



**RULE-MAKING ORDER**  
**(RCW 34.05.360)**

*Adm Or. 5070*

**CR-103** (10/1/89)

**Agency:** Department of Agriculture

- Permanent Rule
- Emergency Rule

**(1) Date of adoption:** June 19, 1995

**(2) Purpose:** To amend chapter 16-164 WAC and bring it up to date with currently accepted organic food handling standards

**(3) Citation of existing rules affected by this order:** Chapter 16-164 WAC

- Repealed:
- Amended: Chapter 16-164 WAC
- Suspended:

**(4) Authority for adoption:** Chapter 15.86 RCW

- Statute:
- Other Authority:

**(5.1) PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 95-10-99 on May 3, 1995 (date).

Describe any changes other than editing from proposed to adopted version: No changes

**(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 USE ONLY  
STATE OF WASH. "IMMEDIATE"  
FILED

JUN 8 0 1995

TIME: 12:23  
WSR: 95-13-013

**Name (Type or Print)**

Jim Jesernig

**Signature**

**Title**

Director

**Date**

6/19/95

Chapter 16-164 WAC

STANDARDS FOR THE CERTIFICATION OF ((PACKERS)) HANDLERS OF  
ORGANIC FOOD

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-010 Purpose.** This chapter is promulgated pursuant to RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act and pursuant to RCW 15.86.070 wherein the director is authorized to establish a certification program for processors and vendors of organic food products. This chapter provides standards for the certification of ((packers)) handlers of organic food products, including packers and vendors.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-020 Definitions.** As used in this chapter:

(1) "Approved" means any material or practice which meets the required criteria or standards for use in the ((packing)) handling of organic agricultural products.

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

(3) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(4) ~~("Material" means any substance or mixture of substances that is used in the packing of organic agricultural products.~~

~~(5) "Packing facility" includes but is not limited to any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food products are prepared, handled, packaged, or repackaged in any manner for eventual sale or distribution for eventual sale to the ultimate consumer.~~

~~(6) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any other member, officer, or employee thereof or assignee for the benefit of creditors.~~

~~(7) "Packer" means any person who receives any organic food product, either through gaining possession or through providing a service, from a producer or other party and packages or repackages that food product.~~

(8) "Prohibited" means any material practice which is disallowed in the packing of organic agricultural products.

(9) "Packing" means to wrap, box, or put together raw or processed organic food in a container, box, or package in preparation for sale.) "Facility" includes, but is not limited to, any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food products are prepared, handled, packaged, or repackaged in any manner for eventual sale or distribution for eventual sale to the ultimate consumer.

(5) "Handler" means any person who sells, distributes, or packs organic food products.

(6) "Material" means any substance or mixture of substances that is used in the handling of organic agricultural products.

(7) "Organic food product" means any food product, including fruit, vegetable, meat, dairy, beverage and grocery, that is marketed using the term organic or any derivative of the term organic in its labeling or advertising.

(8) "Packer" means any person who receives any organic food product, either through gaining possession or through providing a service, from a producer or other party and packages or repackages that food product.

(9) "Packing" means to wrap, box, or put together raw or processed organic food in a container, box, or package in preparation for sale.

(10) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any other member, officer, or employee thereof or assignee for the benefit of creditors.

(11) "Processed organic food" means food that in whole or in part is organically grown and which in its processing has not been treated with synthetically or artificially derived preservatives, colorings, flavorings, or any other artificial or synthetic additive, except as otherwise approved for use under chapter 16-158 WAC.

(12) "Prohibited" means any material or practice which is disallowed in the handling of organic agricultural products.

(13) "Recognized organic certification agency" means any third-party organization that is accepted by the director as being one which verifies compliance with standards consistent with chapter 15.86 RCW or rules adopted thereunder.

(14) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-030 Organic certification of ((packing facilities)) handlers, including packers and vendors.** All ((packers)) handlers who pack, distribute or sell organic food products in Washington state must be certified by ((WSDA)) the department or through a recognized organic certification agency.

except for final retailers of organic food products. Producers who pack or sell only their own product or persons certified as organic processors are not required to obtain certification under this chapter. A ~~((packer))~~ handler seeking certification must complete an application for certification and submit it with the required fee to the department of agriculture.

Upon approval of the application by the director ~~((and an inspection finds the applicant in compliance with the provisions of this chapter,))~~ the applicant ~~((may))~~ shall be issued an organic ~~((packer))~~ food handler certification.

#### NEW SECTION

**WAC 16-164-035 Application for certification--Expiration date.** Organic food handlers, except for final retailers, must apply to the department for organic food certification on an annual basis. The application deadline is March 1. The application, accompanied by the appropriate fee shall be submitted to the department on forms furnished by the department. Organic food handler certificates shall expire on March 31st of the year following their issuance.

Applications made after the set deadline may be processed as the department can schedule the initial inspections, provided that the handler pay a late fee of fifty dollars.

Except for final retailers of organic food products, it shall be unlawful for any handler to represent, label, or sell organic food products without having obtained an annual organic food handler certificate.

#### AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

##### **WAC 16-164-040 Standards for ~~((packing facilities))~~ handlers.**

(1) Identification: All organic food products must be clearly identified at all times with appropriate labeling on all boxes, bins, bags, or other containers that contain organic food products.

(2) Storage: All organic food products in a ~~((packing))~~ facility must be stored so that there is no cross contamination from or confusion with nonorganic food products.

Insect and rodent control programs must be in place for organic product storage areas. Any materials used in organic product storage areas must be approved for use in organic food production under chapter 16-154 WAC or this chapter.

In areas where entire ~~((packing))~~ facilities are periodically fumigated, the ~~((packer))~~ handler must demonstrate that any fumigants used will not contaminate organic products.

Compounds for cleaning storage areas must be used in a manner that does not contaminate organic food products.

Organic and inorganic food products may be stored in the same storage room as long as there is adequate separation of products and product identification assures no mixing of products.

Storage techniques may be used to alter the nitrogen, oxygen, and carbon dioxide levels in the storage room atmosphere ((regarding nitrogen, oxygen, and carbon dioxide)). Organic food products shall not be stored in controlled atmosphere storage with diphenylamine treated food products.

(3) ((Packing)) Handling of organic food products:

All packaging and products must be free of fungicides, preservatives, fumigants, and any other materials which are prohibited for use on organic food products under chapter 16-154 WAC or this chapter.

All water used in ((packing)) handling must be potable and comply with all local, state, and federal guidelines for potable water.

Cleaning and sanitizing must be done with appropriate cleansers and sanitizers that will ensure clean and sanitary facilities and do not leave any residues of cleansers or sanitizers on the organic food products.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-060 Recordkeeping requirements.** All organic food must be completely followed by an audit control system.

~~((Packers must keep records of products bought and sold that will enable the department to trace food products from the farm to the market. Such records must include but are not limited to, invoices, bills of lading, and grower affidavits of incoming raw product; repack data and production run reports; and invoices and bills of lading of products shipped out. These records must be kept for a minimum of two years. The audit control must be complete enough so that any product suspected of contamination can be immediately traced from point of origin to buyer.~~

~~All packers of organic food products shall have available to the department the following documents and information:~~

~~(1) List of organic growers for whom it packed organic food products in the previous year with the following information for each grower:~~

- ~~(a) Grower's name;~~
- ~~(b) Certified organic producer number;~~
- ~~(c) Copy of the grower's organic food certificate;~~
- ~~(d) Lot number or numbers assigned to grower;~~
- ~~(e) Number of bins (flats, lbs., etc.) received;~~
- ~~(f) Number of boxes (flats, lbs., etc.) packed as organic;~~
- ~~(g) Number of boxes (flats, lbs., etc.) sold as organic; and~~
- ~~(h) Amount paid to grower.~~

~~(2) Information concerning total organic sales for the facility:~~

- ~~(a) Total bins (flats, lbs., etc.) received as organic;~~
- ~~(b) Total boxes (flats, lbs., etc.) packed as organic;~~
- ~~(c) Pounds of culls sold as organic; and~~

~~(d) Value of organic product sold.~~

~~(3) List of organic growers for whom it will be receiving organic food products for the current year with the following information for each grower:~~

~~(a) Growers name;~~

~~(b) Certified organic producer number;~~

~~(c) Copy of organic food producer certificate;~~

~~(d) Lot number assigned to grower; and~~

~~(e) Number of bins (flats, lbs., etc.) you expect to receive.~~

~~(4)) (1) Handlers must keep records of products bought and sold that will enable the department to trace food products from receiving through sale. Such records must include but are not limited to, invoices, bills of lading, and grower affidavits of incoming raw product; repack data and production run reports; and invoices and bills of lading of products shipped out.~~

~~(2) All handlers of organic food products shall have available to the department the following documents and information:~~

~~(a) For organic food products obtained directly from producers a copy of their organic food producer certificate. All organic food producer certificates shall be from recognized organic certification agencies.~~

~~(b) For organic food products obtained from another handler, a copy of that handler's organic food handler certificate, or, for handlers which are not certified, a copy of the certificate for each organic food product obtained from that handler. All organic food certificates shall be from recognized organic certification agencies.~~

~~(c) For processed organic food products a copy of the organic food processor certificate or, if the processor is not certified, a copy of a certification verification form must be on file. Certification verification forms shall include the percentage of organic ingredients contained in each product, a list of all organic ingredients, and the certification organization(s) of those ingredients. All organic food certificates shall be from recognized organic certification agencies.~~

~~(d) Recordkeeping that allows for the tracking of product from receiving through sale. Records must be kept for a minimum of two years except for final retailers which must keep records for a minimum of six months.~~

~~(e) All paperwork and labels associated with organic food products must clearly indicate that the product is an organic product.~~

~~(3) Except for applications for organic ((packer)) handler certification or lab analysis pertaining to that certification, the department shall keep confidential any business related information obtained under this chapter concerning an entity certified under this chapter or an applicant for such certification and such information shall be exempt from public inspection and copying consistent with RCW 15.86.110 and 42.17.310 (1)(dd).~~

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-070 Inspections.** The director shall make at least one inspection and any additional inspections deemed necessary to each ((~~packer~~)) handler and/or each ((~~packing~~)) facility each year to determine compliance with this chapter and chapter 15.86 RCW and rules adopted pursuant to chapter 15.86 RCW. Inspections of ((~~packers~~)) handlers with multiple facilities shall entail at least one inspection at each ((~~packing~~)) facility which handles organic food products and at least one inspection of the offices ((~~of the packer~~)) where records are kept.

This inspection may entail a survey of required records, examination of ((~~packing~~)) facility and storage areas, and any other information deemed necessary by the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-080 Sampling.** A representative sample of the product packed, sold or distributed by the ((~~packer~~)) handler may be tested for residues of prohibited materials whenever the director deems it necessary for certification or maintenance of certification.

It shall be the ((~~packer's~~)) handler's responsibility to arrange for and bear the costs for any testing which is deemed necessary by the director.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-090 Decertification.** Whenever the director finds that a ((~~packer~~)) handler who has been certified under this program has:

(1) Violated the standards for certification which are set forth in RCW 15.86.030 or any rules adopted under chapter 15.86 RCW;

(2) Filed an application for certification which is false or misleading in any particular;

(3) Violated any of the provisions of this chapter; or

(4) Failed to provide records as required by WAC 16-164-050 or rules adopted under chapter 15.86 RCW;

The director may issue an order suspending or revoking that ((~~packer's~~)) handler's certification under this program or he may issue an order directing the ((~~packer~~)) handler to take other appropriate action to correct the violation. If appropriate action is taken, the ((~~packer~~)) handler may be returned to its previous status under the program.

Any (~~packer~~) handler who has received notice that its certification may be suspended or revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 92-17-018, filed 8/7/92, effective 9/7/92)

**WAC 16-164-100 Fee schedule.** (1) The cost per application shall be based on the following fee schedule. Gross value shall be (~~calculated~~) based (~~upon~~) on the previous calendar year's sales of organic food products (~~to the first buyer after packing or repacking~~). First year applicants shall base gross (~~sales~~) value on an estimate of the value of organic food products which will be (~~packed~~) handled at the facility. In the event that first year sales of organic food products exceed the estimate, WSDA may bill the (~~packer~~) handler for the additional application fee. The appropriate fee shall accompany the application.

FEE SCHEDULE

Gross value of products		FEE
sales under	\$25,000	\$75
25,000 -	50,000	150
50,000 -	75,000	225
75,000 -	100,000	300
100,000 -	200,000	400
200,000 -	300,000	500
300,000 -	400,000	600
400,000 -	500,000	700
500,000 -	750,000	900
750,000 -	1,000,000	1,000
1,000,000 -	1,250,000	1,250
1,250,000 -	1,500,000	1,500
1,500,000 -	2,000,000	2,000
2,000,000 -	2,500,000	2,500
2,500,000 -	3,000,000	3,000
3,000,000 -	4,000,000	3,500
4,000,000 -	5,000,000	4,000
5,000,000 -	6,000,000	5,000
6,000,000 -	7,000,000	6,000
7,000,000 -	8,000,000	7,000
8,000,000 -	9,000,000	8,000
9,000,000 -	10,000,000	9,000
over	10,000,000	10,000

(2) Additional inspections (in addition to two inspections provided for), if necessary or requested, shall be at the rate of thirty dollars per hour plus mileage set at the rate established by the state office of financial management. Out-of-state inspections, if necessary or requested, shall be at the rate of thirty dollars per hour plus transportation costs.

(3) Samples and analysis for prohibited materials, if required for certification or maintenance of certification by the director,



or requested by the ((~~packer~~)) handler, shall be charged to the ((~~packer~~)) handler at a rate established by the laboratory services division of the department of agriculture. If an additional visit must be arranged to obtain a sample, it shall be at the rate of thirty dollars per hour plus mileage set at the rate established by the state office of financial management.