



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Permanent Rule
 Emergency Rule

Agency: Agriculture

(1) Date of adoption: 1/23/91

(2) Purpose: To allow materials which comply with RCW 15.86.030 to be registered under the Department of Agriculture's Organic Food Program.

(3) Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

(4) Authority for adoption:

Statute: Chapter 15.86 RCW

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 91-01-116 on 12/19/90 (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) _____ *

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

FEB 07 1991

TIME: 4:50
WSR 91-05-007

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE

TITLE

Director, Dept. of Agriculture

DATE

2/7/91

Chapter 16-160 WAC

REGISTRATION OF MATERIALS FOR ORGANIC FOOD PRODUCTION

NEW SECTION

WAC 16-160-010 PURPOSE. This chapter is promulgated pursuant to RCW 15.86.060(1) wherein the director is authorized to adopt rules and regulations for the proper administration of chapter 15.86 RCW and RCW 15.86.070 wherein the director is authorized to adopt rules governing the certification of producers of organic food.

NEW SECTION

WAC 16-160-020 DEFINITIONS. As used in this chapter:

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.
- (2) "Applicant" means the person who submits an application to register a material pursuant to the provisions of this chapter.
- (3) "Approved material" means any material which is approved for use in organic food production under chapter 15.86 RCW, chapter 16-154 WAC, and WAC 16-160-060.
- (4) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.
- (5) "Department" means the department of agriculture of the state of Washington.
- (6) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.
- (7) "Director" means the director of the department of agriculture or his or her duly authorized representative.
- (8) "Distribute" means to offer for sale, hold for sale, sell, barter, deliver, or supply materials in this state.
- (9) "Inert ingredient" means an ingredient which is not an active ingredient.
- (10) "Label" means the written, printed, or graphic matter on, or attached to, the material or the immediate container thereof, and the outside container or wrapper of the retail package.
- (11) "Material" means any pesticide, plant regulator, defoliant, desiccant, spray adjuvant, fertilizer, soil amendment, growth regulator, or other substance or mixture of substances which is intended to be used in agricultural production or post-harvest use.
- (12) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.
- (13) "Pesticide" means, but is not limited to:
 - (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest;
 - (b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;
 - (c) Any substance or mixture of substances intended to be used as a spray adjuvant; and
 - (d) Any other substances intended for such use as may be named by the director by regulation.

(14) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculant, or soil amendments.

(15) "Prohibited material" means any material which is prohibited for use in organic food production, handling, or processing under chapter 15.86 RCW, chapter 16-154 WAC, and WAC 16-160-060.

(16) "Registrant" means the person registering any material pursuant to the provisions of this chapter.

(17) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used.

NEW SECTION

WAC 16-160-030 REGISTRATION OF MATERIALS. Every material which is manufactured within this state and/or distributed within this state may be registered for use in organic food production if it meets the terms and conditions as set forth in this chapter. Such application shall be made prior to January 1 of each year.

NEW SECTION

WAC 16-160-040 APPLICATION FOR MATERIAL REGISTRATION. Applications for material registration shall be made on a form designated by the department. The form shall include:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(2) The name of the material;

(3) A complete copy of the labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use;

(4) The complete formula of the materials including the active and inert ingredients;

(5) A description of the manufacturing process including all materials used for the extraction and synthesis of the material, if appropriate;

(6) The intended uses of the product;

(7) For pesticides, a full description of the tests made and the results of acute toxicity, chronic toxicity, reproductive effects, teratogenicity tests, mutagenicity tests, carcinogenicity tests, ecological effects, environmental fate and persistence. Similar information on nonpesticide materials must be provided when the data are available; and

(8) Any additional information deemed necessary.

NEW SECTION

WAC 16-160-050 ANNUAL APPLICATION AND INITIAL INSPECTION FEE-- EXPIRATION--CONTINUATION IF RENEWAL APPLICATION MADE. (1) Any person desiring to register a material for organic food production shall file with the director an application and a yearly inspection fee as set forth in WAC 16-160-070 for each material. All registrations expire on December 31st of each year.

(2) If a renewal application has been filed and the yearly inspection fee paid, then the registration of any material which has been approved by the director and is in effect on the 31st day of December continues in full force and effect until the director notifies the applicant that the registration has been renewed, or until it is otherwise denied in accordance with WAC 16-160-090.

NEW SECTION

WAC 16-160-060 CRITERION FOR REGISTERING. (1) The director shall review the information provided under WAC 16-160-040 and shall register the material as an "approved material" if he or she determines that:

(a) Its composition is such as to warrant the proposed claims for it;

(b) Its labeling and other material required to be submitted comply with state and federal laws;

(c) It is composed entirely of "approved" materials as stated in chapter 16-154 WAC or meets the provisions of subsection (2) of this section.

(2) Synthetic materials may be considered for registration by the director if he or she determines that:

(a) The material is judged to be essential to the production of the crop;

(b) The material is less toxic or environmentally hazardous than a naturally derived alternative; and

(c) The use of the material is consistent with the principles of organic farming as set forth in WAC 16-154-020.

NEW SECTION

WAC 16-160-070 INSPECTION. Whenever the department receives an application for registration of materials under this chapter, the department shall conduct an inspection. This inspection may entail a survey of required records, examination of facilities, testing representative samples for prohibited materials, and any other information deemed necessary to the requirements of this chapter.

The applicant or registrant shall pay a yearly inspection fee of three hundred dollars at the time the application for material registration is filed with the director.

Additional inspections, if required, will be billed at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

Additional samples (in addition to one sample provided for), if required shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

NEW SECTION

WAC 16-160-090 REFUSING OR CANCELING REGISTRATION--PROCEDURE.

(1) With regard to the initial registration of a material, if it does not appear to the director that the material is such as to warrant the proposed claims for it or if the material and its labeling and other material required to be submitted do not comply with the provisions of this chapter, he or she shall notify the registrant of the manner in which the material, labeling, or other material required to be submitted fails to comply with the provisions of this chapter or state or federal law so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make corrections, the director shall refuse to register the material.

(2) When evaluating a materials registration renewal application, the director may, when he or she determines that a material or its labeling does not comply with the provisions of this chapter or state or federal law, or if he or she determines that false or inaccurate information was provided by the registrant concerning the material, cancel the registration of a material after a hearing in accordance with the provisions of chapter 34.05 RCW provided that the applicant has otherwise made timely and sufficient application for registration renewal.

(3) During the current registration period of a material, the director may, when he or she determines that a material or its labeling does not comply with the provisions of this chapter or state or federal law, or if false or inaccurate information was provided by the registrant concerning the registered material, cancel the registration of such material after a hearing in accordance with the provisions of chapter 34.05 RCW.

NEW SECTION

WAC 16-160-100 LABELING OF REGISTERED MATERIALS. Persons who apply under this program and whose material is registered as an "approved material" will be allowed to use the words, "approved material under Washington state department of agriculture organic food program" in their labeling. Registration as an "approved material" by no means implies the Washington department of agriculture endorses the use of such product.