



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Agriculture

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

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

- Yes No If Yes, explain:

Purpose: Chapter 16-160 WAC sets requirements for registration of brand name materials for organic food production. New fees are established, selected fees are increased, and a new logo will be used for registered materials. The increase in fees will allow for additional staff required to maintain the program, and the new logo will ensure that we maintain compliance with accreditation requirements.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 16-160-030 through 16-160-110
 Suspended:

Statutory authority for adoption: Chapters 15.86 and 34.05 RCW

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 07-13-065 on June 18, 2007 (date).
 Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- 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.
 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:

Date adopted: August 6, 2007

NAME (TYPE OR PRINT)

Valoria Loveland

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY



**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

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	Repealed	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

	New	<u>1</u>	Amended	<u>8</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>6</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 99-16-054, filed 7/30/99, effective 8/30/99)

WAC 16-160-030 Do I need to register my brand name material with the organic food program? (~~Every material which is manufactured within this state and/or distributed within this state for use~~) Materials used in organic food production, processing or handling may (~~be registered~~) submit an application for registration with the department. Registration is not required, but is necessary for a product to appear on the brand name materials list or to label or advertise itself as approved for use in organic food production, processing or handling.

AMENDATORY SECTION (Amending WSR 03-03-045, filed 1/10/03, effective 2/10/03)

WAC 16-160-035 Brand name materials list. The department maintains a list of registered materials that are approved for use in organic food production, processing or handling. The list is provided to all producers, processors and handlers of organic food (~~who apply for certification with the department~~). Operations certified by any agency other than the department should refer to their certification agency prior to the use of any registered material as other certification agencies may not recognize the department brand name materials list. A registered material that appears on the brand name materials list has been reviewed by the department to verify that all of its ingredients comply with organic standards under WAC 16-160-060.

AMENDATORY SECTION (Amending WSR 99-16-054, filed 7/30/99, effective 8/30/99)

WAC 16-160-040 How do I apply for registration? Applications for brand name material registration must be made on a form designated by the department. Applications, must be accompanied by the appropriate fee, and must be postmarked by October 31 of each year. (~~Applications made after the set deadline may be processed as the department can review the application.~~) Applications received after October 31 may appear on the annual brand name

materials list if received in time to complete the registration prior to the publication of the list. The application 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 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 material 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) The source or supplier of all ingredients; and
- (8) Any additional information deemed necessary.

Changes to the information above must be submitted to the department for review.

The director may require a full description of the tests made and the results thereof upon which the claims are based. The director may require production records that demonstrate adequate input materials to reconcile the registrant's production of the final product. Trade secrets are confidential and exempt from public disclosure under the Uniform Trade Secrets Act, chapter 19.108 RCW (~~(. RCW 42.17.260(1))~~) and RCW 42.56.070(1). Applicants should mark the information in the application they consider to be confidential under the Trade Secrets Act or other law. The department will treat this information in accordance with chapter 42.56 RCW.

AMENDATORY SECTION (Amending WSR 03-03-045, filed 1/10/03, effective 2/10/03)

WAC 16-160-060 What criteria are used to determine if a brand name material is approved? (1) United States Department of Agriculture (USDA) National Organic Program.

The director reviews the information provided under WAC 16-160-040. A brand name material that meets the requirements under the ((2001)) National Organic Program final rule, section 205.105 and sections 205.600 through 205.606 will be registered.

(2) Foreign or additional organic standards.
The director may review materials approved under the USDA National Organic Program for compliance with foreign or additional organic standards. The director reviews the information provided under WAC 16-160-040. A brand name material that complies with a specific foreign or additional organic standard may be registered

as approved under that specific organic standard.

AMENDATORY SECTION (Amending WSR 03-03-045, filed 1/10/03, effective 2/10/03)

WAC 16-160-070 Application fees. (~~Whenever the department receives an application for registration of materials under this chapter, the department may 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.~~) (1) New product registration.

The application fee for initial registration of a pesticide, spray adjuvant, processing aid, livestock production aid or post-harvest material is (~~three~~) five hundred dollars per material. The application fee for initial registration of a fertilizer, soil amendment, organic waste derived material, compost, animal manure(~~or~~) or crop production aid(~~or livestock production aid~~) is (~~two~~) four hundred dollars per material.

(2) Renewal registration.

The application fee for renewing a registration for a pesticide, spray adjuvant, processing aid, livestock production aid or post-harvest material is (~~two~~) three hundred dollars per material. The application fee for renewing a registration for a fertilizer, soil amendment, organic waste derived material, compost, animal manure(~~or~~) or crop production aid(~~or livestock production aid~~) is (~~one~~) two hundred dollars per material.

(~~Renewal registrations postmarked after October 31 pay a late fee of thirty dollars.~~) (3) Late fees:

Renewal applications postmarked after October 31 must include a late fee in addition to the renewal fee.

<u>If your application is postmarked after October 31 but before:</u>	<u>Then the late fee is:</u>
<u>December 1</u>	<u>\$100.00</u>
<u>January 1</u>	<u>\$200.00</u>
<u>February 1</u>	<u>\$300.00</u>

(4) Inspections.

Inspections, if required, will be billed at forty dollars per hour plus travel costs and mileage which shall be charged at the rate established by the state office of financial management.

(5) Samples.

Samples, if required for registration, or requested by the applicant, will be charged to the applicant at a rate established by the laboratory services division of the department of agriculture. If an additional visit must be arranged, it shall be at forty dollars per hour plus travel costs and mileage which shall

be charged at the rate established by the state office of financial management.

(6) Expedited evaluation fees.

Requests for expedited reviews may be submitted and, if approved, are billed at a rate of \$40.00 per hour.

(7) Foreign or additional standards.

Upon request, the department may assess compliance with foreign or additional organic standards beyond the National Organic Program. Requests for additional assessments of materials approved under the USDA National Organic Program are billed at a rate of \$100.00 per product for each standard.

NEW SECTION

WAC 16-160-080 Inspections. Whenever the department receives an application for registration of materials under this chapter, the department may 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.

AMENDATORY SECTION (Amending WSR 99-16-054, filed 7/30/99, effective 8/30/99)

WAC 16-160-090 ((Refusing or canceling)) Denial or revocation of a registration. Initial registration.

(1) If it does not appear to the director that the brand name material is such as to warrant the proposed claims for it or if the brand name material and its labeling do not comply with the provisions of this chapter, the director shall notify the registrant of the manner in which the brand name material and its labeling fails to comply with the provisions of this chapter 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 deny registration of the material in accordance with chapter 34.05 RCW.

Renewal registration.

(2) When the director determines that a material or its labeling does not comply with the provisions of this chapter, or that false or inaccurate information was provided by the registrant, the director shall cancel the registration of a material in accordance with chapter 34.05 RCW.

Revoking registration.

(3) When the director determines that a material or its labeling does not comply with the provisions of this chapter, or if false or inaccurate information was provided by the registrant, the director shall cancel the registration of such material in accordance with chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 99-16-054, filed 7/30/99, effective 8/30/99)

WAC 16-160-100 Labeling of registered brand name materials and use of organic logo. A person whose material is registered under this chapter may use the words "approved material under Washington state department of agriculture organic food program" and may use the logo specified in WAC 16-160-110 in the labeling of the material. Approved materials may not make claims indicating products are "certified organic" or similar term. Approved generic materials that are not registered under this chapter must not use the statement nor the logo in the labeling of the material. Registration by no means implies the Washington department of agriculture endorses the use of the product.

AMENDATORY SECTION (Amending WSR 99-16-054, filed 7/30/99, effective 8/30/99)

WAC 16-160-110 Organic material registration logo.

~~((STRICKEN GRAPHIC~~



~~STRICKEN GRAPHIC))~~

