~~) aggregating more than 3/8 inch in diameter(~~(;)~~).

(~~((4))~~) (5) Scale(~~(;)~~) when concentrated(~~(;)~~) or (~~((when))~~) scattered and aggregating more than 1/4 inch in diameter(~~(;)~~).

(~~((5))~~) (6) Growth cracks(~~(;)~~) when unhealed(~~(;)~~) or more than 1/2 inch in length(~~(;)~~).

(~~((6))~~) (7) Hail injury (~~((which is))~~) when unhealed(~~(;)~~) or deep, or when aggregating more than 1/4 inch in diameter(~~(;)~~) or more than 1/8 inch in depth(~~(;)~~).

(~~((7))~~) (8) Leaf or limb rubs or russetting(~~(;)~~) when exceeding 1-1/4 inches in diameter when smooth and light colored, or when exceeding 1/2 inch in diameter when rough or dark colored(~~(;)~~).

(~~((8))~~) (9) Split pit(~~(;)~~) when causing any unhealed crack(~~(;)~~) or when causing any crack (~~((which))~~) that is readily apparent, or when affecting the peach's shape to the extent that the fruit is not fairly well formed(~~(;)~~).

(~~((9))~~) (10) Stem pulls larger than 1/2 inch in diameter, including stem area(~~(;)~~).

~~((10))~~ (11) Rough suture when the length is more than half way down side of peach and exceeds 1/4 inch wide and 1/32 inch high.

AMENDATORY SECTION (Amending WSR 92-11-076, filed 5/20/92, effective 6/20/92)

WAC 16-436-220 (~~(Definition)~~) **Serious damage—Specific defects.** (~~(Applying to Washington extra fancy (WAC 16-436-100); Wash. fancy (WAC 16-436-110); Wash. comb. ex. fancy and fancy (WAC 16-436-120). "Serious damage" means any injury or defect which seriously affects the appearance, or the edible or shipping quality of the peach.)~~) Any ~~((one))~~ of the following defects ~~((;))~~ or any combination ~~((thereof;))~~ of them, when the seriousness of ~~((which))~~ the combination exceeds the maximum allowed for any ~~((one))~~ specific defect, ~~((shall be))~~ is considered ~~((as))~~ serious damage.

(1) Bruises ~~((;))~~ when aggregated and causing a waste in excess of ~~((10%))~~ ten percent by area on any peach or ~~((with))~~ when any one bruise ~~((causing))~~ causes a waste in excess of ~~((5%))~~ five percent by area or exceeding 3/8 ~~((of an))~~ inch in depth. ~~((Areas or depths of bruises specified are applicable to a peach 2-1/4 inches or smaller in diameter. Correspondingly greater areas or depths shall be allowed on definitely larger peaches;))~~

(2) Bacterial spot ~~((;))~~ when any cracks are not well healed, or when ~~((aggregating))~~ the aggregate area is more than 1/2 inch in diameter ~~((;))~~.

(3) Scab spots ~~((;))~~ when cracked ~~((;))~~ or when healed and aggregating more than one inch in diameter ~~((;))~~.

(4) Scale ~~((;))~~ when ~~((aggregating))~~ the aggregate area is more than 1/2 inch in diameter ~~((;))~~.

(5) Growth cracks ~~((;))~~ when unhealed ~~((;))~~ or more than 5/8 inch in length ~~((;))~~.

(6) Hail injury ~~((;))~~ when:

(a) Unhealed ~~((;))~~; or

(b) Shallow ~~((hail injury when aggregating))~~ and the aggregate area is more than 3/4 inch in diameter ~~((;))~~; or

(c) Deep ~~((hail injury which))~~ and seriously ~~((deforms))~~ deforming the ~~((fruit))~~ peach; or ~~((which aggregates))~~

(d) Aggregating more than 1/2 inch in diameter ~~((;))~~; or

(e) Aggregating more than 1/8 inch in depth ~~((;))~~.

(7) Leaf or limb rubs ~~((; when smooth and light colored and aggregating))~~ or russetting when the aggregate area is more than 1-1/2 inches in diameter when smooth and light, or ~~((dark or rough and barklike scars aggregating))~~ when the aggregate area is more than 1/2 inch in diameter ~~((;))~~ when dark and bark-like.

(8) Split pit ~~((;))~~ when causing any unhealed crack, or when it is healed and ~~((aggregating))~~ the aggregate area is more than 1/2 inch in length including any part of the crack ~~((which may))~~ that might be covered by the stem ~~((;))~~.

(9) Stem pulls when they are larger than 5/8 inch in diameter, including stem area ~~((;))~~.

(10) Punctures when they are not on the shoulder area, or ~~((punctures))~~ when they are on the shoulder area and are larger than 3/16 of an inch in diameter ~~((;))~~.

(11) Rough suture ~~((;))~~ when the entire length of the suture exceeds 1/4 inch wide ~~((;))~~ and 1/16 inch high.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-436-002	Promulgation.
WAC 16-436-003	Promulgation.
WAC 16-436-150	Cull peach requirements.
WAC 16-436-166	Tolerances—Size.
WAC 16-436-200	Definitions.
WAC 16-436-225	Adoption of United States standards as state standards.
WAC 16-436-230	Effective date.