



RULE-MAKING ORDER

CR-103 (7/10/97)

(RCW 34.05.360)

Agency: Department of Agriculture Permanent Rule Emergency Rule

(1) Date of adoption: December 19, 1997 Expedited Adoption Expedited Repeal

(2) Purpose: The purpose for the amendments to Chapter 16-158 WAC is to clarify and strengthen the rules for the processing of organic food products, and provide a more equitable method of assessing certification fees.

(3) Citation of existing rules affected by this order: Chapter 16-158 WAC
Repealed: WAC 16-158-025, 140
Amended: WAC 16-158-010, 020, 027, 030, 040, 050, 060, 080, 090, 100, 120, 130
Suspended:

(4) Statutory authority for adoption: Chapter 15.86 RCW
Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)
Adopted under notice filed as WSR 97-22-102 on November 5, 1997 (date).
Describe any changes other than editing from proposed to adopted version: The prohibition of irradiation and storing organic products with thiobenzadole treated foods has been removed from WAC 16-158-030.

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:

EXPEDITED REPEAL ONLY
Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(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 or Expedited Repeal 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)

Name (Type or Print)
Jim Jesernig
Signature
Jim Jesernig
Title
Director
Date
12/19/97

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED
DEC 24 1997
ME 1054 98-01-221 AM PM

**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	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>1</u>	Repealed	_____

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

New	<u>2</u>	Amended	<u>12</u>	Repealed	<u>2</u>
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The number of sections adopted in the agency's own initiative:

New	<u>2</u>	Amended	<u>12</u>	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>2</u>	Amended	<u>12</u>	Repealed	<u>2</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>2</u>	Amended	<u>12</u>	Repealed	<u>2</u>

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-010 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 adopt rules establishing a certification program for processors of organic food~~) provides standards for the certification of processors of organic food, pursuant to RCW 15.86.060 and 15.86.070.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-020 Definitions. As used in this chapter:

- (1) "Approved" means any material or practice which meets the required criteria or standards for use in the processing or 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) "Facility" includes, but is not limited to, any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food is prepared, handled, or processed in any manner for resale or distribution to retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer.
- (5) "Gross sales" means the total monetary value of processed organic food sold.
- (6) "Ingredient list" means the list on a food label of each ingredient in descending order of predominance.
- (7) "Labeling" means all labels and other written, printed, or graphic matter:
 - (a) Upon any article or any of its containers or wrappers; or
 - (b) Accompanying or representing such article.
- (8) "Material" means any substance or mixture of substances that is used in the processing or handling of organic agricultural products, including packaging material.
- ~~((+6+))~~ (9) "New applicant" means any person that applies for organic certification for the first time, or when previous certification status has expired for at least one year.
- (10) "Organic food product" means any food product, including fruit, vegetable, meat, dairy, beverage and grocery, that is marketed using the term organic or any derivative of the term organic in its labeling or advertising, including using the term

organic on the principal display panel, ingredients list, or other locations on the label.

~~((7))~~ (11) "Package" means a container, box, bin, carton or other wrapping that contains or holds organic food products.

(12) "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.

~~((8))~~ (13) "Principal display panel" means that portion of the package label that is most likely seen by the consumer at the time of purchase.

(14) "Procedure" means an act, method, or manner of proceeding in some process or course of action.

~~((9))~~ (15) "Processed organic food" means food that in whole or in part is organically grown and which in its processing has not been treated with synthetically or artificially derived preservatives, colorings, flavorings, or any other artificial or synthetic additive, except as otherwise approved for use under WAC 16-158-060.

~~((10))~~ (16) "Processing aids" means materials used in processing that do not become an ingredient in the food product (e.g., enzymes, boiler water additives, pressing aids, and filtering aids).

(17) "Processor" means any person engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, slaughtering or otherwise processing organic food.

~~((11))~~ (18) "Producer/processor applicant" means any person that is certified under chapter 16-156 WAC, processes organic food, and applies for certification under this chapter.

(19) "Product identity" means the name of the food as described on the principal display panel.

(20) "Prohibited" means any material or practice which ~~(is disallowed)~~ does not meet the required criteria or standards for use in the processing or handling of organic agricultural products.

~~((12))~~ (21) "Recognized organic certification agency" means any third-party organization that is accepted by the director as being one which verifies compliance with standards consistent with chapter 15.86 RCW or rules adopted thereunder.

(22) "Renewal applicant" means any person that has applied for organic certification in the previous year.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-027 Application for certification~~(—Expiration date)~~. ~~((Organic food processors must apply))~~ (1) All processors must be certified by the department or through a recognized organic certification agency.

(2) Applications to the department for organic food certification ~~((by March 1 of each year))~~ must be made on an annual basis at least thirty days prior to the processing of organic food.

The application, accompanied by the appropriate fee (~~shall~~) must be submitted to the department on forms furnished by the department.

(3) All organic food processor certificates (~~shall~~) expire on March 31st of the year following their issuance. The deadline for submitting renewal applications (~~made after the set deadline may be processed as the department can schedule the initial inspections, provided that the applicant pays a late fee of fifty dollars~~) to the department is March 1st.

(4) When applicable, the application must include the following information:

List of organic and nonorganic ingredients and the percentage, by weight, of each ingredient in each organic food product;

Organic food product labels;

Schematic diagram of the processing method and a description of processing method;

List of all processing aids used in processing organic food.

(5) Organic labeling will be reviewed to insure that processors comply with WAC 16-158-040.

(6) Upon approval of the application by the director, an organic food processor certificate will be issued. New applicants must be inspected prior to issuance of an organic food processor certificate.

NEW SECTION

WAC 16-158-028 Confidentiality. Except for applications and laboratory analyses submitted for certification under this chapter, the department keeps confidential any business related information obtained under this chapter. All business related information submitted to the department under this chapter is exempt from public inspection and copying consistent with RCW 15.86.110 and 42.17.310.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-030 Organic processing standards. (1) Ingredients for processed organic foods:

(a) All organic ingredients used in processed organic food must be produced in compliance with organic food production standards as required by rules adopted under chapter 15.86 RCW. Processors must keep organic food producer or processor certificates for all organic ingredients used in processing (~~must be kept~~) on file (~~by the processor~~) and available to the department upon request. All organic producers or processors that supply ingredients to processor(s) must be certified by the department or a recognized organic certifying agent.

(b) All inorganic ingredients which are used in product formulation and that are not specifically approved under WAC 16-158-060 must be approved by the director and their sources must be listed as part of the ((audit)) certification process.

~~(2) ((Identification and storage:~~

~~All organic food products must be clearly identified as organic at all times on all boxes, bins, bags, or other containers that contain organic food products. 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 product storage areas. Any materials used in the 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 facilities are periodically fumigated, the processor 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 the nitrogen, oxygen, and carbon dioxide levels in the storage room atmosphere. Organic food products shall not be stored in controlled atmosphere storage with diphenylamine treated food products.~~

~~(3)) **Processing of organic food products:**~~

~~((In addition to meeting all state and federal manufacturing standards, the processor of organic foods must submit a complete description of the processing method to the director. This description should detail how all ingredients are handled, changed, and ultimately packaged.~~

~~All packaging and products must be free of fungicides, preservatives, fumigants, and any other materials which are not approved for use on organic products under chapter 16 154 WAC or this chapter.)) The processing of organic food must be done during a separate production run from the processing of nonorganic food. Prior to the processing of organic food, the processing line must be cleaned or cleared of nonorganic products.~~

~~(3) **Water:**~~

~~All water used in processing as an ingredient or as a processing aid 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.)) (4) **Steam:**~~

~~Volatile amines are prohibited as boiler water additives when steam comes into direct contact with organic food.~~

~~(5) **Solvent extraction:**~~

~~Solvent extraction with synthetic materials is prohibited in organic food processing.~~

~~(6) **Ion exchange filters:**~~

~~Ion exchange filters are prohibited in organic food processing.~~

~~(7) **Processing aids:**~~

Processing aids used in organic processing must be approved under WAC 16-158-060.

(8) **Cleaning and sanitizing:**

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.

(9) **Packages:**

All packages must be free of fungicides, preservatives, fumigants, and any other materials which are not approved for use on organic products under chapter 16-154 WAC or this chapter.

(10) **Identification:**

All organic food products must be clearly identified as organic at all times on all boxes, bins, bags or other containers that contain organic food products.

(11) **Storage:**

All organic food products and organic ingredients must be stored so that there is no cross contamination or confusion with nonorganic food products. Organic and nonorganic food products may be stored in the same storage area as long as there is adequate separation of products and product identification assures no mixing of products.

(12) **Controlled atmosphere storage:**

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

(13) **Pest control:**

The processor must demonstrate that materials used in pest control programs do not contaminate organic products.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-040 Labeling. All processed organic foods processed or sold in Washington state must comply with the following labeling regulations.

(1) All organically processed foods must be labeled in accordance with Title 21, C.F.R., Part 101 (as adopted in WAC 16-167-050).

(2) No organic food product may be labeled "organic when available."

~~(3) ((For foods which are composed of one hundred percent organic ingredients: The terms "organic" or "organically grown" may be used without restriction on the principal display panel of a processed food product if that product is a single or multi-ingredient food where all ingredients, excluding water and salt, are organically grown.~~

~~(4) For foods which are composed of)~~ **Organic food products:**

(a) For processed food products which contain more than ninety-five percent organic ingredients ((~~The terms "organic" or "organically grown" may be used in the product identity on the principal display panel when less than five percent~~)) by weight ((~~of the total product contains minor ingredients or additives which are approved under WAC 16-158-060 or by the director.~~

~~(5) For foods which are composed of between fifty percent and ninety five percent organic ingredients: In) excluding water, salt, and leavening agents, the term organic may be used without restriction on the principal display panel (see example illustration WAC 16-158-040 (3)(b)). Up to five percent of the ingredients, by weight, may be minor ingredients or additives which are approved under WAC 16-158-060 or by the director.~~

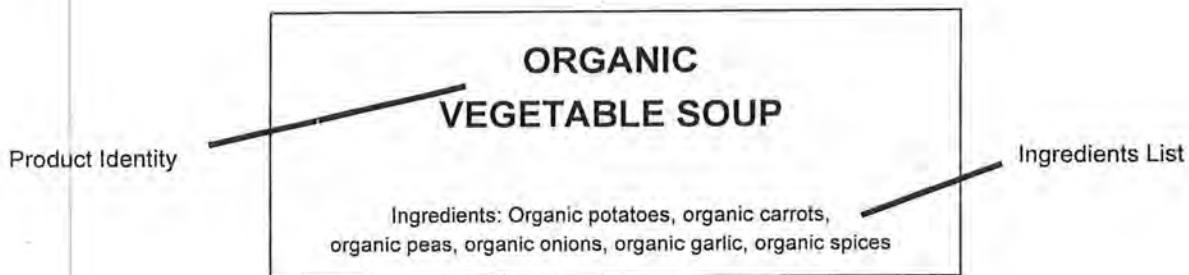


Illustration WAC 16-158-040(3)(b).

(4) Made with organic food products:

~~(a) For multi-ingredient food products which contain ((some nonorganic ingredients, excluding water and salt, the use of)) more than fifty percent organic ingredients by weight, excluding water, salt and leavening agents, the term((s)) "organic" ((or "organically grown")) can only ((be used to)) modify the organic ingredient(s) and ((must restrict)) the type size of the word((s)) "organic" ((or organically grown etc.,)) is restricted to not larger than three-quarters type size of the product identity (see example illustration WAC 16-158-040 (4)(b)).~~

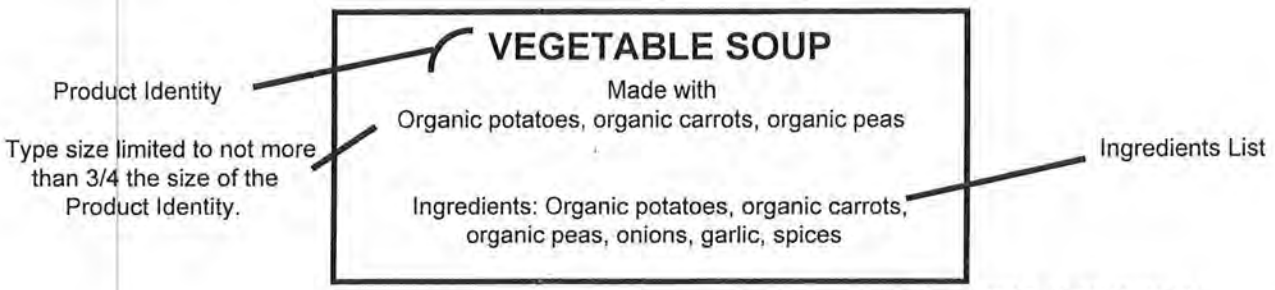


Illustration WAC 16-158-040(4)(b).

~~((6) For foods which are composed of less than fifty percent organic ingredients: If organically grown ingredients comprise less than fifty percent))~~ (5) Food products with organic ingredients:

(a) For food products which contain less than fifty percent organic ingredients by weight, excluding water ((and)) salt ((of the ingredients in a multi ingredient food the word organic or any derivative of the word organic can only be used on the ingredients list)) and leavening agents, the term "organic" can only modify the organic ingredients on the ingredients panel (see example illustration WAC 16-158-040 (5) (b)).

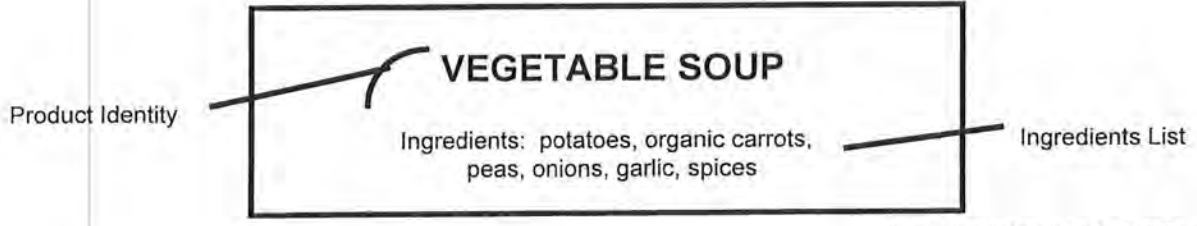


Illustration WAC 16-158-040(5)(b).

(6) Ingredients list must identify each organic ingredient.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-050 Recordkeeping requirements. (~~((1)) 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 of the final product. Records must be maintained~~) Processors must maintain records that track ingredients and organic food products from receiving through distribution or sale. Such records ((must)) may include ((when applicable,)) invoices, bills of lading, and ((grower)) producer certificates for incoming raw product; date and quantity of product processed; repack data and production run reports; and invoices and bills of lading of products shipped out. ((These records must be maintained)) Processors must maintain these records for a minimum of five years from date of processing.

~~((2)) All processors ((shall)) must have available ((to the department the following documents and information for the organic ingredients used in processing:~~

~~(a) For raw ingredients a copy of the producer's organic food producer certificate.~~

~~(b) For ingredients from intermediate processors or copackers a copy of the processor's or copacker's organic food processor certificate.))~~ at all times, copies of organic food certificates for all organic ingredients. Organic food certificates must be current and correspond to the organic ingredients used in processing. All organic food producer and processor certificates ((shall)) must be from the department or recognized organic certification agencies.

~~((3) Except for applications for organic 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 consistent with RCW 15.86.110 and 42.17.310 (1)(dd).))~~

AMENDATORY SECTION (Amending Order 2042, filed 6/5/90, effective 7/6/90)

WAC 16-158-060 ((Permitted substances for organic food processing.)) Minor ingredients and processing aids. ((A list of permitted substances and good manufacturing practices will be made available by the department.)) In general, all ((substances)) minor ingredients that are agricultural ingredients used in organic food processing should be grown organically in accordance with chapter 15.86 RCW and rules adopted thereunder. The following minor ingredients and processing aids are approved for use in processed organic foods:

(a) Acetic acid.

(b) Agar.

(c) Ascorbic acid.

(d) Atmospheric gases including nitrogen, oxygen, and carbon dioxide.

(e) Baker's yeast.

(f) Baking powder, aluminum free.

(g) Bentonite.

(h) Brewer's yeast.

(i) Calcium carbonate.

(j) Calcium chloride.

(k) Calcium citrate.

(l) Calcium hydroxide.

(m) Calcium phosphates.

(n) Calcium sulfate.

(o) Carrageenan.

(p) Charcoal as a filtering aid.

(q) Citric acid, must be produced by microbial fermentation of carbohydrate substances.

(r) Cornstarch.

(s) Dairy cultures, may not be a product of recombinant DNA technology.

(t) Diatomaceous earth as a filtering aid.

(u) Enzymes. No preservatives allowed, may not be a product of recombinant DNA technology.

(v) Ferrous sulfate - when required for iron fortification of foods.

(w) Glycerin, must be from hydrolysis of fats and oils.

(x) Gums, plant-derived. Must be mechanically or water extracted.

(y) Kaolin.

(z) Lactic acid.

(aa) Lecithin.

(bb) Lignin sulfonates as a chelating agent, flotation agent and dust suppressant.

(cc) Magnesium carbonate.

(dd) Magnesium chloride, must be extracted from sea water.

(ee) Magnesium sulfate.

(ff) Malic acid.

(gg) Minerals when required by regulation.

(hh) Mono and diglycerides, for use in drum drying of food only.

(ii) Natural flavors. All flavor constituents must be from natural sources and have not been chemically modified. May not contain propylene glycol or any artificial preservatives and may not be hexane extracted.

(jj) Ozone.

(kk) Pectin.

(ll) Potassium chloride.

(mm) Potassium citrate.

(nn) Potassium iodide, natural.

(oo) Potassium tartrate.

(pp) Rice hulls for juice pressing.

(qq) Salt.

(rr) Sand, steamed.

(ss) Seaweed and seaweed extracts for example kelp, carrageenin, nori.

(tt) Silicon dioxide.

(uu) Sodium bicarbonate.

(vv) Sodium chloride.

(ww) Sodium citrate.

(xx) Sodium phosphate for dairy processing only.

(yy) Sulfur dioxide for use in organic wine processing only.

May not be added to wine at levels greater than 100 ppm; the level of free sulfites may not exceed 35 ppm in the final product.

(zz) Tartaric acid.

(aaa) Vitamins when required by regulation.

(bbb) Water.

(ccc) Yeasts and other starter cultures. No synthetic

preservatives or stabilizers allowed. May not be a product of recombinant DNA technology.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-080 Use of processed organic food certification logo. (~~(Organic food)~~) (1) Processors certified under the

Washington department of agriculture organic food program (~~(will be able to)~~) must use the words (~~("processed in accordance with")~~) certified organic by the Washington state department of agriculture (~~(organic food certification program^u)~~) in their labeling as long as their practices comply with this chapter, chapter 15.86 RCW, and chapter 16-154 WAC. (~~(Food processed and sold under this organic food processor certification program and which are composed of more than ninety five percent organic ingredients may be identified by the use of one of the attached logos adopted in WAC 16-158-140.)~~)

(2) Processors certified under this chapter and handlers certified under chapter 16-164 WAC, Standards for the certification of handlers of organic food may use one of the attached logos adopted in WAC 16-158-150 on processed food which is composed of ninety-five percent or more organic ingredients, excluding water, salt and leavening agents.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-090 Inspection. The director (~~(shall)~~) must make at least one visit and any additional visits deemed necessary to each facility each year for the purpose of inspection for compliance with this chapter (~~(and)~~) chapter 15.86 RCW and rules adopted (~~(pursuant to chapter 15.86 RCW.~~

This)) thereunder. Application and certification fees cover the cost of two inspections per year. The inspection may entail a survey of required records, examination of handling, processing and storage areas, and any other information deemed necessary to the requirements of this chapter.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-100 Sampling. A representative sample of the product processed, packed, sold, or distributed may be tested for pesticide residues or other contaminants whenever the director deems it necessary for certification or maintenance of certification. Application and certification fees cover the cost of one sample analysis per year. It ~~((shall))~~ will be the processor's responsibility to arrange for and bear the costs for any additional testing (beyond the one sample analysis provided by application and certification fees) which is deemed necessary by the director.

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-120 Decertification. Whenever the director finds that a processor ~~((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) ~~((Has filed an))~~ Filed a renewal application for ~~((certification))~~ recertification which is false or misleading in any particular;

(3) ~~((Has))~~ Violated any of the provisions of this chapter;

(4) ~~((Has))~~ Failed to provide records as required by WAC 16-158-050 or rules adopted under chapter 15.86 RCW; or

(5) Failed to allow inspection to take place.

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

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

AMENDATORY SECTION (Amending Order 5068, filed 6/20/95, effective 7/21/95)

WAC 16-158-130 Fees. (1) ~~((The cost per application shall be))~~ Renewal applicants - Application fees are one hundred fifty dollars per facility. In addition, ~~((an assessment fee based on the following fee schedule shall accompany the application. Gross value of production means the value of processed organic food produced during the previous calendar year. In the event that the~~

current calendar year's production exceeds the previous year's production, the department may bill the processor for the additional fee. In the event that the current calendar year's production is less than the previous year's production, the processor may request a refund for the reduced fee. The appropriate fee shall accompany the application)) renewal applications postmarked after March 1, pay a late fee of fifty dollars.

~~((FEE SCHEDULE~~

GROSS VALUE OF PRODUCTION	ASSESSMENT RATE
For up to one million dollars	0.25%
For over one million:	
1st one million dollars	0.25%
Value over one million dollars	0.10%)

(2) ~~((Initial))~~ **New applicants** - Application fees are one hundred fifty dollars per facility. In addition, new applicants pay a seventy-five dollar new applicant fee.

(3) **Producer/processor applicants** - Application fees for producer/processor applications are paid under chapter 16-156 WAC.

(4) Two inspections within the state of Washington are provided for under the ~~((above fee schedule))~~ application and certification fee. Additional inspections, ~~((in addition to two inspections provided for),)~~ or out-of-state inspections if necessary or requested, ~~((shall))~~ will be charged to the applicant at the rate of thirty dollars per hour plus mileage set at the rate established by the state office of financial management. ~~((Out of-state inspections, if necessary or requested, shall be at the rate of thirty dollars per hour plus transportation costs.~~

~~(3))~~ One sample ~~((s, (in addition to one sample provided for))~~ analysis is provided under the application and certification fee. Additional samples, if required for certification or maintenance of certification by the director, or requested by the applicant, ~~((shall))~~ 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 to obtain a sample, it shall be at the rate of thirty dollars per hour (\$30/hr.) plus mileage set at the rate established by the state office of financial management.

NEW SECTION

WAC 16-158-135 Certification fees. A certification fee based on the following fee schedule must accompany the application and application fee, except for producer/processor applicants who pay fees under chapter 16-156 WAC. Certification fees are assessments on the organic products in each category. Applicants may have food products in more than one category.

CERTIFICATION FEE SCHEDULE

Category I - Organic food products: Products labeled as "organic" that contain ninety-five percent or more organic

ingredients as per WAC 16-158-040(3) are assessed at two hundred seventy-five thousandths of one percent (0.275%) of the previous calendar year's gross sales for the first million dollars and one-tenth of one percent (0.10%) for gross sales above one million dollars.

Category II - Made with organic food products: Products labeled as "made with organic ingredients" that contain more than fifty percent organic ingredients as per WAC 16-158-040(4) are assessed at one hundred seventy-five thousandths of one percent (0.175%) of the previous calendar year's gross sales for the first million dollars and six hundredths of one percent (0.06%) for gross sales above one million dollars.

Category III - Food products with organic ingredients: Products packaged for retail sales that limit their organic claims to the ingredients list as per WAC 16-158-040(5) are assessed at one-tenth of one percent (0.10%) of the previous calendar year's gross sales for the first million dollars and three-hundredths of one percent (0.03%) for gross sales above one million dollars.

Category IV - Custom organic food products: Products produced by processors who charge a service fee to organic manufacturers for processing organic food are assessed at thirty-five hundredths of one percent (0.35%) of the previous calendar year's service fees received for processing organic food for the first million dollars and one-tenth of one percent (0.10%) for service fees above one million dollars.

In the event that the current calendar year's gross sales (or service fees) exceeds the previous year's gross sales (or service fees), the department may bill the processor for the additional certification fee. In the event that the current calendar year's gross sales (or service fees) is less than the previous year's gross sales (or service fees), the processor may request a refund for the reduced certification fee.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-158-025 Organic certification of processors.

WAC 16-158-140 Processed organic food logo.