



RULE-MAKING ORDER
(RCW 34.05.360)

2042

CR-103 (10/1/89)

Agency: Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: 5/18/90

(2) Purpose: To establish organic processing standards and requirements for labeling of products.

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

- Repealed:
Amended:
Suspended:

(4) Authority for adoption: RCW 15.86.060
Statute: RCW 15.86
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 90-08-090 on 4/4/90 (date).

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

- 1) Changing "organically processed food" to "processed organic food" and other clarifying language.
- 2) Changing the percentage of "approved ingredients" from one to two percent by weight.

(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

JUN 05 1990

TIME: 3:19 AM
WSR 90-12-097

NAME (TYPE OR PRINT) C. Alan Pettibone

SIGNATURE *[Signature]*

TITLE Deputy Director

DATE 5/18/90

5.1 continued

- 3) Striking the line "For example, no packaging film which acts as a preservative is allowed" from WAC 16-158-030.
- 4) In WAC 16-158-040 excluding water and salt from requirements concerning organically grown ingredients.
- 5) Requiring organic food processors to keep records of product from point of origin to buyer instead of from point of origin to retailer.
- 6) Expanding the food products eligible for processed organic food certification by allowing processors to be licensed under Chapter 69.07 RCW, RCW 15.32.110 or 15.36.080 or 66.24.

Chapter 16-158 WAC

PROCESSED ORGANIC FOODS--CERTIFICATION AND LABELING

NEW SECTION

WAC 16-158-010 PURPOSE. This chapter is promulgated pursuant to RCW 15.86.070 wherein the director is authorized to adopt rules establishing a certification program for processors of organic food.

NEW SECTION

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

(1) "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.

(2) "Processed organic food certification" means that a food product complies with the processed organic food standards and has been inspected and tested as set forth in this chapter.

(3) "Food processing" is as defined under RCW 69.07.010 and means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared for sale in their natural state.

(4) "Director" means the director of the department of agriculture or his or her designee.

(5) "Food processing plant" is as defined under RCW 69.07.010 and includes but is not limited to any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where 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: PROVIDED, That retail outlets, as set forth herein, processing foods in any manner for resale shall be considered a food processing plant as to such processing.

NEW SECTION

WAC 16-158-030 ORGANIC PROCESSING STANDARDS. (1) Ingredients:

All processed foods and raw materials labeled as organic must comply with chapter 15.86 RCW and chapter 16-154 WAC. A copy of grower affidavits for raw materials must be placed on file at the time of purchase as part of the organic food processor's audit.

All nonorganic ingredients which are used in product formulation must be approved by the director and their sources must be listed as part of the audit process.

The source(s) of any "approved ingredients" which are not organically grown and are used as less than two percent by weight of the total product because these ingredients or additives are vital to product formulation and the organic ingredient is unavailable, extremely difficult to obtain, or impractical to substitute, must be listed as part of the organic food processor's audit.

(2) Storage:

All ingredients in an organic food processing facility must be stored so that there is no cross contamination from or confusion with a nonorganic food substance.

Insect and rodent control programs must be in place for organic product storage areas. Any insecticides and rodenticides must be approved for organic production.

In areas where entire manufacturing plants are periodically fumigated, the processor must demonstrate that any fumigants used will not form toxic residues on organic products.

Compounds for cleaning storage areas must be used in a manner that leaves no contamination of organically grown or approved nonorganic products by such synthetically formulated compounds.

(3) Food processing plant:

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. It should detail each machine, its ability to be thoroughly cleaned, the introduction of all ingredients, including water, into the product, packaging procedures, and cleanup procedures.

The organic food processor should demonstrate that once packaged, the product has not been contaminated by any step in the process. Organic food processors must be aware of possible contamination by various forms of packaging.

All packaging and products must be free of fungicides, preservatives, fumigants, and contaminants which are not approved for use on organic products.

All water used in processing must be noted in the organic food processor's audit. Source(s) and the additives chlorine and fluoride are to be monitored and comply with all applicable state regulations.

In any event cleaning must be accomplished with adequate sanitizers including unstable chlorine compounds to adequately clean and sanitize equipment, and as needed to maintain satisfactory sanitary practices.

NEW SECTION

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.

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

(3) 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) In multi-ingredient food products which contain some nonorganic ingredients, excluding water and salt, the use of the terms "organic" or "organically grown" can only be used to modify the organic ingredient(s) and must restrict the type size of the words organic or organically grown etc., to not larger than three-quarters type size of the product identity.

If organically grown ingredients comprise less than fifty percent 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.

(5) The terms "organic" or "organically grown" may be used in the product identity when less than two percent by weight of the total product contains minor ingredients or additives which are:

From a list approved by the Washington state department of agriculture.

NEW SECTION

WAC 16-158-050 RECORDKEEPING REQUIREMENTS. All processed organic food must be completely followed by an audit control system.

Organic food processors must keep records of products bought and sold that will enable the department to trace processed food products from the farm to the market. Such records must include but are not limited to, invoices, bill of ladings, and grower affidavits of incoming raw product; repack data and production run reports; and invoices and bill of ladings of processed 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.

NEW SECTION

WAC 16-158-060 PERMITTED SUBSTANCES FOR ORGANIC FOOD PROCESSING. A list of permitted substances and good manufacturing practices will be made available by the department. In general, all substances used in organic food processing should be grown organically.

NEW SECTION

WAC 16-158-070 PROCESSED ORGANIC FOOD CERTIFICATION. The processor seeking voluntary certification of its facility or that of its copacker for processed organic foods must:

(1) Fill out an application form for certification and submit it to the department of agriculture.

(2) Fill out and notarize the processor affidavit and submit it to the department of agriculture.

(3) Send the required fee to the department of agriculture.

(4) Be currently licensed under chapter 69.07 RCW, RCW 15.32.110 or 15.36.080 with the Washington department of agriculture or be licensed under chapter 66.24 RCW with the Washington state liquor control board.

Upon approval of the application by the director and an inspection finds the applicant in compliance with the provisions of this chapter, the applicant shall be issued a license of certification.

NEW SECTION

WAC 16-158-080 USE OF PROCESSED ORGANIC FOOD CERTIFICATION LABEL. Organic food processors certified under the Washington department of agriculture organic food program will be able to use the words "processed under the Washington department of agriculture organic food certification program" in their labeling as long as their practices comply with this chapter, chapter 15.86 RCW, and chapter 16-154 WAC.

NEW SECTION

WAC 16-158-090 INSPECTION. The director shall make at least one visit and any additional visits deemed necessary to each organic food processor under the organic food certification program each year for the purpose of inspection for compliance with this chapter and chapter 15.86 RCW and chapter 16-154 WAC.

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

NEW SECTION

WAC 16-158-100 SAMPLING. A sample representative of a processed product processed by organic food processors under the organic food certification program may be tested for pesticide residues whenever the director deems it necessary for certification.

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

NEW SECTION

WAC 16-158-110 OTHER REQUIREMENTS. Nothing in this chapter shall be construed as allowing foods to be labeled as a standardized food under Title 21 C.F.R. unless they meet the standards and identity of such foods. Organic food processors are subject to all the requirements of chapters 69.04, 69.07, 15.86, 15.32, and 69.28 RCW, and any other statutes which are applicable.

NEW SECTION

WAC 16-158-120 DECERTIFICATION. Whenever the director finds that an organic food processor who has been certified under this program has:

(1) Violated the standards for certification which are set forth in RCW 15.86.030 and WAC 16-154-010 and 16-154-020;

(2) Has filed an application for certification 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 16-154-020;

or

(5) Has violated any provisions of chapter 69.04 or 69.07 RCW;

The director may issue an order suspending or revoking that processor's certification under this program or he may issue an order directing the organic food 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 organic food processor who has received notice that its certification may be revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW. Such application must be in writing, addressed to the director of the Washington department of agriculture and be received in the Olympia administrative offices not later than twenty days from the date of the notice of the opportunity to apply for a hearing.

This shall not preclude the department of agriculture from taking whatever action they deem appropriate under chapter 69.04 or 69.07 RCW for violations of those statutes.

NEW SECTION

WAC 16-158-130 FEE SCHEDULE. Application for a license shall be on a form prescribed by the director and accompanied by a three hundred dollar annual license fee. In addition, one-quarter of one percent of gross receipts of the previous years' sales of processed organic food must accompany the application.

NEW SECTION

WAC 16-158-140 PROCESSED ORGANIC FOOD LOGO.

SEE ILLUSTRATION
(WAC 16-158-140, illus.)

STATE OF WASHINGTON



**processed under
Washington State
Department of Agriculture
Organic Food Certification Program**

