



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: October 24, 2000

(2) Purpose: This rule combines WAC16-621, WAC 16-692 and WAC 16-694 into one clear and readable rule, NEW WAC 16-623. This rulemaking accomplishes the intent of EO 97-02, Regulatory Improvement.

This also repeals WAC 16-621, WAC 16-692 and WAC 16-694.

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

Repealed: WAC 16-621, WAC 16-692 and WAC 16-694

Amended:

Suspended:

(4) Statutory authority for adoption: RCW 20.01.040, 125, 370, 380, 410, 510

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-17-175 on 8/23/00 (date) and WSR 00-17-183

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

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:

Emergency Rules

**Permanent Rules
or Expedited Repeal**

- 31 days after filing
- Other (specify) _____*
- 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

Title
Director

Date

10/27/00

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 30 2000

TIME

WSR

206
00-22071

AW

FMS

**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Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed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	Amended	Repealed

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

New	Amended	Repealed
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The number of sections adopted in the agency's own initiative:

New	Amended	Repealed
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	Repealed
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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	Amended	Repealed

Chapter 16-623 WAC

COMMISSION MERCHANT ACT--LICENSING FEES, PROOF OF PAYMENT, CARGO
MANIFESTS AND REGISTRATION OF ACREAGE COMMITMENTS

NEW SECTION

WAC 16-623-001 Purpose. The department of agriculture has written this chapter to implement or clarify selected portions of chapter 20.01 RCW. This administrative rule addresses four topics.

(1) Licensing fees for commission merchants, dealers, brokers, cash buyers or agents.

(2) Recordkeeping and proof of payment requirements for licensees.

(3) Manifests of cargo and shipping documents that accompany hay and straw during transportation.

(4) Rules governing the registration of acreage commitments made by processors to producers of annual crops.

NEW SECTION

WAC 16-623-010 License fees, expirations, renewals and late renewal penalties. (1) The license fee to act as a commission merchant, dealer, broker, cash buyer, or agent is:

LICENSE CLASS	FEE
Commission merchant	\$357
Dealer	\$357
Limited dealer	\$198
Broker	\$249
Cash buyer	\$ 79
Agent	\$ 28
Additional licenses (see subsection (2) of this section)	\$ 25

(2) A licensee can be licensed in more than one class for an additional fee of twenty-five dollars per class. The principal license must be in the class requiring the greatest fee and all

requirements must be met for each class in which a license is being requested.

(3) All licenses expire December 31st of each year.

(4) License renewals must be renewed before January 1st of each year.

(5) Licenses not renewed by January 1st will be assessed a penalty of twenty-five percent of the total fees. Fees and penalties must be paid before the licenses will be issued.

NEW SECTION

WAC 16-623-020 Recordkeeping and proof of payment. (1) Every commission merchant, dealer, and cash buyer taking possession of or purchasing agricultural products must make and keep for three years accurate records showing the following:

(a) The name and address of the consignor.

(b) The date received.

(c) The quality and quantity delivered by the consignor and where applicable the dockage, tare, grade, size, net weight or quantity.

(d) An itemized statement of the charges to be paid by the consignor, dealer or cash buyer to be paid by the consignor in connection with the sale.

(e) These records must be made available to the director and the consignor or their authorized representatives.

(2) In addition to subsection (1) of this section, the commission merchant's records must include:

(a) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold and proof of payments received on behalf of the consignor.

(b) The terms of payment to the producer.

(c) The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchaser or if the purchaser has any financial interest in the business of the commission merchant. The business interest may be direct or indirect such as holders of the other's corporate stock, as a copartner or as a lender or borrower of money. The interest must be noted in the records following the name of the purchaser.

(d) A lot number or identifying mark for each consignment which will appear on all sales tags and other records showing the price for which the agricultural products actually sold.

(e) If there is a pooling arrangement, the consignor must have agreed in writing to the pooling arrangement before the commission merchant may handle the agricultural product.

(f) In cases where a pooling arrangement is in place, the requirements of subsections (1)(c) and (d) and (2)(b) and (d) of this section apply.

(g) Keep and make available to the director or consignor or

their representative claims filed by the commission merchant against any person for overcharges or damages resulting from the injury or deterioration of agricultural products.

(3) In addition to subsection (1) of this section, dealers and cash buyers must include:

(a) Terms of the sale.

(b) Name and address of the purchaser. The name and address of the purchaser may be deleted from the record furnished to the consignor.

(4) Commission merchants will furnish consignors with proof of payment. Proof of payment will be a listing of payments received by the commission merchant on behalf of any consignor whether through an individual accounting or pool arrangement.

NEW SECTION

WAC 16-623-030 Manifest of cargo for hay and straw--Forms and exceptions. (1) Commission merchants, dealers, their employees or licensed agents transporting hay or straw on equipment owned or under their control must have a copy of the manifest of cargo with each load.

(2) The manifest must be on a form prescribed by the director. The form is available from the department. Exceptions to the manifest form are outlined in subsections (3) and (4) of this section. The form, as a minimum, will state the following:

(a) Purchaser's name and address.

(b) Hauler's name and address.

(c) Business or person the products were received from and their address.

(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity.

(e) Terms of the settlement.

(f) Date.

(3) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by the Washington public utilities and transportation commission, or interstate commerce commission.

(4) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use other shipping documents that have been reviewed and authorized by the department of agriculture. The alternate shipping documents must be authorized by the department prior to their use.

NEW SECTION

WAC 16-623-040 Processor plant capacity reporting. When reporting plant capacity as provided for under RCW 20.01.510, a processor must report the daily total capacity in tons, cases or other legal and customary measure for each crop for all plants that process any Washington agricultural product. The report must include the name, site address, business address and name of the person(s) who may receive legal service for each processing plant reported.

NEW SECTION

WAC 16-623-050 Grower notification of commitments by processor(s). (1) Any grower may notify the director that he has an oral commitment with a processor for a specified amount of product within ten days after the commitment was made. The notification will be in writing and sent by certified mail.

(2) When the director receives the notification, he shall notify the processor within five days by certified mail.

(3) The processor will simultaneously notify the director and the grower within ten days by certified mail of receipt of the director's notice whether or not he confirms the notice.

(4) The processor may accept all, none, or any portion of the acreage and/or tonnage stated.

(5) Once the oral commitment is confirmed for all or for a portion of the acreage and/or tonnage, the processor is committed to receive the acreage or tonnage specified. If the contract is that processor's standard contract and the terms of the contract, price or other conditions later offered to the grower are unacceptable to the grower, then the agreement is not binding upon the processor.

NEW SECTION

WAC 16-623-060 Basis for establishing contract volume. In contracts for the purchase of the production of a specific number of acres, the amount contracted for will be based on the crop yield for the comparable area for the most recent five-year average. The crop yield will be determined by using data from the USDA's National Agricultural Statistics Service.

REPEALER

The following chapters of the Washington Administrative Code are repealed:

- WAC 16-621 Registration of Acreage Commitments Made by Processors to Producers
- WAC 16-692 Hay and Straw - Manifests and Shipping Documents
- WAC 16-694 Agricultural Products - Commission Merchants, Dealers, Brokers, Buyers, Agents - License Fees