



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: August 7, 1992

(2) Purpose:
To provide standards and certification for vendors of organic food.

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

Repealed:

Amended:

Suspended:

(4) Authority for adoption:

Statute: Chapter 15.86 RCW

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 92-13-099 on 5/17/92 (date).

Describe any changes other than editing from proposed to adopted version: Language is added that requires retailers to maintain records for only 6 months rather than the two years required by other vendors.

Language is added to exempt retailers from required inspections in WAC 16-166-060.

(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

Emergency Rules

31 days after filing

Immediately

Other (specify) _____ *

Later (specify) _____

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

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 07 1992

TIME: 11:22 AM

WSR 92-17-017

NAME (TYPE IN FULL)

C. Alan Pettibone *mm*

SIGNATURE

C. Alan Pettibone

TITLE

Director *mm*

DATE

8/7/92 *mm*

Chapter 16-166 WAC

STANDARDS AND CERTIFICATION FOR VENDORS OF ORGANIC FOOD

NEW SECTION

WAC 16-166-010 Purpose. This chapter is promulgated pursuant to RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act and pursuant to RCW 15.86.070 wherein the director is authorized to establish a certification program for vendors of organic food products.

NEW SECTION

WAC 16-166-020 Definitions. As used in this chapter:

(1) "Approved" means any material or practice which meets the required criteria or standards for use in the handling of organic agricultural products.

(2) "Department" means the department of agriculture of the state of Washington.

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

(4) "Handle" means to sell, process, or package agricultural products.

(5) "Material" means any substance or mixture of substances that is used in the handling of organic agricultural products.

(6) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any other member, officer, or employee thereof, or assignee for the benefit of creditors.

(7) "Prohibited" means any material or practice which is disallowed in the handling of organic agricultural products.

(8) "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.

(9) "Vendor" means anyone who sells or arranges the sale of organic food to the consumer or another vendor.

NEW SECTION

WAC 16-166-030 Organic certification of vendors. (1) All vendors who distribute or sell organic food products in Washington state must be certified by WSDA or through a recognized certification agency, except for final retailers of organic food products. Producers who pack or sell their own product or entities certified as organic packers or organic processors are not required to obtain certification under this chapter.

(2) The vendor seeking certification must complete an application for certification and submit it with the required fee to the department of agriculture.

Upon approval of the application by the director and an inspection finds the applicant in compliance with the provisions of this chapter, the applicant may be issued an organic vendor certification.

NEW SECTION

WAC 16-166-040 Standards for vendors. (1) Identification: All organic food products must be clearly identified through appropriate labeling on all boxes, bins, bags, or other containers that contain organic food products from the time of receiving through the sale to the consumer or another vendor.

(2) Storage: All organic food products must be stored so that there is no cross contamination from or confusion with nonorganic food products.

Insect and rodent control programs must be in place for organic food product storage areas. Any materials used in organic food product storage areas must be approved for use in organic food production under chapter 16-154 WAC or this chapter.

In areas where entire facilities are periodically fumigated, the vendor must demonstrate that any fumigants used will not contaminate organic food products.

Compounds for cleaning storage areas must be used in a manner that does not contaminate organic food products.

Organic and nonorganic food products may be stored in the same storage room as long as there is adequate separation of products and product identification assures no mixing of products.

Storage techniques may be used to alter storage room atmosphere regarding nitrogen, oxygen, and carbon dioxide.

(3) Handling of organic food products:

All packaging and products must be free of fungicides, preservatives, fumigants, and any other materials which are prohibited for use on organic food products under chapter 16-154 WAC or this chapter.

All water used in handling must be potable and comply with all local, state, and federal guidelines for potable water.

Cleaning and sanitizing must be done with appropriate cleansers and sanitizers that will ensure clean and sanitary facilities and do not leave any residues of cleansers or sanitizers on the organic food products.

NEW SECTION

WAC 16-166-050 Recordkeeping requirements. (1) All organic food products must be completely followed by an audit control system.

Vendors must keep records of products bought and sold that will enable the department to trace food products from the farm to the market. Such records must include but are not limited to, invoices, bills of lading, and grower affidavits of incoming raw product; repack data and production run reports; and invoices and bills of lading of products shipped out. These records must be kept for a minimum of two years except for final retailers which must keep records for a minimum of six months. The audit control must be complete enough so that any product suspected of contamination can be traced from point of origin to buyer.

(2) Except for applications for organic vendor certification or lab analysis pertaining to that certification, the department shall keep confidential any business related information obtained under this chapter concerning an entity certified under this chapter or an applicant for such certification and such information shall be exempt from public inspection and copying.

NEW SECTION

WAC 16-166-060 Inspections. The director shall make at least one inspection and any additional inspections deemed necessary to each vendor and/or vendor facility, except for final retailers, each year to determine compliance with this chapter and chapter 15.86 RCW and rules adopted pursuant to chapter 15.86 RCW. Inspections of vendors with multiple facilities shall entail at least one inspection at each facility which handles organic food products and at least one inspection of the offices of the vendor where records are kept.

This inspection may entail a survey of required records, examination of handling and storage areas, and any other information deemed necessary to the requirements of this chapter.

NEW SECTION

WAC 16-166-070 Sampling. A representative sample of products sold by the vendor may be tested for residues of prohibited materials whenever the director deems it necessary for certification or maintenance of certification, or as requested by a vendor.

It shall be the vendor's responsibility to arrange for and bear the costs for any testing which is deemed necessary by the director.

NEW SECTION

WAC 16-166-080 Decertification. Whenever the director finds that a vendor who has been certified under this program has:

(1) Violated the standards for certification which are set forth in RCW 15.86.030 or any rules adopted under chapter 15.86 RCW;

(2) Filed an application for certification which is false or misleading in any particular;

(3) Violated any of the provisions of this chapter; or

(4) Failed to provide records as required by WAC 16-166-040 or rules adopted under chapter 15.86 RCW;

The director may issue an order suspending or revoking that vendor's certification under this program or he may issue an order directing the vendor to take other appropriate action to correct the violation. If appropriate action is taken, the vendor may be returned to its previous status under the program.

Any vendor who has received notice that its certification may be suspended or revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 16-166-090 Fee schedule. (1) The cost per application shall be based on the following fee schedule. Gross value shall be calculated based upon the previous calendar year's sales of organic food products for which the vendor sells or arranges the sale. The appropriate fee shall accompany the application.

FEE SCHEDULE

Gross value of products	FEE
sales under \$25,000	\$75
25,000 - 50,000	150
50,000 - 75,000	225
75,000 - 100,000	300
100,000 - 200,000	400
200,000 - 300,000	500
300,000 - 400,000	600
400,000 - 500,000	700
500,000 - 750,000	900
750,000 - 1,000,000	1,000
1,000,000 - 1,250,000	1,250
1,250,000 - 1,500,000	1,500
1,500,000 - 2,000,000	2,000
2,000,000 - 2,500,000	2,500
2,500,000 - 3,000,000	3,000
3,000,000 - 4,000,000	3,500
4,000,000 - 5,000,000	4,000
5,000,000 - 6,000,000	5,000
6,000,000 - 7,000,000	6,000
7,000,000 - 8,000,000	7,000
8,000,000 - 9,000,000	8,000
9,000,000 - 10,000,000	9,000
over 10,000,000	10,000

(2) Additional inspections (in addition to two inspections provided for), if necessary or requested, shall be at the rate of \$30/hr. plus mileage set at the rate established by the state office of financial management.

(3) Samples and analysis for prohibited materials, if required for certification or maintenance of certification by the director, or requested by the vendor, shall be charged to the vendor at a rate established by the laboratory services division of the department of agriculture. If an additional visit must be arranged to obtain a sample, it shall be at the rate of \$30/hr. plus mileage set at the rate established by the state office of financial management.