



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Department of Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: March 4, 1992

(2) Purpose: To update and revise the existing rule to more accurately reflect conditions of industry practices.

(3) Citation of existing rules affected by this order:

Repealed:
Amended: Chapter 16-461 WAC
Suspended:

(4) Authority for adoption:

Statute: Chapter 15.17 RCW
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 92-01-121 on December 19, 1991 (date).

Describe any changes other than editing from proposed to adopted version:

Reworded terminology of the title of chapter 16-461 WAC to more clearly reflect the intent of this chapter.

(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) _____ *

Emergency Rules


- Immediately
 Later (specify) _____

* (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

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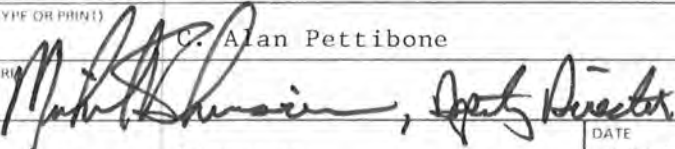
MAR 04 1992

TIME: 10:41 
WSR 92-06-085

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE



TITLE

Director

DATE

3/4/92

Chapter 16-461 WAC

~~((MOVEMENT-OF))~~ INSPECTION REQUIREMENTS FOR FRUITS AND VEGETABLES
~~((FROM-AREA-OF-PRODUCTION))~~NEW SECTION

WAC 16-461-006 DEFINITIONS. Commercial lot shall mean any number of any type of containers or any quantity in bulk of agricultural products listed in WAC 16-461-010, which are sold or bartered: PROVIDED, That quantities of less than five hundred pounds net weight, when sold by any producer where grown by the producer and sold directly to the ultimate consumer, shall not be considered as a commercial lot.

AMENDATORY SECTION (Amending Order 1788, filed 3/1/83)

WAC 16-461-010 INSPECTION CERTIFICATE AND/OR PERMIT REQUIRED. (1) No person shall ship, transport ~~((or))~~, accept for shipment, or ~~((transportation-from-the-area-of-production))~~ accept delivery of, any commercial lot of the following agricultural products without an inspection and the issuance of a certificate and/or a permit ~~((allowing-such-shipment-or-movement-by-the-division-of-plant-industry-of-the-department-of-agriculture, any-of-the-following-agricultural-products))~~ by the commodity inspection division of the department of agriculture allowing such shipment, movement or delivery:

(a) Apricots - in closed or open containers for fresh ~~((shipment))~~ market.

(b) Italian prunes - in closed or open containers for fresh ~~((shipment))~~ market.

(c) Peaches - in closed or open containers for fresh ~~((shipment))~~ market.

(d) ~~((Potatoes---in-closed-or-open-containers, or-bulk, for-certified-seeds~~

~~((e)))~~ Cherries - in closed or open containers for fresh market: PROVIDED, That no permit shall be issued on cherries infested with live cherry fruit fly larvae.

~~((f)))~~ (e) Apples - ~~((Pears-(summer, fall and winter)--))~~ in closed or open containers ~~((or-bulk-for-shipment))~~ for fresh market: PROVIDED, That ~~((pears--for--processing-entering-intrastate-commerce will-not-require-a--permit--for--shipment--PROVIDED--FURTHER,--That))~~ apples ~~((and/or--pears))~~ may be shipped or transported if accompanied by a certificate ~~((s))~~ of compliance issued by the shipper or packer of apples ~~((and/or--pears,))~~ having the approval of the director to issue the certificates of compliance.

(f) Pears - in closed or open containers for fresh market: PROVIDED, That pears may be shipped or transported if accompanied by a certificate of compliance issued by the shipper or packer of pears having the approval of the director to issue the certificates of compliance.

(g) Asparagus - in closed or open containers for fresh ~~((shipment))~~ market: PROVIDED, That asparagus may be shipped or transported if accompanied by certificates of compliance issued by the shipper or packer of the asparagus, having the approval of the director to issue the certificates of compliance.

(h) Apples in containers or bulk, for processing: PROVIDED, That apples for processing may be shipped or transported if accompanied by a certificate of compliance issued by the shipper of apples having the approval of the director to issue the certificates of compliance:

PROVIDED FURTHER, That apples for processing entering intrastate commerce shall not require a permit.

(i) Pears in containers or bulk, for processing: PROVIDED, That pears for processing may be shipped or transported if accompanied by a certificate of compliance issued by the shipper of pears having the approval of the director to issue the certificates of compliance: PROVIDED FURTHER, That pears for processing entering intrastate commerce shall not require a permit.

(2) Exemptions - Fruits and vegetables listed in WAC 16-461-010 shall be exempted from requirements for inspection and issuance of a certificate or permit:

(a) When the product is being transported from the premises where grown or produced to a horticultural facility other than wholesale or retail for the purpose of storing, grading, packing, packaging, labeling, or processing; prior to entering commercial channels for resale;

(b) When transportation is between horticultural facilities other than those facilities which sell at wholesale or retail level, for the purposes set forth in (a) of this subsection.

((2)) (3)(a) Any shipper or packer of apples, apricots, cherries, pears, peaches, prunes, or asparagus may petition the director for authority to issue certificates of compliance for each season. The director may issue certificate of compliance agreements, granting such authority, on such terms and conditions as he may deem appropriate. The authority shall be limited to the issuance of certificates of compliance for apples, apricots, cherries, pears, peaches, prunes, and asparagus under the applicant's direct control or being handled at the shipper's or packer's facilities.

(b) The certificate of compliance shall be issued at time of shipment by the shipper or packer authorized to do so: PROVIDED, That the apples and/or pears and asparagus about to be shipped or transported are in full compliance with the requirements of chapter 15.17 RCW, regulations adopted thereunder and administrative directives of the director: PROVIDED FURTHER, That apricots, cherries, peaches, ((or)) prunes, or pears about to be shipped or transported are in full compliance with the federal marketing order requiring quality and condition certification and Washington state lot identification or federal-state lot identification.

(c) The director's approval to issue certificates of compliance ((shall)) may be suspended, revoked, or denied for cause, subject to RCW 34.05.422(3) and that cause shall be the shipper's or packer's failure to comply with the requirements of ((paragraph--(2))) subsection (3)(b) of ((these regulations)) this section, or for the shipper's or packer's actions which impede the department's abilities to ascertain full compliance with requirements of chapter 15.17 RCW or rules adopted thereunder, or for violation of the terms of the certificate of compliance agreement. The period of any suspension shall be determined by the director and shall be commensurate with the seriousness of the violation. ((The--revocation--shall--be--for--the--current--season*))

(d) Any shipper or packer whose authority to issue certificates of compliance has been suspended, revoked, or denied by the director shall be subject to those provisions of chapter 15.17 RCW and the regulations requiring the issuance of a shipping permit by the director before apples, apricots, cherries, pears, peaches, prunes, and asparagus may be shipped or transported.

(e) Certificates of compliance shall be on forms approved and issued by the director of agriculture. ((Each certificate of compliance shall be stamped with a number assigned to the authorized shipper or packer*))

(f) Any shipper or packer authorized to issue certificates of compliance shall deposit with the director of agriculture at the regular base fee equivalent to that charged by the director for a shipping permit, for each certificate of compliance issued by the authorized shipper or packer. The base fees shall be deposited with the director of agriculture in the same manner as fees for shipping permits.