

**HB 2460** - S COMM AMD

By Committee on Agriculture & Rural Economic Development

ADOPTED 03/03/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 15.86.010 and 2002 c 220 s 1 are each amended to read  
4 as follows:

5 The legislature recognizes a public benefit in:

6 (1) Establishing standards governing the labeling and advertising  
7 of ~~((food))~~ agricultural products and ~~((agricultural))~~ commodities as  
8 ~~((organically produced))~~ organic products or transitional products;

9 (2) Providing certification under the ~~((federal organic food  
10 production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules  
11 adopted thereunder))~~ national organic program for agricultural products  
12 marketed and labeled using the term "organic" or a derivative of the  
13 term "organic;"

14 (3) Providing access for Washington producers, processors, and  
15 handlers to domestic and international markets for organic ~~((food))~~  
16 products; ~~((and))~~

17 (4) Establishing a state organic program or obtaining federal  
18 accreditation as a certifying agent under the ~~((federal organic food  
19 production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules  
20 adopted thereunder))~~ national organic program; and

21 (5) Establishing a brand name materials list for registration of  
22 inputs that comply with national, international, or other organic  
23 standards.

24 **Sec. 2.** RCW 15.86.020 and 2002 c 220 s 2 are each amended to read  
25 as follows:

26 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
27 in this section apply throughout this chapter unless the context  
28 clearly requires otherwise.

- 1 (1) "Director" means the director of the department of agriculture  
2 or the director's designee.
- 3 (2) "Organic ~~((food))~~ product" means any agricultural product, in  
4 whole or in part, including meat, dairy, and beverage, that is marketed  
5 using the term organic or any derivative of organic and that is  
6 produced, handled, and processed in accordance with this chapter.
- 7 (3) "Producer" means any person or organization who or which grows,  
8 raises, or produces an agricultural product.
- 9 (4) "Handler" means any person who sells, distributes, or packs  
10 organic or transitional products.
- 11 (5) "Transitional ~~((food))~~ product" means any ~~((food))~~ agricultural  
12 product that ~~((satisfies all of the))~~ meets requirements ~~((of))~~ for  
13 organic ~~((food))~~ certification, except ~~((the time requirements as~~  
14 defined in rule)) that the organic production areas have not been free  
15 of prohibited substances for thirty-six months. Use of prohibited  
16 substances must have ceased for at least twelve months prior to the  
17 harvest of a transitional product.
- 18 (6) "Organic certifying agent" means any third-party certification  
19 organization that is recognized by the director as being one which  
20 imposes, for certification, standards consistent with this chapter.
- 21 (7) "Processor" means any person engaged in the canning, freezing,  
22 drying, dehydrating, cooking, pressing, powdering, packaging, baking,  
23 heating, mixing, grinding, churning, separating, extracting, cutting,  
24 fermenting, eviscerating, preserving, jarring, or otherwise processing  
25 of an organic ~~((food))~~ or transitional product.
- 26 (8) "Person" means any natural person, firm, partnership, exchange,  
27 association, trustee, receiver, corporation, and any member, officer,  
28 or employee thereof or assignee for the benefit of creditors.
- 29 (9) "Department" means the state department of agriculture.
- 30 (10) "Represent" means to hold out as or to advertise.
- 31 (11) "Sale" means selling, offering for sale, holding for sale,  
32 preparing for sale, trading, bartering, offering a gift as an  
33 inducement for sale of, and advertising for sale in any media.
- 34 (12) "Material" means any substance or mixture of substances that  
35 is intended to be used in agricultural production, processing, or  
36 handling.
- 37 (13) "Fertilizer" means a single or blended substance containing

1 one or more recognized plant nutrients which is used primarily for its  
2 plant nutrient content and which is designed for use or claimed to have  
3 value in promoting plant growth.

4 (14) "Label" means a display of written, printed, or graphic  
5 material on the immediate container of an agricultural product or any  
6 such material affixed to any agricultural product or affixed to a bulk  
7 container containing an agricultural product, except for package liners  
8 or a display of written, printed, or graphic material which contains  
9 only information about the weight of the product.

10 (15) "Labeling" includes all written, printed, or graphic material  
11 accompanying an agricultural product at any time or written, printed,  
12 or graphic material about the agricultural product displayed at retail  
13 stores about the product.

14 (16) "National organic program" means the program administered by  
15 the United States department of agriculture pursuant to 7 C.F.R. Part  
16 205, which implements the federal organic food production act of 1990  
17 (7 U.S.C. Sec. 6501 et seq.).

18 (17) "Registrant" means the person registering a material on the  
19 brand name materials list under the provisions of this chapter.

20 (18) "Certification" or "certified" means a determination  
21 documented by a certificate of organic operation made by a certifying  
22 agent that a production or handling operation is in compliance with the  
23 national organic program or with international standards.

24 (19) "Compost" means the product of a managed process through which  
25 microorganisms break down plant and animal materials into more  
26 available forms suitable for application to the soil.

27 (20) "Crop production aid" means any substance, material,  
28 structure, or device that is used to aid a producer of an agricultural  
29 product except for fertilizers and pesticides.

30 (21) "Livestock production aid" means any substance, material,  
31 structure, or device that is used to aid a producer in the production  
32 of livestock such as parasiticides, medicines, and feed additives.

33 (22) "Organic waste-derived material" means grass clippings,  
34 leaves, weeds, bark, plantings, prunings, and other vegetative wastes,  
35 uncontaminated wood waste from logging and milling operations, food  
36 wastes, food processing wastes, and materials derived from these wastes  
37 through composting. "Organic waste-derived material" does not include  
38 products that contain biosolids as defined in chapter 70.95J RCW.

1 (23) "Soil amendment" means any substance that is intended to  
2 improve the physical characteristics of the soil, except for  
3 fertilizers and pesticides.

4 (24) "Spray adjuvant" means any product intended to be used with a  
5 pesticide as an aid to the application or to the effect of the  
6 pesticide and that is in a package or container separate from the  
7 pesticide. "Spray adjuvant" includes, but is not limited to, wetting  
8 agents, spreading agents, deposit builders, adhesives, emulsifying  
9 agents, deflocculating agents, and water modifiers or similar agent  
10 with or without toxic properties of its own intended to be used with  
11 any other pesticide as an aid to its application or to its effect.  
12 "Spray adjuvant" does not include products that are only intended to  
13 mark the location where a pesticide is applied.

14 (25) "Pesticide" means, but is not limited to:

15 (a) Any substance or mixture of substances intended to prevent,  
16 destroy, control, repel, or mitigate any insect, rodent, nematode,  
17 mollusk, fungus, weed, and any other form of plant or animal life or  
18 virus, except a virus on or in a living human being or other animal,  
19 which is normally considered to be a pest or which the director may  
20 declare to be a pest;

21 (b) Any substance or mixture of substances intended to be used as  
22 a plant regulator, defoliant, or desiccant;

23 (c) Any substance or mixture of substances intended to be used as  
24 a spray adjuvant; and

25 (d) Any other substances intended for such use as may be named by  
26 the director by rule.

27 (26) "Postharvest material" means any substance, material,  
28 structure, or device that is used in the postharvest handling of  
29 agricultural products.

30 (27) "Processing aid" means a substance that is added to a food:

31 (a) During processing, but is removed in some manner from the food  
32 before it is packaged in its finished form;

33 (b) During processing, is converted into constituents normally  
34 present in the food, and does not significantly increase the amount of  
35 the constituents naturally found in the food; and

36 (c) For its technical or functional effect in the processing but is  
37 present in the finished food at insignificant levels and does not have  
38 any technical or functional effect in that food.

1 (28) "Manufacturer" means a person that compounds, produces,  
2 granulates, mixes, blends, repackages, or otherwise alters the  
3 composition of materials.

4 **Sec. 3.** RCW 15.86.030 and 2002 c 220 s 3 are each amended to read  
5 as follows:

6 (1) To be labeled, sold, or represented as an organic ((food))  
7 product, a product ((shall)) must be produced under standards  
8 established ((under RCW 15.86.060)) in this chapter or rules adopted  
9 pursuant to this chapter. A producer, processor, or handler shall not  
10 represent, sell, or offer for sale any ((food)) agricultural product  
11 with the representation that the product is ((an)) organic ((food)) if  
12 the producer, processor, or handler knows, or has reason to know, that  
13 the ((food)) product has not been produced, processed, or handled in  
14 accordance with standards established ((under RCW 15.86.060)) in this  
15 chapter or rules adopted pursuant to this chapter.

16 (2) The department may conduct evaluations in retail establishments  
17 to verify compliance with organic labeling and advertising requirements  
18 of this chapter, rules adopted pursuant to this chapter, and the  
19 national organic program.

20 **Sec. 4.** RCW 15.86.060 and 2002 c 220 s 4 are each amended to read  
21 as follows:

22 (1) The director shall adopt rules, in conformity with chapter  
23 34.05 RCW, as the director believes are appropriate for the adoption of  
24 the national organic program ((under the federal organic food  
25 production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules  
26 adopted thereunder)) and for the proper administration of this chapter.

27 (2)(a) The director shall issue orders to producers, processors, or  
28 handlers whom ((he or she)) the director finds are violating ((any  
29 provision of this chapter,)) RCW 15.86.030 or 15.86.090 or rules ((or  
30 regulations)) adopted ((under)) pursuant to this chapter, to cease  
31 their violations and desist from future violations.

32 (b) Whenever the director finds that a producer, processor, or  
33 handler has committed a violation, the director shall impose on and  
34 collect from the violator a civil fine not exceeding the total of ((the  
35 following amounts)):

- 1        ~~((a))~~ (i) The state's estimated costs of investigating and taking  
2 appropriate administrative and enforcement actions in respect to the  
3 violation; and  
4        ~~((b))~~ (ii) One thousand dollars.  
5        ~~((3) The director may deny, suspend, or revoke a certification  
6 provided for in this chapter if he or she determines that an applicant  
7 or certified person has violated this chapter or rules adopted under  
8 it.)~~)

9        **Sec. 5.** RCW 15.86.065 and 2002 c 220 s 7 are each amended to read  
10 as follows:

11        (1) The department is authorized to take such actions, conduct  
12 proceedings, and enter orders as permitted or contemplated for a state  
13 organic program or certifying agent under the ~~((federal organic food  
14 production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules  
15 adopted thereunder)) national organic program.~~

16        (2) The director may deny, suspend, or revoke a certification  
17 provided for in this chapter if the director determines that an  
18 applicant or certified person has violated this chapter or rules  
19 adopted pursuant to this chapter.

20        (3) The ~~((state organic))~~ program shall not be inconsistent with  
21 the requirements of ~~((7 U.S.C. Sec. 6501 et seq. and the rules adopted  
22 thereunder, including 7 C.F.R. Sec. 205.668)) the national organic  
23 program.~~

24        (4) The department shall adopt rules necessary to implement this  
25 section.

26        **Sec. 6.** RCW 15.86.070 and 2002 c 220 s 5 are each amended to read  
27 as follows:

28        (1) The director may adopt rules establishing a program for  
29 certifying producers, processors, and handlers as meeting state,  
30 national, or international standards for organic or transitional  
31 ~~((food))~~ products.

32        (2) The rules:

33        (a) May govern, but are not limited to governing:

34        (i) The number and scheduling of on-site visits, both announced and  
35 unannounced, by certification personnel;

36        (ii) Recordkeeping requirements; and

1        (iii) The submission of product samples for chemical analysis(~~(-~~  
2 ~~The rules))~~; and

3        (b) Shall include a fee schedule that will provide for the recovery  
4 of the full cost of the (~~(organic food)~~) program.

5        (3) All fees collected under this (~~(section)~~) chapter shall be  
6 deposited in an account within the agricultural local fund (~~(and)~~).  
7 The revenue from such fees shall be used solely for carrying out the  
8 provisions of this (~~(section)~~) chapter, and no appropriation is  
9 required for disbursement from the fund.

10       (4) The director may employ such personnel as are necessary to  
11 carry out the provisions of this (~~(section)~~) chapter.

12       (~~(2) The fees established under this section may be increased in~~  
13 ~~excess of the fiscal growth factor as provided in RCW 43.135.055 for~~  
14 ~~the fiscal year ending June 30, 2003.)~~)

15       **Sec. 7.** RCW 15.86.090 and 2002 c 220 s 6 are each amended to read  
16 as follows:

17       (1) It is unlawful for any person to sell, offer for sale, or  
18 process any agricultural product within this state with an organic  
19 label unless that person is certified under this chapter by the  
20 department or a recognized organic certifying agent.

21       (2) Subsection (1) of this section shall not apply to:

22       (a) Final retailers of organic (~~(food)~~) products that do not  
23 process organic (~~(food)~~) products; or

24       (b) Producers who sell no more than five thousand dollars annually  
25 in value of agricultural products directly to consumers.

26       NEW SECTION. **Sec. 8.** A new section is added to chapter 15.86 RCW  
27 to read as follows:

28       (1) To be labeled, sold, or represented as transitional products,  
29 agricultural products must comply with transitional product standards  
30 specified in this chapter and rules adopted pursuant to this chapter,  
31 including no application of substances prohibited under the national  
32 organic program within one year immediately preceding harvest.

33       (2) A producer, processor, or handler may not represent, sell, or  
34 offer for sale any agricultural product as a transitional product if  
35 the producer, processor, or handler knows or has reason to know that

1 the product does not comply with transitional product standards  
2 specified in this chapter or rules adopted pursuant to this chapter.

3 (3)(a) The department may set and collect transitional  
4 certification fees, including fees for application for transitional  
5 certification, renewal of transitional certification, inspections, and  
6 sampling. Collected fees are subject to provisions specified in RCW  
7 15.86.070.

8 (b) The fee for application for transitional certification is fifty  
9 dollars per site in addition to any organic certification application  
10 fees established under this chapter. The department may increase this  
11 fee by rule as necessary to cover costs of provision of services.

12 (4) The department may conduct evaluations in retail establishments  
13 to verify compliance with transitional labeling and advertising  
14 requirements of this chapter, rules adopted pursuant to this chapter,  
15 and the national organic program.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 15.86 RCW  
17 to read as follows:

18 (1) The department may establish a brand name materials list of  
19 registered materials that are approved for use in organic production,  
20 processing, or handling in accordance with the national organic program  
21 or international standards. Registration of a material on the brand  
22 name materials list is voluntary. While registration is not required  
23 for a material to be used or sold in this state, registration is  
24 necessary for a material to be included on the brand name materials  
25 list.

26 (2)(a) Manufacturers of materials may submit an application to the  
27 department for registration of a material on the brand name materials  
28 list. Applications must be made on a form designated by the  
29 department, and must include:

- 30 (i) The name and address of the manufacturer;
- 31 (ii) The name and address of the manufacturer's representative  
32 making the representations in the application;
- 33 (iii) The brand name that the material is sold under;
- 34 (iv) A copy of the labeling accompanying the material and a  
35 statement of all claims to be made for it, including the directions and  
36 precautions for use;



1 (v) The complete formula of the material, including the active and  
2 inert ingredients;

3 (vi) A description of the manufacturing process, including all  
4 materials used for the extraction and synthesis of the material, if  
5 appropriate;

6 (vii) The intended uses of the product;

7 (viii) The source or supplier of all ingredients;

8 (ix) The required fee for registration or renewal; and

9 (x) Any additional information required by rule.

10 (b) If any change to the information provided in an application  
11 occurs at any time after an application is submitted, the registrant  
12 must immediately submit corrected information to the department for  
13 review. Failure by the registrant to provide corrections to  
14 information provided in the application may result in suspension or  
15 revocation of the registration.

16 (c) By submitting an application for registration on the brand name  
17 materials list, the applicant expressly consents to jurisdiction of the  
18 state of Washington in all matters related to the registration.

19 (d) Applications for registration on the brand name materials list  
20 are governed by chapter 34.05 RCW.

21 (3)(a) By applying for registration on the brand name materials  
22 list, the registrant expressly grants to the department or other  
23 organic certifying agent or inspection agent approved by the national  
24 organic program the right to enter the registrant's premises during  
25 normal business hours or at other reasonable times to:

26 (i) Inspect the portion of the premises where the material, inputs,  
27 or ingredients are stored, produced, manufactured, packaged, or  
28 labeled;

29 (ii) Inspect records related to the sales, storage, production,  
30 manufacture, packaging, or labeling of the material, inputs, or  
31 ingredients; and

32 (iii) Obtain samples of materials, inputs, and ingredients.

33 (b) Should the registrant refuse to allow inspection of the  
34 premises or records or fail to provide samples, the registration on the  
35 brand name materials list is cancelled. The department shall deny  
36 applications for registration where the registrant refuses to allow the  
37 inspection of the premises or records or fails to provide samples as  
38 provided in this section.

1 (c) Required inspections may be conducted by department personnel,  
2 by an organic certifying agent, or by another inspection agent approved  
3 by the national organic program. The department may establish by rule  
4 evaluation criteria for review of inspection reports conducted by an  
5 organic certifying agent or inspection agent approved by the national  
6 organic program.

7 (4) The director may adopt rules necessary to implement the brand  
8 name materials list, including but not limited to:

9 (a) Fees related to registration;

10 (b) The number and scheduling of inspections, both announced and  
11 unannounced;

12 (c) Recordkeeping requirements;

13 (d) Additional application requirements;

14 (e) Labeling of registered materials; and

15 (f) Chemical analysis of material samples.

16 (5)(a) The department may establish a brand name materials list to  
17 register materials approved for use under:

18 (i) National organic program standards; or

19 (ii) International or additional organic standards.

20 (b) The director may review materials registered on the brand name  
21 materials list as approved for use under the national organic program  
22 for compliance with specific international or additional organic  
23 standards as designated by rule. A registered material that complies  
24 with a specific international or additional organic standard may also  
25 be registered as approved under that standard.

26 (6) Registration of a material on the brand name materials list  
27 under this chapter does not guarantee acceptance for use in organic  
28 production or processing by organic certifying agents other than the  
29 department. The department is not liable for any losses or damage that  
30 occurs as a result of use of a material registered on the brand name  
31 materials list.

32 (7) The director may deny, suspend, or revoke a registration on the  
33 brand name materials list if the director determines that a registrant  
34 has:

35 (a) Failed to meet the registration criteria established in this  
36 chapter or rules adopted pursuant to this chapter; or

37 (b) Violated any other provision of this chapter or rules adopted  
38 pursuant to this chapter.

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 15.86 RCW  
2 to read as follows:

3        (1) The department is authorized to set and collect fees for  
4 application for registration, renewal of registration, inspections, and  
5 sampling for the brand name materials list. Collected fees are subject  
6 to provisions specified in RCW 15.86.070. The department may increase  
7 by rule fees established in this section as necessary to cover costs of  
8 provision of services.

9        (2)(a) The application fee for registration of a pesticide, spray  
10 adjuvant, processing aid, livestock production aid, or postharvest  
11 material is:

12        (i) Five hundred dollars per material for an initial registration;  
13 and

14        (ii) Three hundred dollars per material for renewing a  
15 registration.

16        (b) The application fee for registration of a fertilizer, soil  
17 amendment, organic waste-derived material, compost, animal manure, or  
18 crop production aid is:

19        (i) Four hundred dollars per material for an initial registration;  
20 and

21        (ii) Two hundred dollars per material for renewing a registration.

22        (3)(a) Renewal applications postmarked after October 31st must  
23 include, in addition to the renewal fee, a late fee of:

24        (i) One hundred dollars per material for applications postmarked  
25 after October 31st;

26        (ii) Two hundred dollars per material for applications postmarked  
27 after November 30th; and

28        (iii) Three hundred dollars per material for applications  
29 postmarked after December 31st.

30        (b) Renewal applications received after February 2nd will not be  
31 accepted, and applicants must reapply as new applicants.

32        (4) Inspections and any additional visit that must be arranged must  
33 be billed at forty dollars per hour plus travel costs and mileage,  
34 charged at the rate established by the office of financial management.

35        (5) Chemical analysis of material samples, if required for  
36 registration or requested by the applicant, must be billed at a rate  
37 established by the laboratory services division of the department of  
38 agriculture or at cost for analyses performed by another laboratory.

1 (6) Requests for expedited reviews may be submitted and, if  
2 approved, must be billed at forty dollars per hour.

3 (7) The department may assess compliance with an international or  
4 additional organic standard for materials registered on the brand name  
5 materials list as approved for use under the national organic program.  
6 Requests for additional assessments of materials approved under the  
7 national organic program must be billed at a rate of one hundred  
8 dollars per product for each standard."

**HB 2460** - S COMM AMD

By Committee on Agriculture & Rural Economic Development

**ADOPTED 03/03/2010**

9 On page 1, line 1 of the title, after "products;" strike the  
10 remainder of the title and insert "amending RCW 15.86.010, 15.86.020,  
11 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; adding new  
12 sections to chapter 15.86 RCW; and prescribing penalties."

EFFECT: Revises definition of "transitional products" to provide  
that: (1) Transitional products meet organic certification  
requirements except that organic production areas have not been free of  
prohibited substances for 36 months; and (2) use of prohibited  
substances must have ceased for at least 12 months prior to harvest of  
transitional product. Makes several technical corrections, including  
correcting reference to RCW definition of "biosolids."

--- END ---