



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Agriculture	<input checked="" type="checkbox"/> Permanent Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Rule Making
(1) Date of adoption: February 18, 2004	

(2) Purpose: This rule making order repeals chapter 16-449 WAC (Washington Controlled Atmosphere Storage Requirements for Winter Pears), chapter 16-459 WAC (Controlled Atmosphere Storage) and chapter 16-690 WAC (Fruit Storage) and adopts new chapter 16-450 WAC (Controlled Atmosphere Storage Requirements for Washington Fruits and Vegetables) in their place. Chapter 16-450 WAC is written in a clear and readable style that retains the relevant content of the three repealed chapters while eliminating outdated and redundant rule content. No new requirements are introduced into chapter 16-450 WAC.

(3) Citation of existing rules affected by this order:
 Repealed: Chapters 16-449, 16-459 and 16-690 WAC in their entirety
 Amended: None
 Suspended: None

(4) Statutory authority for adoption: Chapter 15.17 RCW and Chapter 34.05 RCW
 Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)
 Adopted under notice filed as WSR 04-01-185 on December 23, 2003.
 Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY
 Under 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 <input checked="" type="checkbox"/> 31 days after filing <input type="checkbox"/> Other (specify) _____*	Emergency Rules <input type="checkbox"/> Immediately <input type="checkbox"/> Later (specify) _____
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)	

Name (Type or Print) Valoria Loveland	
Signature <i>Valoria Loveland</i>	
Title Director	Date February 18, 2004

CODE REVISER USE ONLY

FEB 18 2004

TIME: 10:20
WSR: 04-05-117

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

The number of sections adopted at the request of a nongovernmental entity:

	New	0	Amended	0	Repealed	0
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The number of sections adopted in the agency's own initiative:

	New	19	Amended	0	Repealed	20
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	19	Amended	0	Repealed	20
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The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	19	Amended	0	Repealed	20

Chapter 16-450 WAC

CONTROLLED ATMOSPHERE STORAGE REQUIREMENTS FOR WASHINGTON FRUITS
AND VEGETABLES

NEW SECTION

WAC 16-450-005 What definitions are important to this chapter? "Department" means the Washington state department of agriculture (WSDA).

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

"Person" means an individual, firm, partnership, corporation, or association.

"CA number" means the license number assigned to a facility by the director.

NEW SECTION

WAC 16-450-010 What are "controlled atmosphere fruits and vegetables"? "Controlled atmosphere fruits and vegetables" are fruits and vegetables that are:

(1) Inspected by the director of the Washington state department of agriculture (WSDA) or the director's designee;

(2) Stored in containers or subcontainers marked with a CA number and either a dated state lot number or a sequential state lot number; and

(3) Identified by a certificate documenting:

(a) Their quality and condition;

(b) That they have been stored in a CA facility licensed according to the requirements of this chapter; and

(c) That they comply with all of the requirements of this chapter.

NEW SECTION

WAC 16-450-012 Where must the letters "CA" appear? The letters "CA" or a similar designation must appear only on containers or subcontainers of fruits or vegetables that comply with the requirements of this chapter.

NEW SECTION

WAC 16-450-014 When must controlled atmosphere fruit enter commercial trade channels? (1) Controlled atmosphere (CA) fruits or vegetables must enter commercial trade channels within two weeks following a CA inspection and certification.

(2) If the CA fruits and/or vegetables do not enter commercial channels within the two weeks following a CA inspection and certification, they must be reinspected to meet controlled atmosphere conditions and maturity requirements before they are shipped.

NEW SECTION

WAC 16-450-016 What is controlled atmosphere storage? (1) Controlled atmosphere storage is an area of one or more rooms in a facility where atmospheric gases are controlled by amount and degrees of temperature.

(2) The purpose of a controlled atmosphere storage area is to control the condition and maturity of any fresh fruits or vegetables stored there so when those fruits and vegetables are removed from storage they can be designated as having been exposed to controlled atmosphere.

NEW SECTION

WAC 16-450-020 Is a license required to operate or lease a controlled atmosphere storage facility in Washington state? (1) Before any person can operate or lease a controlled atmosphere storage facility, they must obtain a license from the department. These are annual licenses that expire each year on August 31.

(2) When the WSDA director issues a controlled atmosphere storage facility license, the licensee receives a facility number

preceded by the letters "WN CA" or "WA CA."

(a) These letters and numbers are the "CA number" of the storage facility.

(b) This CA number verifies that the fruits or vegetables meet the requirements for controlled atmosphere storage.

(c) This CA number must appear on all containers, after they are certified, in which CA fruits or vegetables are packed.

NEW SECTION

WAC 16-450-022 How can I obtain a license to operate or lease a controlled atmosphere storage facility in Washington state? (1) To apply for a license, you must complete and submit WSDA form 6074 (Application for a Controlled Atmosphere License) to the department.

(2) You can obtain this form (and any others required by this chapter) by *writing*:

WA State Department of Agriculture
Commodity Inspection Division
Fruit & Vegetable Inspection Program
P.O. Box 42560
Olympia, WA 98504;

Or *calling* 360-902-1828 or *faxing* 360-902-2085 or *on-line* at agr.wa.gov.

(3) Your application for an annual license to operate a controlled atmosphere storage warehouse or warehouses must be accompanied by an annual license fee of five dollars per room, with a minimum fee of twenty-five dollars for five rooms or less.

NEW SECTION

WAC 16-450-024 When must I apply for a license to operate or lease a controlled atmosphere storage facility in Washington state? You must apply for your initial license before September 1 of any given year. Once issued, your license is valid for one year and must be renewed each year on or before August 31.

NEW SECTION

WAC 16-450-026 Can I renew my license after August 31? (1)

You can renew your license after August 31 but such a renewal is considered "late." Late renewals are regulated by RCW 15.30.070, which requires that you pay your original license fee plus a late renewal penalty of two dollars and fifty cents.

(2) You do not have to pay a late renewal penalty if you submit an affidavit to the department declaring that you have not operated or leased a controlled atmosphere storage facility since your previous license expired.

NEW SECTION

WAC 16-450-028 What requirements affect all licensed controlled atmosphere storage facility operators? (1)

Every licensed operator or lessee must submit to the manager of their local WSDA fruit and vegetable inspection district a signed, completed copy of WSDA form 6075A (Storage Closing and Inventory - Operator) or a form approved by the director whenever they close a CA room in one of their facilities. The completed form must contain the following information:

- (a) Location of the room;
- (b) Storage room number;
- (c) Date the room was sealed;
- (d) Quantity of loose fruit in the room identified by variety;

and

(e) Quantity of packed fruit in the room identified by variety.

(2) Every licensed operator or lessee must, at least once a day, record the following information on a form approved by the director:

- (a) The percentage of carbon dioxide and oxygen inside the sealed storage area;
- (b) The temperature inside the sealed storage area; and
- (c) The time the percentages and temperature were measured.

(3) WSDA fruit and vegetable inspectors have the right to audit the forms required in this section. Upon completing an audit, the inspector must report their audit results on WSDA form 6076 (Audit of Daily Log) or a form approved by the director.

(4) All Standard and Red Delicious apple varieties must be stored in sealed controlled atmosphere storage on or before December 15 of each year to qualify and be identified as Washington controlled atmosphere storage apples.

(5) For auditing purposes, all licensed operators must notify their local WSDA inspection office before they open any controlled atmosphere storage rooms or before they pack any controlled atmosphere storage fruit.

NEW SECTION

WAC 16-450-032 Violations of this chapter and/or chapter 15.30 RCW. Any willful violation of either chapter 15.30 RCW or this chapter by any controlled atmosphere operator or lessee is sufficient cause for the suspension of their license by the department.

NEW SECTION

WAC 16-450-040 What requirements apply to controlled atmosphere storage facilities? All controlled atmosphere facilities must comply with the following controlled atmosphere requirements:

(1) The oxygen content of each storage room must be reduced to five percent within twenty calendar days after the room is sealed.

(2) Stored fruits or vegetables must be kept in controlled atmosphere storage under required degrees of temperature and percentage of air components for the specified period, including the following:

Apple Varieties:	Storage Period:
● Gala and Jonagold varieties	● At least forty-five continuous calendar days
● Other varieties	● At least sixty continuous calendar days
Pear Varieties:	Storage Period:
● Bartlett varieties	● At least forty-five continuous calendar days
● Other summer varieties	● At least sixty continuous calendar days
● Bosc variety	● At least forty-five continuous calendar days
● Other winter varieties	● At least sixty continuous calendar days

NEW SECTION

WAC 16-450-042 What are the specific controlled atmosphere storage requirements for Bartlett pears? To qualify as controlled atmosphere storage pears, Bartlett pears must comply with the requirements in chapter 15.30 RCW, this chapter and the following additional requirements:

(1) Oxygen content of each room where the pears are stored must be reduced to five percent within twenty calendar days after the room is sealed.

(2) The pears must be kept in controlled atmosphere storage, under the required degrees of temperature and percentage of air components, for at least forty-five continuous calendar days.

(3) At the time of shipment, the pears marked with a CA number must:

(a) Be no further advanced in maturity than "mostly hard--some firm."

(b) Not exceed an average of two percent decay and/or breakdown.

(4) Pears that fail to meet any requirement in this section:

(a) Must not be sold as CA storage fruit; and

(b) Their containers must not be marked with a CA number.

NEW SECTION

WAC 16-450-044 What are the specific controlled atmosphere requirements for winter pears? To qualify as controlled atmosphere storage pears, winter pears must comply with the requirements in chapter 15.30 RCW, this chapter and the following additional requirements:

(1) Oxygen content of each room where the pears are stored must be reduced to five percent within twenty calendar days after the room is sealed.

(2) The pears must be kept in controlled atmosphere storage, under the required degrees of temperature and percentage of air components, for:

(a) At least forty-five continuous calendar days for Bosc pears; and

(b) At least sixty continuous calendar days for all other varieties of winter pears.

(3) All CA-marked winter pears must meet the following standards when shipped:

(a) **Condition standards:**

● No more than two percent decay;

● No more than two percent scald; and

● A five percent maximum aggregate for all condition factors including cork.

(b) **Maturity standards:**

- No more than five percent must be advanced beyond "firm."

NEW SECTION

WAC 16-450-046 When must controlled atmosphere fruits and vegetables be identified for certification? (1) All fruits and vegetables intended for controlled atmosphere storage certification must be identified before being placed in the controlled atmosphere storage room.

(2) Before the controlled atmosphere room is sealed, all packed fruit or vegetable containers intended for controlled atmosphere storage must be:

(a) Marked either with "WSDA and (year of production)" or with a department-supplied stamp; and

(b) Marked under the supervision of WSDA inspection personnel.

NEW SECTION

WAC 16-450-048 What inspection, certification and marking requirements apply to controlled atmosphere fruits and vegetables? All Washington state fruits and vegetables sold as CA fruits or vegetables:

(1) Must be inspected and certified as to grade and condition; and

(2) At time of certification, all containers holding CA fruits and vegetables must be marked with both a dated state lot number and a CA number.

NEW SECTION

WAC 16-450-050 When is a reinspection of controlled atmosphere fruit and vegetables required? (1) If CA fruits or vegetables are not shipped within two weeks after they are inspected and certified, they must be reinspected to meet controlled atmosphere and maturity requirements in order to qualify for an additional two-week shipping period.

(2) If identification of a reinspected lot:

(a) Can be accomplished without a problem, the reinspected containers do not have to be restamped with a current date state lot number.

(b) May be a problem, the reinspected containers must be restamped with a current date state lot number.

NEW SECTION

WAC 16-450-060 What are the shipping standards for controlled atmosphere storage fruits and vegetables? (1) When shipped, all controlled atmosphere fruits and vegetables must be certified and marked with a CA number and dated state lot stamp.

(2) Apples must meet U.S. condition standards for export.

(3) Pears must meet the maturity requirements of WAC 16-450-042 (3)(a) and (b) or 16-450-044 (3)(b).

NEW SECTION

WAC 16-450-070 What if my fruit does not comply with the requirements of this chapter? If your fruit does not comply with any of the requirements in this chapter, you are prohibited from:

(1) Selling your fruit as controlled atmosphere storage fruit;

or

(2) Representing your fruit using terms, words or symbols that imply that it has been exposed to controlled atmosphere storage. For example, the words "controlled atmosphere" or the symbol "CA" must be removed from the container and/or subcontainer.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-449-001	Promulgation.
WAC 16-449-010	Requirements.
WAC 16-449-020	Maturity and condition standards.
WAC 16-449-030	Effective date.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-459-001	Promulgation.
WAC 16-459-00101	Promulgation.
WAC 16-459-010	Requirements--General.
WAC 16-459-020	Identification of controlled atmosphere fruit prior to inspection.
WAC 16-459-030	Fees.
WAC 16-459-040	Penalties.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-690-001	Promulgation.
WAC 16-690-010	Washington controlled atmosphere storage requirements--Definitions.
WAC 16-690-015	Washington controlled atmosphere storage requirements--Annual license.
WAC 16-690-020	Washington controlled atmosphere storage requirements--Warehouse number.
WAC 16-690-025	Washington controlled atmosphere storage requirements--Controlled storage requirements.
WAC 16-690-030	Washington controlled atmosphere storage requirements--Inspection, certification and marking.
WAC 16-690-035	Washington controlled atmosphere storage requirements--Standards for shipping.
WAC 16-690-040	Washington controlled atmosphere storage requirements--Reinspection.
WAC 16-690-045	Washington controlled atmosphere storage requirements--Failure to meet requirements.
WAC 16-690-100	Washington controlled atmosphere storage requirements--Bartlett pears.