PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Department of Agriculture

☒ **Preproposal Statement of Inquiry was filed as WSR 06-03-037; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) The Washington State Department of Agriculture's Fruit and Vegetable Inspection Program is proposing to amend chapter 16-403 Standards for apples marketed within the state of Washington.

Hearing location(s): ***Wenatchee***
WSU Tree Fruit Research Center
1100 N. Western Avenue
Wenatchee, WA
Date: May 23, 2006 Time: 10:00 a.m.

Hearing location(s): ***Yakima***
WSDA Yakima Office
Second Floor Conference Room
21 North First Avenue
Yakima, WA
Date: May 24, 2006 Time: 10:00 a.m.

Submit written comments to:
Name: Debbie Hacker
Address: P.O. Box 42560
Olympia, WA 98504-2560
e-mail dhacker@agr.wa.gov
fax (360) 902-2085 by 5:00 p.m. on May 24, 2006

Assistance for persons with disabilities: Contact
The WSDA receptionist by May 17, 2006 at
TTY (360) 902-1996 or (360) 902-1996

Date of intended adoption: June 7, 2006
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

WSDA proposes to 1) update specific areas of the Standards for apples marketed within the state of Washington for consistency and continuity with changes in the U.S. Apple Grades; and 2) exclude "smooth net-like russet" as a defect for Fuji apples in the Washington State Standards.

Reasons supporting proposal: These proposed amendments are necessary in order to bring the Washington State grade standards equal to or higher than the existing United States grading standards for apples. In addition, the industry has determined that smooth net-like russeting is indicative of the Fugi variety and should not be considered as a defect.

Statutory authority for adoption: Chapter 15.17 Standards of Grades and Packs, Chapter 34.05 Administrative Procedure Act

Statute being implemented: Chapter 15.17 Standards of Grades and Packs

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE
April 19, 2006

NAME (type or print)
Robert W. Gore

SIGNATURE
Robert W. Gore

TITLE
Assistant Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 19 2006

TIME 11:11 AM PM
WSR 06-09-097

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) The Washington State Horticultural Association (WSHA), Grade and Pack Committee

☒ Private
☐ Public
☐ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Jim Quigley	Olympia	(360) 902-1833
Implementation....	Jim Quigley	Olympia	(360) 902-1833
Enforcement.....	Jim Quigley	Olympia	(360) 902-1833

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( ) _____
e-mail _____

☒ No. Explain why no statement was prepared.

There is no economic impact associated with these rule amendments.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( ) _____
e-mail _____

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency in RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending Order 5033, filed 3/23/94, effective 4/23/94)

WAC 16-403-145 Red, partial red or blushed varieties--Washington extra fancy. Washington extra fancy consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, ((~~carefully hand picked,~~)) clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, ((~~bitter pit, Jonathan spot,~~)) freezing injury, visible watercore, and broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russeting, sunburn or spray-burn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, Jonathan spot, bitter pit and free from damage by invisible watercore after January 31st of the year following the year of production: Provided, That smooth net-like russeting and/or invisible watercore shall not be a quality factor of Fuji variety at any time of the year. Each apple of this grade has the amount of color specified in WAC 16-403-155 for the variety.

AMENDATORY SECTION (Amending Order 5033, filed 3/23/94, effective 4/23/94)

WAC 16-403-150 Red, partial red or blushed varieties--Washington fancy. Washington fancy consists of apples of one variety (except when more than one variety or commodity is printed on the container) which are mature but not overripe, ((~~carefully hand picked,~~)) clean, fairly well formed; free from decay, internal browning, internal breakdown, ((~~bitter pit, Jonathan spot,~~)) scald, freezing injury, visible watercore, and broken skins and bruises, except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, Jonathan spot, bitter pit, disease, insects, invisible watercore after January 31st of the year following the year of production, or damage by other means: Provided, That smooth net-like russeting and/or invisible watercore shall not be a quality factor of Fuji variety at any time of the year. Each apple of this grade has the amount of color specified in WAC 16-403-155 for the variety.

AMENDATORY SECTION (Amending WSR 92-15-056, filed 7/13/92, effective 8/13/92)

WAC 16-403-160 Green or yellow varieties--Washington extra fancy. Washington extra fancy consists of apples of one variety (except when more than one variety or commodity is printed on the container) which are mature but not overripe, ((~~carefully hand picked,~~)) clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, ((~~bitter pit, Jonathan spot,~~)) freezing injury, visible watercore, broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from slightly rough or rough russeting, provided, russeting other than rough or bark-like russeting materially affecting the appearance of the apple shall be permitted in the stem cavity or calyx basin if it cannot be seen when the apple is placed stem end or calyx end down on a flat surface. The apples are also free from injury caused by smooth net-like russeting, smooth solid russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, stem or calyx cracks, or other means; and free from damage by Jonathan spot, bitter pit and by invisible watercore after January 31st of the year following the year of production. Each apple of this grade has the amount of color specified in WAC 16-403-175 for the variety.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

WAC 16-403-165 Green or yellow varieties--Washington fancy. Washington fancy consists of apples of one variety (except when more than one variety or commodity is printed on the container) which are mature but not overripe, ((~~carefully hand picked,~~)) clean, fairly well formed; free from decay, internal browning, internal breakdown, ((~~bitter pit, Jonathan spot,~~)) scald, freezing injury, visible watercore, and broken skins and bruises except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, Jonathan spot, bitter pit, disease, insects, invisible watercore after January 31st of the year following the year of production, or damage by other means. Each apple of this grade has the amount of color specified in WAC 16-403-175 for the variety.

AMENDATORY SECTION (Amending Order 1635, filed 6/27/79)

WAC 16-403-170 Green or yellow varieties--Washington C grade. The requirements of this grade are the same as for Washington fancy except for color, russeting and invisible watercore. Apples of this grade are free from excessive damage caused by russeting which means that apples meet the russeting requirements for Washington fancy as defined under the definitions of "damage by russeting," except the aggregate area of an apple which may be covered by smooth net-like russeting shall not exceed 25 percent; and the aggregate area of an apple which may be covered by smooth solid russeting shall not exceed 10 percent: Provided, That in the case of the Yellow Newtown((~~,~~)), Granny Smith or similar varieties the aggregate area of an apple which may be covered with smooth solid russeting shall not exceed 20 percent; and the aggregate area of an apple which may be covered with excessively rough or barklike russeting or limb rubs shall not exceed the area of a circle three-fourths of an inch in diameter. Each apple of this grade has the amount of color specified in WAC 16-403-175 for the variety. There is no requirement in this grade pertaining to invisible watercore.

AMENDATORY SECTION (Amending WSR 02-12-011, filed 5/23/02, effective 8/1/02)

WAC 16-403-190 Tolerances. In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(1) Defects: Washington extra fancy, Washington fancy and Washington C grade.

Ten percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged, including therein not more than one percent for apples affected by decay or internal breakdown.

(2) When applying the foregoing tolerances to combination grades, no part of any tolerance shall be allowed to reduce, for the lot as a whole, the percent of apples of the higher grade required in the combination.

Combinations requiring 80 percent of the higher grade for the lot shall have not less than 65 percent of the higher grade in individual samples.

Combinations requiring 50 percent of the higher grade for the lot shall have not less than 40 percent of the higher grade in individual samples.

(3) Size. When size is designated by the numerical count for a container, not more than 5 percent of the apples in the lot may vary more than ((~~1/4~~)) 1/2 inch in diameter. When size is designated by minimum or maximum diameter or weight, not more than

5 percent of the apples in any lot may be smaller than the designated minimum and not more than 10 percent may be larger than the designated maximum.

(4) Firmness. Not more than ten percent of the apples in any lot of Red Delicious, Delicious, Golden Delicious, Jonagold, and Gala varieties shall fail to meet the firmness requirements as defined in WAC 16-403-142.

AMENDATORY SECTION (Amending Order 1982, filed 7/6/88, effective 9/1/88)

WAC 16-403-195 Application of tolerances. The contents of individual samples in the lot, are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for the grade.

Packages which contain more than 10 pounds:

Samples shall have not more than one and one-half times a specified tolerance of 10 percent or more and not more than double a tolerance of less than 10 percent, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any sample.

Packages which contain 10 pounds or less:

((~~Not over 10 percent of the samples~~)) No packages may have more than three times the tolerance specified, except that at least ((~~one~~)) three defective apples may be permitted in any ((~~sample~~)) package: Provided, That not more than ((~~one~~)) three apples or more than ((~~6~~)) 18 percent (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

WAC 16-403-215 Packing requirements. (1) Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight[a] or fairly well filled[b].

(2) Closed cartons containing apples not tray or cell packed shall be fairly well filled[b] or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.

(3) Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents.

(4) Tolerances: In order to allow for variations incident to

proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements.

[a] - "Fairly tight" means that apples are of the proper size for molds or cell compartments in which they are packed and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. ((~~The top layer of apples, or any pad or space filler over the top layer of apples shall be not more than 3/4 inch below the top edge of the carton.~~))

[b] - "Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 38 pounds for Jonathan, McIntosh and Golden Delicious varieties and not less than 40 pounds for all other varieties.

AMENDATORY SECTION (Amending WSR 01-12-079, filed 6/5/01, effective 7/6/01)

WAC 16-403-220 Marking requirements--Open or closed containers. (1) The containers shall bear the correct name of the variety or ((~~"variety unknown,"~~)) when more than one variety or commodity is in the container, each variety and commodity must be shown, the name of the grower, packer, or distributor, and his address, the grade, the numerical count or the minimum diameter of apples packed in a closed container, and the net contents either in terms of dry measure or weight. The minimum weight of individual apples within the container may be stated in lieu of, in combination with, or in addition to, minimum diameter as a declaration of size. All open containers and consumer packages must bear statement of net weight or volume.

(a) When the numerical count is not shown, the minimum diameter or minimum weight of individual apples shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, or whole inches and not less than eight inch fractions thereof or in terms of whole grams.

(b) When used in combination with minimum diameter as a size designation, the following minimum fruit weights shall be used:

Red Delicious	Golden Delicious
2 1/8 in. or 65 grams	63 grams
2 1/4 in. or 75 grams	70 grams
2 3/8 in. or 84 grams	82 grams
2 1/2 in. or 100 grams	95 grams
2 5/8 in. or 115 grams	109 grams
2 3/4 in. or 139 grams	134 grams

(c) The word "minimum," or its abbreviation, when following a

diameter size or weight size marking, means that the apples are of the size marked or larger.

(2) Over-wrapped consumer units may be marked with count, if all specimens can be counted.

(3) Any of these marks may be placed on either the end or side of the container. (California requires end markings.)

(4) When containers are marked as to number, each container shall contain the correct number of apples designated by the markings.

(5) Grade markings on consumer-type packages must be at least one-fourth inch in height.

(6) Apples which were produced outside of the state of Washington and which are graded, packed, or repacked in the state of Washington, shall be correctly labeled as to the state or country of origin, e.g., "Product of Oregon," "Grown in Oregon," "Produced in Canada."

Such marking shall be placed on the same end or side panel of the container as other markings related to grade, variety, net contents, and name and address of the grower, packer, or distributor, and shall be of similar print size. Consumer type packages shall not be required to bear a statement as to origin when such marking has been placed on the master shipping container.

(7) Containers shall be marked with the harvest year beginning on October 1 of each year and be applied only to apples harvested in the previous year; that this marking shall occur at the time of shipment; and be displayed on the principal display panel with letters of a minimum of one-half inch in height.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

WAC 16-403-270 Damage. (1) "Damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as damage:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether or not an apple is damaged by russeting, except that excessively rough or barklike russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin shall be considered as damage:

(i) Russeting which is excessively rough or rough on green and yellow varieties.

(ii) Smooth net-like russeting, when an aggregate area of more

than 15 percent of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

(iii) Smooth solid russeting when an aggregate area of more than 5 percent of the surface is covered and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

(iv) Slightly rough russeting which covers an aggregate area of more than one-half inch.

(v) Rough russeting in the red and partial red varieties which covers an aggregate area of more than one-fourth inch in diameter.

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

(c) Limb rubs which affect a total area of more than one-half inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting.

(d) Hail marks, drought spots, other similar depressions or scars:

(i) When any unhealed mark is present;

(ii) When any surface indentation exceeds one-eighth inch in depth;

(iii) When the skin has not been broken and the aggregate affected area exceeds one-half inch in diameter; or

(iv) When the skin has been broken and well healed, and the aggregate affected area exceeds one-fourth inch in diameter.

(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-fourth inch.

(f) Invisible watercore existing around the core and extending to watercore in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles.

(g) Disease:

(i) Scab spots which affect a total area of more than one-fourth inch in diameter.

(ii) Cedar rust infection which affects a total area of more than one-fourth inch in diameter.

(iii) Sooty blotch or fly speck which is thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.

(iv) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.

(v) Bitter pit or Jonathan spot when one or more spots affects the surface of the apple.

(h) Insects:

(i) Any healed sting or healed stings which affect a total area of more than three-sixteenths inch in diameter including any encircling discolored rings.

(ii) Worm holes.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-403-255	Carefully hand picked.

AMENDATORY SECTION (Amending Order 1982, filed 7/6/88, effective 9/1/88)

WAC 16-403-140 Washington state standards for apples. Washington state standard apple grades for extra fancy and fancy shall be equivalent to or better than the U.S. standards for grades of apples, except the Fuji variety, effective September 1, 1964, as amended October 1, 1966, July 25, 1972, and March 25, 1976, for U.S. extra fancy and U.S. fancy. Apples meeting the foregoing grades may be marked either with the proper Washington or U.S. grade, or both. In no case shall the grade and condition requirements thereof be interpreted as less than those standards required by said U.S. standards for grades of apples for the comparable Washington grade and variety.