



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 for the certification of packers 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- Repealed: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 92-13-100 on 6/17/92 (date).

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

(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 11:24
WSR 92-17-018

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE

C. Alan Pettibone

TITLE

Director

DATE

8/7/92

Chapter 16-164 WAC

STANDARDS FOR THE CERTIFICATION OF PACKERS OF ORGANIC FOOD

NEW SECTION

WAC 16-164-010 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 processors and vendors of organic food products. This chapter provides standards for the certification of packers of organic food products.

NEW SECTION

WAC 16-164-020 Definitions. As used in this chapter:

(1) "Approved" means any material or practice which meets the required criteria or standards for use in the packing 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) "Material" means any substance or mixture of substances that is used in the packing of organic agricultural products.

(5) "Packing facility" includes but is not limited to any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food products are prepared, handled, packaged, or repackaged in any manner for eventual sale or distribution for eventual sale to the ultimate consumer.

(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) "Packer" means any person who receives any organic food product, either through gaining possession or through providing a service, from a producer or other party and packages or repackages that food product.

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

(9) "Packing" means to wrap, box, or put together raw or processed organic food in a container, box, or package in preparation for sale.

NEW SECTION

WAC 16-164-030 Organic certification of packing facilities.

All packers who pack organic food products in Washington state must be certified by WSDA or through a recognized certification agency. Producers who pack or sell their own product are not required to obtain certification under this chapter. A packer 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 packer certification.

NEW SECTION

WAC 16-164-040 Standards for packing facilities. (1)

Identification: All organic food products must be clearly identified at all times with appropriate labeling on all boxes, bins, bags, or other containers that contain organic food products.

(2) Storage: All organic food products in a packing facility 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 product storage areas. Any materials used in organic product storage areas must be approved for use in organic food production under chapter 16-154 WAC or this chapter.

In areas where entire packing facilities are periodically fumigated, the packer must demonstrate that any fumigants used will not contaminate organic 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) Packing 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 packing 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 16-164-050 Post harvest materials and practices. (1) Approved materials and practices. The following list of materials and practices are approved for post-harvest use for organic food. Some materials have certain restrictions regarding their use. These restrictions are noted in the list. All materials must be used with awareness and care for the environment and in compliance with state and federal laws.

- (a) Beneficial insects.
- (b) Carbon dioxide gas.
- (c) Chlorine dioxide.
- (d) Citric acid, naturally derived.
- (e) Controlled atmosphere storage.
- (f) Ethylene gas: Ethylene gas may be used on bananas only.
- (g) Natural waxes are permitted as long as they do not contain synthetic additives.
- (h) Hydrogen peroxide.
- (i) Lignosulfonates for floating tree fruits.
- (j) Soap, biodegradable.
- (k) Soda ash for floating tree fruits.
- (l) Sodium silicate for floating tree fruits.

(2) Prohibited materials and practices. The post-harvest materials and practices that are prohibited for use in organic packing includes but is not limited to the following:

- (a) Antibiotics.
- (b) Artificial preservatives.
- (c) Fumigants.
- (d) Fungicides.
- (e) Irradiation.
- (f) Other pesticides not specifically approved for use in subsection (1) of this section.

NEW SECTION

WAC 16-164-060 Recordkeeping requirements. All organic food must be completely followed by an audit control system.

Packers 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. The audit control must be

complete enough so that any product suspected of contamination can be immediately traced from point of origin to buyer.

All packers of organic food products shall have available to the department the following documents and information:

(1) List of organic growers for whom it packed organic food products in the previous year with the following information for each grower:

- (a) Growers name;
- (b) Certified organic producer number;
- (c) Copy of the grower's organic food certificate;
- (d) Lot number or numbers assigned to grower;
- (e) Number of bins (flats, lbs., etc.) received;
- (f) Number of boxes (flats, lbs., etc.) packed as organic;
- (g) Number of boxes (flats, lbs., etc.) sold as organic; and
- (h) Amount paid to grower.

(2) Information concerning total organic sales for the facility:

- (a) Total bins (flats, lbs., etc.) received as organic;
- (b) Total boxes (flats, lbs., etc.) packed as organic;
- (c) Pounds of culls sold as organic; and
- (d) Value of organic product sold.

(3) List of organic growers for whom it will be receiving organic food products for the current year with the following information for each grower:

- (a) Growers name;
- (b) Certified organic producer number;
- (c) Copy of organic food producer certificate;
- (d) Lot number assigned to grower; and
- (e) Number of bins (flats, lbs., etc.) you expect to receive.

(4) Except for applications for organic packer 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 16-164-070 Inspections. The director shall make at least one inspection and any additional inspections deemed necessary to each packer and/or each packing facility each year to determine compliance with this chapter and chapter 15.86 RCW and rules adopted pursuant to chapter 15.86 RCW. Inspections of packers with multiple facilities shall entail at least one inspection at each packing facility which handles organic food products and at least one inspection of the offices of the packer where records are kept.

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

NEW SECTION

WAC 16-164-080 Sampling. A representative sample of the product packed by the packer may be tested for residues of prohibited materials whenever the director deems it necessary for certification or maintenance of certification.

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

NEW SECTION

WAC 16-164-090 Decertification. Whenever the director finds that a packer 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 16-164-050 or rules adopted under chapter 15.86 RCW;

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

Any packer 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 16-164-100 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 to the first buyer after packing or repacking. First year applicants shall base gross sales on an estimate of the value of organic food products which will be packed at the facility. In the event that first year sales of organic food products exceed the estimate, WSDA may bill the packer for the additional application fee. 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 thirty dollars per hour 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 packer, shall be charged to the packer 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 thirty dollars per hour plus mileage set at the rate established by the state office of financial management.