

Chapter 16-157 WAC

ORGANIC FOOD STANDARDS AND CERTIFICATION

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-157-100 Land requirements. [Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-100, filed 4/29/02, effective 5/30/02.] Repealed by WSR 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-110 Records. [Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-110, filed 4/29/02, effective 5/30/02.] Repealed by WSR 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-120 Organic mushroom standard. [Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-120, filed 4/29/02, effective 5/30/02.] Repealed by WSR 18-03-154, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 15.86.060(1), [15.86.]065(3) and chapter 34.05 RCW.

16-157-200 Application for certification. [Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-200, filed 4/29/02, effective 5/30/02.] Repealed by WSR 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

16-157-220 Producer fee schedule. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-220, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapters 15.86 and 34.05 RCW. WSR 05-22-055, § 16-157-220, filed 10/28/05, effective 11/28/05. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-220, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-220, filed 4/29/02, effective 5/30/02.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-230 Processor fee schedule. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-230, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-230, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-230, filed 4/29/02, effective 5/30/02.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-240 Handler fee schedule. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-240, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-240, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-240, filed 4/29/02, effective 5/30/02.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-245 Retailer fee schedule. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-245, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-245, filed 1/10/03, effective 2/10/03.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-250 Inspections. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-250, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-250, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-250, filed 4/29/02, effective 5/30/02.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-270 Organic food processor and handler certification and use of logos. [Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-270, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-270, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-270, filed 4/29/02, effective 5/30/02.] Repealed by WSR 19-01-062, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060 and 15.86.070.

16-157-280 Decertification. [Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-280, filed 4/29/02, effective 5/30/02.] Repealed by WSR 03-03-044, filed 1/10/03, effective 2/10/03. Statutory Authority: Chapter 15.86 RCW.

WAC 16-157-010 Purpose. This chapter is adopted under RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act, and under RCW 15.86.070 wherein the director is authorized to adopt rules establishing a certification program for producers, processors, and handlers of organic and transitional products.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-010, filed 12/14/18, effective 1/14/19; WSR 06-23-108, § 16-157-010, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-010, filed 4/29/02, effective 5/30/02.]

WAC 16-157-020 Adoption of the National Organic Program. The Washington state department of agriculture adopts the standards of the National Organic Program, 7 C.F.R. Part 205, effective August 7, 2017, for the production and handling of organic crops, livestock, and processed agricultural products. The National Organic Program rules may be obtained from the department by emailing the organic program at organic@agr.wa.gov, by phone at 360-902-1805 or accessing the National Organic Program's web site at <https://www.ams.usda.gov/rules-regulations/organic>.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-020, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060(1), [15.86.]065(3) and chapter 34.05 RCW. WSR 18-03-154, § 16-157-020, filed 1/23/18, effective 2/23/18. Statutory Authority: Chapter 15.86 and 34.05 RCW. WSR 09-15-152, § 16-157-020, filed 7/21/09, effective 8/21/09. Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-020, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapters 15.86 and 34.05 RCW. WSR 04-24-015, § 16-157-020, filed 11/22/04, effective 12/23/04. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-020, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-020, filed 4/29/02, effective 5/30/02.]

WAC 16-157-030 Definitions. As used in this chapter: "Department" means the Washington state department of agriculture.

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

"Facility" includes, but is not limited to, any premises, plant, establishment, facility and associated appurtenances where organic products are prepared, handled, or processed in any manner for resale or distribution to retail outlets, restaurants, and any other such facility selling or distributing to consumers.

"Gross annual income" means the total monetary value received during the previous calendar year.

"Handler" means any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production.

"Handling operation" means any operation or portion of an operation that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

"New applicant" means any person who applies for organic certification for the first time, or any person who has surrendered an organic certification or had an organic certification suspended or revoked.

"Person" means any individual, partnership, limited liability company, association, cooperative, or other entity.

"Processor" means any handler engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, slaughtering or otherwise processing organic products.

"Producer" means a person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

"Production operation" means a farm, ranch, or other business that grows, gathers, or raises crops, wild crops, or livestock.

"Renewal applicant" means any person that has received organic certification from the department in the previous year.

"Retailer" means any handler that sells organic food products directly to consumers.

"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.

"Site" means a contiguous defined field, orchard, block, pasture, paddock, garden, circle, plot or other designated area under the same management practices (e.g., organic, transitional).

"Transitional product" means any agricultural product that (a) is marketed using the term transitional in its labeling and advertising and (b) satisfies all of the requirements of organic except that it has had no applications of prohibited substances within one year prior to the harvest of the crop.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-030, filed 12/14/18, effective 1/14/19; WSR 06-23-108, § 16-157-030, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-030, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-030, filed 4/29/02, effective 5/30/02.]

WAC 16-157-210 Confidentiality. Except for applications and laboratory analyses submitted for certification under this chapter, the department keeps confidential any business-related information obtained under this chapter. All

business-related information submitted to the department under this chapter is exempt from public inspection and copying consistent with RCW 15.86.110 and 42.56.210.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-210, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-210, filed 4/29/02, effective 5/30/02.]

WAC 16-157-215 General requirements for certification. (1) Except for operations exempt or excluded in the National Organic Program (7 C.F.R. 205.101), each production or handling operation or specified portion of a production or handling operation must be certified if it produces or handles crops, livestock, livestock products, or other agricultural products intended to be sold, labeled, or represented as "one hundred percent organic," "organic," or "made with organic (specified ingredients or food group(s))."

(a) If you have an operation that meets the definition of "production operation," you must be certified as a producer.

(b) If you have an operation that meets the definition of "handling operation," you must be certified as a handler or processor unless you are a certified producer who cleans, washes, grades, dries, packages, transports, or does similar preparation of your own production.

(c) If you are a certified producer who changes crops, wild crops, or livestock products of your own production into new distinct products by physically, chemically, or otherwise changing the original product, you must also be certified as a processor.

(2) If you are seeking to receive or maintain organic certification, you must submit an application on forms approved by the department.

(a) Application forms must be submitted by an authorized representative of the business operation and must be accompanied by the appropriate fees in order to be considered.

(b) Application forms are available upon request from the department.

(3) If you are a new applicant, you must include a complete organic system plan with your application.

(4) If you are a certified operation, you must submit an update to your organic system plan on an annual basis. Certified operations may be required by the department to submit a new complete organic system plan whenever there are significant changes to the operation.

(5) Applications for certification must include a list of all organic products produced and/or handled, including site information, sample labels, and complete product profiles for each distinctly labeled organic product.

(a) Certified operations must not use an organic label or make organic claims for any product not included in the operation's organic system plan.

(b) Certified operations may request the addition of new production sites to their organic or transitional certification by submitting maps and complete site applications to the department.

(c) Certified operations may request the addition of new products to their organic certification by submitting sample labels and complete product profiles to the department where applicable.

(d) Product profiles must include a complete list of ingredients in the product and processing aids used in manufacturing the product.

(6) Certified operations that do not submit a renewal application and fees to continue certification or do not comply annually with 7 C.F.R. 205.406 may have their certification suspended.

(7)(a) The director shall make one or more inspections per year of each new and renewal applicant to determine compliance with this chapter and chapter 15.86 RCW.

(b) Each separate primary location or facility must receive an annual on-site inspection. The annual on-site inspection includes an audit of required records, examination of production sites, facilities and storage areas, and inspection of any other information deemed necessary by the requirements of this chapter or the National Organic Program, 7 C.F.R. Part 205.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-215, filed 12/14/18, effective 1/14/19; WSR 06-23-108, § 16-157-215, filed 11/17/06, effective 12/18/06.]

WAC 16-157-251 Certification fee schedule. (1) Producers and handlers of organic products must submit an application packet and fees to the department each year to receive or maintain certification.

(a) **New applicant fee:** A new application fee of three hundred seventy-five dollars must be submitted with each new application.

(b) **Renewal fee:** A renewal fee must be submitted annually by March 1st with each renewal application. Renewal fees for producers, handlers, and processors are assessed based on the gross annual income received by the operation for the production or handling of organically certified products. The renewal fee is based on the following fee schedule:

GROSS ANNUAL INCOME RECEIVED FROM ORGANIC PRODUCTS IN PREVIOUS CALENDAR YEAR	RENEWAL FEE DUE ANNUALLY ON MARCH 1st
\$ 0 - \$25,000	\$137.50
\$25,001 - \$50,000	\$275.00
\$50,001 - \$75,000	\$412.50
\$75,001 - \$100,000	\$550.00
\$100,001 - \$150,000	\$825.00
\$150,001 - \$200,000	\$1,100.00
\$200,001 - \$250,000	\$1,375.00
\$250,001 - \$300,000	\$1,512.50
\$300,001 - \$400,000	\$1,787.50
\$400,001 - \$500,000	\$2,062.50
\$500,001 - \$750,000	\$2,406.25
\$750,001 - \$1,00,000	\$2,750.00
\$1,000,001 - \$1,500,000	\$3,437.50
\$1,500,001 - \$2,000,000	\$4,125.00
\$2,000,001 - \$3,000,000	\$5,500.00
\$3,000,001 - \$4,000,000	\$6,875.00

(12/14/18)

GROSS ANNUAL INCOME RECEIVED FROM ORGANIC PRODUCTS IN PREVIOUS CALENDAR YEAR	RENEWAL FEE DUE ANNUALLY ON MARCH 1st
\$4,000,001 - \$5,000,000	\$8,250.00
\$5,000,001 - and up	\$8,250 plus 0.1375% of income over \$5,000,000

(i) The maximum renewal fee shall not exceed twenty-five thousand dollars per primary facility or location.

(ii) The minimum renewal fee is four hundred twelve dollars and fifty cents for operations with more than: Twenty-five acres in production (excluding fallow, pasture, hay, haylage, and silage), or more than five production sites, or more than fifteen products.

(iii) Operations certified to the retailer scope are exempt from the gross annual income assessment and are charged a one thousand five hundred dollar renewal fee per retail location or facility.

(iv) Renewal applications and fees submitted after March 1st must include a late fee in addition to the renewal fee.

If a renewal application is submitted after March 1st but before:	The late fee is:
April 1st	\$100.00
May 1st	\$200.00
June 1st	\$300.00
July 1st	\$400.00
August 1st	\$500.00
September 1st	\$600.00

(c) **Inspection fee:** An inspection fee must be submitted after each annual and announced additional inspection conducted by the department. The inspection fee is the sum of the fees associated with the scopes of the inspection. Inspection fees are based on the following fee schedule:

INSPECTION SCOPE	INSPECTION FEE
Crop producer	\$375
Livestock producer	\$250
Wild crop producer	\$100
Handler, processor, or retailer	\$500

(i) Operations with a producer scope plus either the handler or processor scope and less than two hundred fifty thousand dollars in gross annual income qualify for a three hundred dollar reduction in their inspection fee.

(ii) Each primary location or facility must receive an annual on-site inspection. In the event more than one primary location or facility is included under one certification, the operation will be charged an inspection fee per primary location or facility.

(iii) Additional announced inspections, if necessary to determine compliance or requested by the operation, will be charged to the new applicant or certified operation per the

inspection fee table. Unannounced inspections conducted by the department are not charged an inspection fee.

(iv) Out-of-state inspections, if necessary to determine compliance or requested by the operation, shall be charged five hundred dollars plus associated travel costs in addition to the inspection fee.

(2) New and renewal applicants may request additional evaluations throughout the year. A fee is charged to the operation based on the service requested.

(a) **New scope:** The request to add a new scope of certification will be charged to the certified operation at a rate of one hundred dollars per new organic system plan submitted.

(b) **New site application:** Each new site application submitted by a renewal applicant after March 1st will be charged forty dollars per application.

(c) **Land assessment:** A fee of one hundred dollars per inspection will be charged to a renewal applicant when an evaluation of one or more production sites is part of an inspection. The land assessment fee does not apply to the annual examination of a renewal applicant's existing certified sites.

(d) **New product application:** A rate of forty dollars per handled or single ingredient processed product and a rate of sixty dollars per multi-ingredient processed product is charged to evaluate a new handled or processed product for certification. Product fees are not required when products are submitted with a new application packet.

(e) **New facility:** Certified operations are charged a fee of one hundred dollars per request to evaluate an additional facility.

(f) **Expedited services:** New and renewing applicants may request expedited services. Expedited services are defined as inspections and reviews conducted outside of the normal timelines and may be provided by the department if sufficient staff is available to expedite the work.

(i) Expedited services that do not require an inspection are charged a rate of five hundred dollars to receive an evaluation and certification decision within five business days from the acceptance of the request.

(ii) Expedited services requiring an inspection prior to a certification decision are charged a rate of seven hundred fifty dollars to receive an inspection on an expedited and agreed upon timeline that takes the crop harvest or anticipated production or handling dates into consideration. The review of the inspection report will be completed within five business days from the date of the inspection. The expedite fee is in addition to the inspection fee outlined under the certification fee schedule.

(g) **Mediation fee:** A five hundred dollar fee plus the cost of a formal mediator, if applicable, will be charged to a new or renewal applicant when mediation is accepted by the department.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-251, filed 12/14/18, effective 1/14/19.]

WAC 16-157-255 Sampling. A representative sample of any organic product may be tested for pesticide or other contaminants whenever the director deems it necessary for organic certification or maintenance of organic certification. Sample analysis is provided under the application and certification fees.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-255, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-255, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-255, filed 4/29/02, effective 5/30/02.]

WAC 16-157-260 Organic and transitional certification and the use of logos. (1) The director must review the application, inspection report, and results of any samples collected to determine if a producer, handler, processor, or retailer has complied with the conditions for organic or transitional certification. A certificate will be issued when the director determines that the operation has complied with the conditions for initial or continued organic or transitional certification.

(2) Organic producers, handlers, processors, and retailers certified under this chapter may use the organic logo, found in WAC 16-157-275, and the USDA organic seal as outlined in 7 C.F.R. Part 205 to identify organically certified products.

(3) Transitional products certified under this chapter may use the transitional logo, found in WAC 16-157-275, to identify transitional products.

(4) The logos found in WAC 16-157-275 may be printed in black and white as displayed in this chapter. Alternatively, a color version with green leaves may be used. Electronic copies of the logos are available by request from the department.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-260, filed 12/14/18, effective 1/14/19; WSR 06-23-108, § 16-157-260, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-260, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-260, filed 4/29/02, effective 5/30/02.]

WAC 16-157-275 Organic and transitional certification logos.





[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-275, filed 12/14/18, effective 1/14/19. Statutory Authority: Chapter 15.86 RCW. WSR 02-10-090, § 16-157-275, filed 4/29/02, effective 5/30/02.]

WAC 16-157-290 Export and transaction certificates. (1) Organic export and transaction certificates are issued to verify that a specific shipment of organic agricultural products has been produced, processed, and handled in accordance with the National Organic Program, 7 C.F.R. Part 205, or a foreign organic standard.

(2) Applications for export and transaction certificates must be submitted on forms furnished by the department. The applicant must furnish all information requested on the application. A separate application must be made for each export and transaction certificate.

(3) The fee for export and transaction certificates is forty dollars per application.

[Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-290, filed 12/14/18, effective 1/14/19; WSR 06-23-108, § 16-157-290, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-290, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-290, filed 4/29/02, effective 5/30/02.]