

WSR 25-10-045
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 1, 2025, 9:28 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-180 WAC, Produce safety.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of agriculture (department) is proposing the establishment of chapter 16-180 WAC in order to adopt the 2024 version of the United States Food and Drug Administration's (FDA) produce safety rule (PSR) (21 C.F.R. Part 112), which establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. PSR is part of the federal Food Safety Modernization Act (FSMA), signed into law in 2011, and is intended to reduce the risk of contamination and foodborne illness from fresh produce.

In 2018, the department received authority under chapter 15.135 RCW to conduct produce inspections. In partnership with FDA, the department established the produce safety program. This program encouraged the safe production of fruits and vegetables, thereby reducing the public health risks for consumers of Washington produce. Through education and enforcement, the program promoted understanding of and compliance with PSR, a component of FSMA.

The program addresses two key goals:

- Help Washington farmers comply with the FDA PSR.
- Consistently and uniformly apply the FDA PSR in Washington state.

Chapter 15.135 RCW adopts the June 7, 2018, version of PSR and authorizes the department to adopt more recent versions by rule. The most recent (2024) updates to PSR reflect changes made by the FDA, including provisions related to agricultural water and associated compliance dates. Incorporating these federal updates to produce safety inspections will ensure consistency between state and federal requirements, minimize confusion for growers, and maintain Washington's equivalency with FDA regulations.

This will also support the department's ongoing efforts to educate and regulate covered farms in accordance with FSMA standards. By aligning state rules with the latest federal requirements, the department can continue to help farms remain in compliance, and maintain market access for Washington-grown produce.

Reasons Supporting Proposal: FSMA represents the largest update to federal food safety laws in 70 years. When FSMA was signed into law by President Obama in 2011, it authorized FDA to take a preventative approach to food safety. FDA finalized seven rules under FSMA that regulate farms and food businesses along the supply chain, PSR being one of them.

PSR establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables for human consumption. Prior to its publication in 2015, the only food safety law that applied to produce farms was the regulation against the selling of "adulterated" food as defined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 342). That law continues to exist today and helps to prevent against, as a general definition, the sale of impure, unsafe, or unwholesome food.

PSR requires farms to adopt safe handling practices that help to minimize the growth and spread of pathogens that cause foodborne ill-

nesses and outbreaks. Common bacteria linked to produce include toxigenic *Escherichia coli* (*E.coli*), *Salmonella*, and *Listeria monocytogenes*. Fresh produce is susceptible to contamination because it does not receive a "kill step" like cooked or commercially processed foods and pathogens are hard to remove or wash from the surface of produce. That is why preventive measures are so critical.

Adopting the most recent version of PSR ensures that Washington state remains aligned with federal food safety standards under FSMA. Consistency between state and federal requirements reduces regulatory burden and confusion for produce growers and handlers, many of whom sell products in both interstate and intrastate markets.

Updating Washington's PSRs also allows the department to maintain an equivalent state program recognized by FDA. This alignment is essential to preserving federal funding for implementation, education, outreach, and inspection activities associated with produce safety carried out by the department.

Timely adoption of federal updates strengthens the department's ability to help farms comply with current science-based practices that reduce the risk of microbial contamination. These amendments ultimately support public health, promote confidence in Washington-grown produce, and help maintain access to both domestic and international markets.

Statutory Authority for Adoption: RCW 15.135.020 and 15.135.080.

Statute Being Implemented: Chapter 15.135 RCW.

Rule is necessary because of federal law, 21 C.F.R. Part 112.

Name of Proponent: Department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Gloriann Robinson, 1111 Washington Street S.E., Olympia, 360-902-1802; Implementation and Enforcement: Karen Ullmann, 1111 Washington Street S.E., Olympia, 206-714-6125.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: By adopting the 2024 version of PSR (a federal regulation), this rule making qualifies for expedited rule making.

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 Gloriann Robinson, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email wsdarulescomments@agr.wa.gov, BEGINNING May 1, 2025, 8:00 a.m., AND RECEIVED BY July 8, 2025, 5:00 p.m.

May 1, 2025
Luisa Castro
Assistant Director

RDS-6269.2

**Chapter 16-180 WAC
PRODUCE SAFETY**

NEW SECTION

WAC 16-180-005 Purpose of this rule. The purpose of this chapter is to implement the purpose and provisions of chapter 15.135 RCW.

NEW SECTION

WAC 16-180-010 Adoption of the federal Produce Safety Rule. The Washington state department of agriculture adopts the federal Produce Safety Rule, codified in 21 C.F.R. Part 112, effective July 5, 2024, for the growing, harvesting, packing, and holding of produce for human consumption. The Produce Safety Rule may be obtained from the department by emailing producesafety@agr.wa.gov, by phone at 360-902-1848 or online at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112>.