

# Chapter 16-623 WAC

## COMMISSION MERCHANT ACT—LICENSING FEES, PROOF OF PAYMENT, CARGO MANIFESTS AND REGISTRATION OF ACREAGE COMMITMENTS

### WAC

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**WAC 16-623-001 Purpose.** The purpose of this chapter is to implement and clarify selected portions of chapter 20.01 RCW. This chapter addresses four topics.

- (1) Licensing fees and requirements for commission merchants, dealers, brokers, cash buyers or agents.
- (2) Recordkeeping and proof of payment requirements for licensees.
- (3) Cargo manifests and shipping documents that accompany hay and straw during transportation.
- (4) Rules governing the registration of processor acreage commitments made to producers of annual crops.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-001, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-001, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-001, filed 10/30/00, effective 11/30/00.]

**WAC 16-623-005 Definitions.** In addition to the definitions listed in RCW 20.01.010, the following definitions are important to understanding this chapter:

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or their designee.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-005, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-005, filed 4/20/05, effective 5/21/05.]

**WAC 16-623-010 License requirements.** (1) The following table summarizes the license fee requirements for commission merchants, dealers, brokers, cash buyers, or agents:

License Class	License Fee	Annual Expiration Date	Annual Renewal Date	Penalty Amount for Not Renewing Before January 1
Commission merchant	\$605.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Dealer	\$605.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Limited dealer	\$335.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Broker	\$405.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Cash buyer	\$135.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Agent	\$66.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees
Additional license per class	\$25.00	December 31	Before January 1	A late renewal penalty of twenty-five percent of the total fees

(2) A licensee can be licensed in more than one class for an additional fee of twenty-five dollars per class. The principal license must be in the class requiring the greatest fee and all requirements must be met for each class in which a license is being requested.

(3) All fees and penalties must be paid before the department issues a license.

(4) Applications for licenses are considered incomplete unless an effective bond or other acceptable form of security is filed with the director.

(5) Licenses may be obtained by contacting the department's agricultural investigations program at 360-902-1854 or e-mail at: [commerch@agr.wa.gov](mailto:commerch@agr.wa.gov). Application forms, bond forms, and forms for securities in lieu of a surety bond

are available on the department's web site at: <http://www.agr.wa.gov/Inspection/CommissionMerchants/>.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-010, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2009 c 564. WSR 09-20-047, § 16-623-010, filed 10/1/09, effective 11/1/09. Statutory Authority: Chapters 20.01 and 34.05 RCW. WSR 07-13-097, § 16-623-010, filed 6/20/07, effective 7/21/07. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-010, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-010, filed 10/30/00, effective 11/30/00.]

#### **WAC 16-623-015 Securities in lieu of a surety bond.**

An applicant or licensee may file an assignment of savings or irrevocable letter of credit with the director in lieu of a surety bond. These instruments are subject to the same requirements and provisions as bonds stated in RCW 20.01.210, 20.01.211, and 20.01.212.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-015, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-015, filed 4/20/05, effective 5/21/05.]

#### **WAC 16-623-020 Recordkeeping requirements for commission merchants, dealers, brokers and cash buyers.**

Every commission merchant, dealer, broker and cash buyer must keep accurate records. The recordkeeping requirements for:

- (1) Commission merchants are specified in RCW 20.01.-370;
- (2) Dealers and cash buyers are specified in RCW 20.01.380; and
- (3) Brokers are specified in RCW 20.01.400.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-020, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-020, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-020, filed 10/30/00, effective 11/30/00.]

#### **WAC 16-623-030 Cargo manifest requirements for transporting hay and straw.**

(1) All commission merchants, dealers, their employees or licensed agents must have a copy of the cargo manifest with each load when transporting hay or straw on equipment owned or under their control.

(2) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by either the Washington public utilities and transportation commission or interstate commerce commission instead of the department form described in subsection (5) of this section.

(3) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use shipping documents other than the department form described in subsection (5) of this section if they have been reviewed and authorized by the department before their use.

(4) Unless the exceptions in subsections (2) and (3) of this section apply, the manifest must be on a form prescribed by the director which is available from the department.

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(5) At a minimum, the form requires the following information:

- (a) Purchaser's name and address;
- (b) Hauler's name and address;
- (c) Business or person the products were received from and their address;
- (d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity;
- (e) Terms of the settlement;
- (f) Date;
- (g) Signature of the licensee or their agent; and
- (h) Signature of the consignor or their authorized representative.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-030, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-030, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-030, filed 10/30/00, effective 11/30/00.]

#### **WAC 16-623-040 Reporting a processor's plant capacity.**

(1) According to RCW 20.01.510, a processor must report the daily total capacity in tons, cases or other legal and customary measure for:

- (a) Each crop; and
  - (b) All plants that process any Washington agricultural product.
- (2) For each processing plant reported, the report must include the:
- (a) Name;
  - (b) Site address;
  - (c) Business address; and
  - (d) Name of the person(s) who may receive legal service.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-040, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-040, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-040, filed 10/30/00, effective 11/30/00.]

#### **WAC 16-623-050 Notification requirements for grower-processor commitments.**

(1)(a) Within ten days after a commitment with a processor is made, a grower must notify the director that they have an oral commitment for a specified amount of product.

(b) The grower's notification to the director must be in writing and sent by certified mail to the Washington State Department of Agriculture, c/o the Agricultural Investigations Program, P.O. Box 42560, Olympia, Washington 98504-2560.

(2) Once the grower's notification is received, the director has five days to notify the processor by certified mail.

(3) Regardless of whether or not the processor confirms the director's notice, the processor must simultaneously notify the director and grower, by certified mail, within ten days of receipt of the director's notice.

(4) The processor may accept all, none, or any portion of the acreage and/or tonnage stated in the notice.

(5) Once the oral commitment is confirmed for all or for a portion of the acreage and/or tonnage, the processor is committed to receive the acreage or tonnage specified.

(9/12/12)

(6) If the contract is the processor's standard contract and the terms of the contract, price or other conditions later offered to the grower are unacceptable to the grower, then the agreement is not binding upon the processor.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-050, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-050, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-050, filed 10/30/00, effective 11/30/00.]

**WAC 16-623-060 Establishing contract volumes.** For contracts purchasing the production of a specific number of acres, the:

(1) Amount contracted for will be based on the crop yield for the comparable area for the most recent five-year average; and

(2) Crop yield will be determined by using data from the USDA's National Agricultural Statistics Service.

[Statutory Authority: RCW 20.01.020, 20.01.040, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-031, § 16-623-060, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 20.01 and 34.05 RCW, 2003 1st sp.s. c 25. WSR 05-09-094, § 16-623-060, filed 4/20/05, effective 5/21/05. Statutory Authority: RCW 20.01.040, [20.01.]125, [20.01.]370, [20.01.]380, [20.01.]410, [20.01.]510. WSR 00-22-071, § 16-623-060, filed 10/30/00, effective 11/30/00.]