WSR 26-11-045
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed May 19, 2026, 7:16 a.m.]

Subject of Possible Rule Making: Chapter 16-104 WAC, Shell eggs—Standards, grades and weight classes.

The department of agriculture (department) is considering amending the rule by:

- Establishing the exemptions permitted under RCW 69.25.170;
- Allowing for changes in inspection frequency when the established frequency contributes to or exacerbates the presence or probable danger of infection from any animal diseases as determined by the state veterinarian under RCW 16.36.070;
- Adding and aligning requirements related to good manufacturing practices and facility requirements;
- Defining and clarifying the cooperation and alignment of inspection frequencies with other government agencies; and
- Modifying labeling requirements.

Additionally, the department is revising the language to increase clarity and readability and to conform with current industry practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.25.030, 69.25.080, 69.25.100, 69.25.170, and 16.36.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule was adopted to establish standards, grades, and weight classes for eggs and to establish facility, operation, storage, and labeling requirements in the different types of egg facilities in Washington.

Chapter 69.25 RCW gives the director broad authority to adopt any rule and regulation necessary to carry out the purpose and provisions of this chapter and specifically grants the director the authority to provide exemptions to various parts of the law by rule. The department is considering rules that would establish and detail these exemptions. These include exempting small egg producers and packers with flocks of 3,000 hens or less from certain provisions.

The department believes that certain exemptions, particularly those related to facilities with fewer than 3,000 hens, are appropriate given similar exemptions from federal inspection of these facilities. Additionally, regulatory oversight of eggs in Washington state should follow the current risk-based inspection model from the national Food Safety Modernization Act that the department uses for regulation of manufactured foods.

Additionally, due to the rule being several decades old, the department is considering revising the rule language to a format that is in line with current standards and clarifying egg packaging labeling requirements that are spread between chapter 69.25 RCW, chapters 16-104 and 16-142 WAC, and 21 C.F.R. Part 101 and 118.

To adhere to RCW 69.25.120, cooperate with other agencies, and avoid duplication of effort, the department is considering counting each United States Department of Agriculture (USDA) inspection conducted every calendar quarter of egg producers and packers of 3,000 hens or more towards fulfilling the mandated calendar quarterly inspection requirements listed in RCW 69.25.080.

Due to emerging animal diseases, including highly pathogenic avian influenza, the department wants to utilize the authority given in

chapter 16.36 RCW to amend provisions in the rule that affect food availability, economic viability, and the biosecurity of staff and animals.

This rule was modeled after the original federal Egg [Products] Inspection Act. The federal rule has been updated since this regulation was last updated in Washington state. The department wishes to align the requirements and add basic good manufacturing practices. The federal rule was written for large businesses. The department wants to address established facility requirements and good manufacturing practices for small operations. The requirements are basic in design and cost to enable small egg producers to put shell eggs into commerce while maintaining good manufacturing practices.

Furthermore, the rule itself could use reorganization and revision to increase clarity and readability for the benefit of the industry and the general public.

This rule was established decades ago when the department had a dedicated egg inspection program. The initial rule did not include the exemptions allowed by chapter 69.25 RCW. The department's current structure no longer includes a dedicated egg inspection program. Instead, regulatory oversight of the egg industry is a portion of the work that the department's food safety program conducts along with inspection of manufactured foods, food storage warehouses, milk processing plants, dairy producers, cottage food operators, cannabis-infused edibles processors, direct sellers, custom meat facilities, custom farm slaughterers, custom slaughtering establishments, and hemp extract processors. Given the program's current general fund support, federal fundings, and license and assessment revenue, there are not enough staff available to meet all the inspection obligations established in chapter 69.25 RCW for an egg industry that has over 1,000 endorsed egg handler/dealers in the state.

Adoption of these exemptions will align the food safety program's egg inspection work with current risk-based food assessment models. This will free up inspection resources so they can be applied to higher risk food products and facilities by establishing and detailing the exemptions of small egg producers.

If these exemptions are not adopted, then additional resources, specifically full-time employees to accomplish the overwhelming number of egg facilities inspections per year, will be required. This will remove those resources which are crucial to accomplish high risk food product inspections. Ultimately this puts the public (national and international) at higher risk for food borne illness, which then leads to a lack of confidence in Washington state's food system.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA, United States Food and Drug Administration, and Washington animal and avian health program.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dan Mason, P.O. Box 42560, Olympia, WA 98504-2560, phone 206-462-9262, email dmason@agr.wa.gov, website www.agr.wa.gov; or Angelique Finney, P.O. Box 42560, Olympia, WA 98504-2560, phone 509-316-6196, email afinney@agr.wa.gov, website www.agr.wa.gov.

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