



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON  
FILED

DATE: August 06, 2020

TIME: 2:10 PM

WSR 20-17-020

Agency: Dept. of Agriculture

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** This rule making order amends chapters 16-19 WAC, Custom farm slaughterers, custom slaughtering establishments, and custom meat facilities; 16-125 WAC, Farm milk storage tanks and bulk milk tanker – Requirements; 16-129 WAC, Labeling and advertising of products resembling genuine dairy products; 16-130 WAC, Direct sellers; 16-139 WAC, Penalties; 16-142 WAC, Perishable packaged food goods - Pull dating; 16-144 WAC, Processing frozen desserts; 16-165 WAC, Food inspection; 16-167 WAC, Intrastate commerce in foods; 16-168 WAC, Approved independent sanitation consultants for food storage warehouses; and 16-170 WAC, Special permits for slaughtering poultry, by:

- Amending or readopting sections to reflect the restructuring of chapter 69.04 RCW that moved the food related requirements into chapter 15.130 RCW;
- Cleaning up and clarifying the language to remove references to other repealed statutes and outdated federal regulations; and
- Changing the section headers away from the question and answer format.

**Citation of rules affected by this order:**

New: None.

Readopted: WAC 16-129-050, WAC 16-130-040, WAC 16-139-010, -020, -030, -050, WAC 16-165-110, -150, WAC 16-167-010, -020, -030, -040, -050, -900.

Repealed: WAC 16-144-145, WAC 16-168-040.

Amended: WAC 16-19-320, WAC 16-125-120, WAC 16-130-010, -020, -030, -050, -060, WAC 16-139-001, -005, -040, -060, WAC 16-142-100, -110, -120, -130, -140, -150, -160, -170, WAC 16-144-010, -146, -147, -148, -149, -150, -151, WAC 16-165-100, -120, -130, -140, -160, WAC 16-168-010, -020, -030, -050, -060, -070, -075, -080, -090, -100, WAC 16-170-010, -020, -030, -035, -036, -037, -041, -050, -060, -070, -075, -080, -090, -100, -110, -115, -120, -125, -130, -135, -140, -145, -150, -155, 170, -175, -180.

Suspended: None.

**Statutory authority for adoption:** RCW 15.30.120, 69.07.020, 69.10.055, 16.49.025

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 20-12-097 on June 03, 2020 (date).

Describe any changes other than editing from proposed to adopted version: None.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:  
Web site:  
Other:

**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	<u>2</u>	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>34</u>	Repealed	___

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	<u>44</u>	Repealed	2
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	<u>44</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	___	Amended	___	Repealed	___

**Date Adopted:** August 6, 2020

**Name:** Derek I. Sandison

**Title:** Director

**Signature:**



AMENDATORY SECTION (Amending WSR 99-12-021, filed 5/24/99, effective 6/24/99)

**WAC 16-19-320 Labeling and packaging requirements.** (1) All inspected meat and meat food products stored or prepared for the owner thereof, including packages or containers containing any uninspected meat food products, must be marked "NOT FOR SALE" in letters three-eighths of an inch in height immediately upon receipt and immediately after preparing.

(2) All meat food product labels and meat food product packaging must conform to requirements of chapter 19.94 RCW, the Weights and Measures Act and chapter ~~((69.04))~~ 15.130 RCW, (~~(Intrastate Commerce in Food, Drugs, and Cosmetics)~~) Food Safety and Security Act, now in effect or as amended, and rules adopted under those chapters.

**WAC 16-125-120 Bulk milk tanker requirements.** All bulk milk tankers operating in the state of Washington must comply with the provisions of 3A standard 05-14. Additional requirements are:

(1) Trucks and trailers with remote pumps, mounted on tractor or front trailer, and a system of external hoses and/or piping may be used: Provided, That

(a) External flexible hoses meet the following requirements:

(i) Hoses are the thick walled rubber type and meet 3A standards 18-01, 62-01 and 63-01 except for pump box hoses.

(ii) Hoses are capped with a sanitary cap when not in use.

(b) Piping along the length of the trailer is of the fixed type and meets the following requirements:

(i) The pipe is stainless steel and meets the requirements of 3A standards 63-02 and 33-01. Other materials may be used if they are approved by the Milk Safety Branch of the Food and Drug Administration.

(ii) The sanitary piping is enclosed in an insulated holder and both the sanitary piping and the holder are capped with a dust tight cap when disconnected.

(c) Sanitary air that meets the requirements of 3A standard 64-04 may be used to remove residual milk from the external piping system.

(d) Any milk in the external piping system that exceeds forty-five degrees Fahrenheit is discarded.

(e) Adequate facilities must be provided at all receiving stations for the proper cleaning and sanitizing of tankers including the external lines and valves.

(2) All external valves on a tanker must be provided with a means of protection against dust, dirt, and road debris.

(a) Outlet valves must be protected by dust tight covers that will comply with 3A standard 05-14.

(b) Inlet valves and valves with attached hoses must be protected by a relatively dust tight cover. This cover may be:

(i) Stainless steel with an opening for the connection of hoses that is sealed with a flexible material that will prevent the entrance of dust, dirt, or road debris.

(ii) A flexible mounting made of rubber or other approved material that is close fitting, smooth, impervious, and easily removable for cleaning.

(iii) Any other cover for which plans have been submitted to and approved by the director.

(c) All valves not connected to hoses must have a sanitary cap and an approved dust cover on them.

(3) Markings on each truck or trailer must be sufficient to identify the owner of the truck or trailer.

(4) Cleaning and bactericidal treatment of all product contact surfaces including valves, hoses, covers, connections, appurtenances, pumps, and pump compartment of each tanker, when used, must be accomplished at least once every twenty-four hours after first use. If the tanker is not used for hauling milk for seventy-two hours after cleaning and sanitizing it must be sanitized again before it may be used for hauling milk. After sanitization each tanker must be tagged to show the date washed, place washed, and initials or signature of the person who washed the tanker. This wash tag must not be removed until the tanker is rewashed. It shall be the responsibility of the bulk

milk hauler to ensure that the wash tag is present and that the tank is in fact clean prior to commencing his route.

(5) (~~Plans and drawings relating to tankers submitted to the director will be treated with confidentiality except as required under Public Disclosure Act, chapter 42.17 RCW.~~)

(~~6~~) Bulk milk tankers must meet the requirements under chapter ((69.04)) 15.130 RCW and the rules adopted thereunder for transportation of food.

**WAC 16-129-050 Requirements for signs in theatres or other commercial food service establishments which prepare and sell popcorn for human consumption at the point of sale.** (1) Popcorn flavored with butter - Sign shall be in a conspicuous location of durable material in contrasting letters not less than 3/4 inch high stating "Flavored with butter" or words to that effect.

(2) Popcorn flavored in semblance of butter - Sign shall be in a conspicuous location of durable material in contrasting letters not less than 3/4 inch high stating "Imitation butter flavor" and listing the ingredients contained in the flavor in contrasting letters not less than 1/2 inch high in descending order of predominance.

AMENDATORY SECTION (Amending WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-010 Purpose of this chapter.** The purpose of this chapter is to implement RCW ((69.04.345)) 15.130.400 by establishing rules relating to the issuance of licenses to operate as a direct seller and to establish the requirements that apply to direct sellers.

AMENDATORY SECTION (Amending WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-020 Definitions.** (1) In addition to the definitions contained in this section, the definitions found in chapters ((69.04)) 15.130 and 69.07 RCW, chapters 16-165, 16-167, and 246-215 WAC, and Title 21 of the Code of Federal Regulations may apply.

(2) For the purposes of this chapter, the following definitions apply:

"Department" means the department of agriculture.

"Direct seller" means an entity licensed by the department that receives prepackaged food from a food processor that is either licensed or inspected, or both, by a state or federal regulatory agency or the department and that delivers the food directly to consumers clients who only placed and paid for an order on the entity's website, as long as:

(a) The food is delivered by the entity without opening the processor's original packaging and without dividing it into smaller packages;

(b) There is no interim storage by the entity; and

(c) The food is delivered by means of vehicles that are equipped with either refrigeration or freezer units, or both, and that meet the requirements of rules authorized by this chapter.

"Director" means the director of the department of agriculture.

"Food handling area" means all premises and facilities utilized for food transport by a direct seller.

AMENDATORY SECTION (Amending WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-030 Direct seller license applications.** (1) All direct sellers must be licensed annually by the department. Licenses expire on December 31st following issuance except that licenses issued during 2014 will not expire until December 31, 2015.

(2) Applications for new and renewal licenses must be submitted on the form provided by the department, and must include:

(a) A completed application form;

(b) The physical address of the business premises within the state of Washington of the direct seller where required records will be maintained;

(c) A current list of all leased, rented or owned vehicles, other than vehicles that are rented for less than forty-five days, intended

for use within Washington state by the direct seller to deliver food; and

(d) An annual license fee of five thousand four hundred dollars.

(3) The department will not refund license fees after receipt of a direct seller license or renewal license application.

(4) Prior to licensing, the department may inspect the vehicles and food handling areas of the direct seller to determine them to be in compliance with the requirements of chapter ((69.04)) 15.130 RCW and this rule.

(5) Until a license is issued by the department, direct sellers must comply with all applicable permitting requirements contained in food service establishment rules adopted by the state board of health and any local health jurisdiction.

(6) To obtain an application for a direct seller license, contact the department at:

Washington State Department of Agriculture  
Food Safety Consumer Services Division  
P.O. Box 42560  
Olympia, WA 98504-2560  
Phone: 360-902-1876  
Fax: 360-902-2087  
Website: <http://agr.wa.gov>.

READOPTED SECTION (Readopting WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-040 Direct sell requirements.** (1) The license or a copy of the license must be present in all vehicles and food handling areas utilized by the direct seller.

(2) Direct sellers must maintain all areas of vehicles utilized for food transportation and food handling areas in a sanitary manner. Vehicles and food handling areas must be kept clean and inspected each day by the direct seller.

(3) Direct sellers must keep records to document daily cleaning and sanitary inspections of vehicles and food handling areas. Records of daily vehicle inspections must be maintained with the vehicle for the previous thirty days. Food handling area inspection records and vehicle inspection records older than thirty days must be maintained by the direct seller at the direct seller's business premises for twelve months. Vehicle and package temperature logs must be maintained by the direct seller at the direct seller's business premises for twelve months.

(4) Direct sellers are required to protect food from contaminations while in transport.

(a) Food must be transported under conditions that protect food against physical, chemical and microbial contamination.

(b) Food must be protected against deterioration of the food and its container.

(c) Food must be kept in a temperature controlled environment to adequately protect the food from deterioration or degradation and to minimize microbial growth. Refrigerated food temperatures must be maintained at forty-one degrees Fahrenheit or below, and frozen food temperatures must be maintained at thirty-two degrees Fahrenheit or

below at all times and a food labeled frozen by the food processor must be received frozen by the consumer.

(d) Ensure the separation of raw materials, including raw seafood, meat, poultry and raw fruits and vegetables in a fashion to avoid cross-contamination of other food products, particularly ready-to-eat foods.

(e) Raw materials may not come in direct contact with other food in the same container or in any other cross-contaminating circumstances.

(5) The direct seller must maintain the following records at the direct seller's business premises and make available for inspection by the department:

(a) A current list of all leased, rented or owned vehicles, other than vehicles that are rented for less than forty-five days, intended for use in Washington state by the direct seller to deliver food;

(b) All records of vehicles intended for use in Washington state rented for less than forty-five days for at least twelve months following the termination of the rental period;

(c) Temperature logs of all vehicles and packages in real time for all food while in transport from initial pickup to delivery;

(d) Consumer client lists indicating what products were purchased, when products were delivered, and location where the product was delivered to consumer client;

(e) Records of product purchases that are offered or sold to consumer clients that include manufacturer of product, distributor of product, date and time of receipt of product by direct seller, and date and time of delivery of product by direct seller; and

(f) Records indicating disposition of any products not sold or received by consumer clients.

(6) All records required under this section must be:

(a) Maintained so that the information they intend to convey is clear and understandable;

(b) Available to the department upon request at the direct seller's business premises or in a vehicle as applicable; and

(c) Retained at the direct seller's business premises for six months after the expiration of the license.

AMENDATORY SECTION (Amending WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-050 Inspections.** (1) The department will conduct routine inspections of all vehicles, food handling areas, refrigeration equipment, and product packaging used by the direct seller.

(2) The department will conduct audits of all required records including cleaning and sanitary inspections, temperature logs, lists of all leased, rented or owned vehicles, vehicle rental records, purchases, sales, and other food handling and sanitation records as appropriate.

(3) During an investigation, the department may sample food products transported by the direct seller for laboratory testing to ensure food is being handled and maintained in a safe and sanitary manner.

(4) The department may inspect the records, vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller whenever the department has reason to believe the direct

seller is in violation of the requirements of chapter ((69.04)) 15.130 RCW or this chapter. Inspections will be made at reasonable times and, when possible, during regular business hours.

(5) The department will investigate any complaints against a direct seller for violations of chapter ((69.04)) 15.130 RCW or this chapter, or for otherwise failing to maintain and distribute food in a safe and sanitary manner.

(6) The department may inspect records, vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller in response to a food recall, foodborne illness outbreak, consumer complaint, other public health emergency, or when required by federal, state or local regulation. In such situations, the direct seller will provide to the department its customer list and all known contact information. The direct seller must notify customers of a recall, foodborne illness outbreak, or other relevant event when directed by the department.

AMENDATORY SECTION (Amending WSR 14-23-053, filed 11/17/14, effective 12/18/14)

**WAC 16-130-060 Suspension, revocation, and denial of registrations.** (1) A direct seller license and applications for direct seller licenses are governed by the procedures set forth in chapter 34.05 RCW.

(2) The director may deny, suspend, or revoke a direct seller application or license if it is determined that an applicant or direct seller has committed any of the following acts:

(a) Refused, neglected, or failed to comply with the provisions of chapter ((69.04)) 15.130 RCW, the rules adopted under this chapter, or any order issued by the director;

(b) Refused, neglected, or failed to keep and maintain required records;

(c) Refused the department access to required records;

(d) Refused the department access to any portion or area of vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller; or

(e) Failure to submit an application for a license meeting the requirements of this chapter or failure to pay the annual license or renewal fee.

(3) The director may summarily suspend a license issued under this chapter if the director finds that a direct seller is operating under conditions that constitute an immediate danger to public health or if the director is denied access to the records, vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller where the access was sought for the purposes of enforcing or administering this chapter.

AMENDATORY SECTION (Amending WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-001 Promulgation and purpose.** This chapter is promulgated by the director of agriculture for the purpose of establishing fair, uniform and equitable means for assessing civil penalties and licensing actions authorized under RCW 16.49.444, 19.32.060, (~~69.04.880~~), 69.07.060, 69.07.110, 69.07.150(2), 69.10.030 (~~and~~), 69.10.050, and 15.130.555. The rules adopted in WAC 16-139-005 through 16-139-060 apply to violations of chapters 16.49 RCW (Custom slaughtering), 19.32 RCW (Food lockers), (~~69.04 RCW (Intrastate commerce in food, drugs, and cosmetics)~~), 69.07 RCW(~~7~~) (Washington Food Processing Act) (~~and~~), 69.10 RCW (Food storage warehouses), and 15.130 RCW (Food Safety and Security Act). The director also declares:

(1) Education and technical assistance play an important role in the prevention, correction or abatement of food safety violations and are the department's preferable alternative to regulatory action. However, at times regulatory action is necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The department initiates such actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance; and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapters 16.49, (~~19.32, 69.04~~), 69.07 (~~and~~), 69.10, and 15.130 RCW, and rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

AMENDATORY SECTION (Amending WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-005 Definitions.** (1) Definitions:

(a) "Violation" means commission of an act or acts prohibited by chapter 16.49, (~~19.32, 69.04~~), 69.07 (~~or~~), 69.10, or 15.130 RCW, including rules adopted under them.

(b) "Prior violation" means the same or a similar violation committed by a person within the previous three years.

(c) "Critical violation" means a violation resulting in food adulteration that could cause injury or illness in consumers or that has the potential to contribute to conditions resulting in such adulteration.

(d) "Significant violation" means a violation resulting in food adulteration or food being prepared under unsanitary conditions not apparently related to a public health danger or that has the potential to contribute to conditions resulting in such adulteration and if not corrected could lead to a critical violation.

(e) "Economic violation" means a violation which affects the purchaser economically, either due to misbranding or adulteration where

inferior or substandard quality product is substituted, by hiding defects or by false or misleading labeling.

(f) "Other violation" means a violation of chapter 16.49, (~~(19.32, 69.04, 69.07 or)~~) 69.07, 69.10, or 15.130 RCW, not covered under the penalty schedules in WAC 16-139-020 or 16-139-030, including, but not limited to, violation of embargo, mutilation of embargo notices, sale of food from an unlicensed processor, operating without a required license, refusal of inspection or access, interference with the director or the director's designee, or economic and labeling violations.

(g) "Same," with respect to violations, means an identical recurrence or an exact repetition of a previous violation, or a continuation of a previous violation.

(h) "Similar," with respect to violations, means related in appearance or nature; alike though not identical.

(i) "Knowingly" means that the alleged violator had previous warning, knew or reasonably should have known that a condition could result in adverse effects or that a violation would occur.

(j) "Potential," with respect to violations, means that a violation may result in food adulteration or a risk to health or that the violation supports conditions that may contribute to food adulteration or a risk to health.

(k) "Probable," with respect to violations, means that a violation is reasonably likely to result in food adulteration or a risk to health.

(2) Additional definitions for terms used in this chapter are found in the following provisions of law:

(a) (~~(Washington Food, Drug and Cosmetic)~~) Food Safety and Security Act, chapter (~~(69.04)~~) 15.130 RCW.

(b) Washington Food Processing Act, chapter 69.07 RCW.

(c) Current Good Manufacturing Practice (~~(in Manufacturing, Packing or Holding)~~), Hazard Analysis, and Risk-Based Preventative Controls for Human Food, Title 21, Code of Federal Regulations, Chapter 1, Subchapter B, Part (~~(110)~~) 117.

(d) Food storage warehouses, chapter 69.10 RCW.

(e) Custom Slaughter Act, chapter 16.49 RCW.

READOPTED SECTION (Readopting WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-010 Calculation of penalty.** (1) Median penalty selection. In the disposition of administrative cases, the department shall determine the penalty as follows:

(a) The department shall first determine the correct penalty assignment schedule table listed in either WAC 16-139-020 (critical violations), WAC 16-139-030 (significant violations), or WAC 16-139-040 (economic and other violations), that is applied based on the type of violation alleged.

(b) The department shall then determine the penalty range based on whether there have been prior violations in last three years.

(c) The department shall then determine:

(i) The probability of a violation causing a risk to health under WAC 16-139-020 (critical violations); or

(ii) The probability of a violation resulting in food adulteration under WAC 16-139-030 (significant violations); or  
 (iii) Whether the violation was knowing under WAC 16-139-040 (economic and other violations).

(d) The scheduled penalty is then applied unless a proportionate adjustment is made. In no case will a penalty less than the minimum penalty listed for the violation be applied.

(2) Proportionate adjustment of median penalty. The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action under certain circumstances. Such circumstances include situations where licensing action as a deterrent is ineffective and includes, but is not limited to, violations by persons who are not licensed. Likewise, the department reserves the right to proportionately decrease the civil penalty and proportionately increase the licensing action when circumstances in a particular case demonstrate the ineffectiveness of a civil penalty action as a deterrent.

READOPTED SECTION (Readopting WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-020 Penalty assignment schedule—Critical violations.**

LEVEL	DEGREE OF RISK TO HEALTH	PENALTY
1st Violation in a 3-year period	A. POTENTIAL	\$200 and 2-day license suspension
	B. PROBABLE	\$1000 and 7-day license suspension
2nd Violation in a 3-year period	A. POTENTIAL	\$400 and 4-day license suspension
	B. PROBABLE	\$1000 and 14-day license suspension
3rd Violation in a 3-year period	A. POTENTIAL	\$800 and 8-day license suspension
	B. PROBABLE	\$1000 and 30-day license suspension

READOPTED SECTION (Readopting WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-030 Penalty assignment schedule—Significant violations.**

LEVEL	POTENTIAL FOR FOOD ADULTERATION	PENALTY
1st Violation in a 3-year period	A. POTENTIAL	\$100 and 1-day license suspension
	B. PROBABLE	\$200 and 2-day license suspension
2nd Violation in a 3-year period	A. POTENTIAL	\$200 and 2-day license suspension
	B. PROBABLE	\$400 and 4-day license suspension
3rd Violation in a 3-year period	A. POTENTIAL	\$400 and 4-day license suspension

LEVEL	POTENTIAL FOR FOOD ADULTERATION	PENALTY
	B. PROBABLE	\$800 and 8-day license suspension

AMENDATORY SECTION (Amending WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-040 Penalty assignment schedule—Economic and other violations of chapters 16.49, ((19.32, 69.04,)) 69.07, ((and)) 69.10, and 15.130 RCW.**

LEVEL	DEGREE OF KNOWLEDGE OF VIOLATION	PENALTY
1st Violation in a 3-year period	A. UNKNOWNING	\$100 and 1-day license suspension
	B. KNOWING	\$200 and 2-day license suspension
2nd Violation in a 3-year period	A. UNKNOWNING	\$200 and 2-day license suspension
	B. KNOWING	\$400 and 4-day license suspension
3rd Violation in a 3-year period	A. UNKNOWNING	\$300 and 3-day license suspension
	B. KNOWING	\$1000 and 10-day license suspension

READOPTED SECTION (Readopting WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-050 Other dispositions of alleged violations.** Nothing herein shall prevent the department from:

- (1) Choosing not to pursue a case administratively.
- (2) Issuing a notice of correction in lieu of pursuing administrative action.
- (3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

AMENDATORY SECTION (Amending WSR 98-02-023, filed 12/31/97, effective 1/31/98)

**WAC 16-139-060 Disposition of collected penalty money.** Money collected by the department as civil penalties for violation of chapters 16.49, ((69.04, and)) 69.10, and 15.130 RCW shall be directed to the state general fund. Money collected by the department as civil penalties for violations of chapter 69.07 RCW shall be utilized for food processing industry technical advisement and assistance in meet-

ing food safety regulations and requirements and food safety education and training of food safety program personnel.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-100** (~~((What is the))~~) Purpose (~~((for this))~~) of rule(?). The purpose for this rule is to establish uniform standards for pull date labeling and safe storage conditions for perishable packaged food goods as described in RCW (~~((69.04.900 through 69.04.920))~~) 15.130.300.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-110** (~~((What is the))~~) Purpose (~~((for))~~) of pull dates(?). The purpose for pull dates is to inform the consumer of the expected length of shelf life for perishable packaged foods in order to allow them a reasonable amount of time to use the product under proper care and storage conditions.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-120** (~~((What does the))~~) Pull date (~~((indicate?))~~) indication. The pull date indicates the last day that the product can be sold and still allow the purchaser a reasonable amount of time to use the product under normal usage and storage conditions.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-130** (~~((Can products be sold))~~) Selling products after the pull date(?). (~~((Yes,))~~) Products can be sold after the pull date has expired if they are still wholesome, not a danger to health and clearly labeled indicating that the pull date has expired. They must be separated from products that are still within pull date.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-140** (~~((How must the))~~) Pull date (~~((be shown?))~~) format. The pull date must first show the month then the day of the month. The month can either be identified with three letters indicating the month such as DEC for December or by numbers indicating the month from one for January through twelve for December. The day of the month must be shown using two numbers such as 06 for the sixth day or 19 for the

nineteenth day. When both the month and day of the month are shown by numbers they must be separated by a space or dash. The pull date must be separated from other numbers or letters on the label so as to prevent confusion.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-150 ((Can)) Changing a pull date((s-be-changed?)).**  
**((No,))** Pull dates on perishable packaged foods subject to pull dating may not be changed, crossed-out or concealed.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-160 ((Where-must-the)) Location of pull date ((be placed?)).** The pull date must be placed on the label in a conspicuous location, that is clearly discernible. The pull date must be legible and of a type size consistent with the size of other required labeling.

AMENDATORY SECTION (Amending WSR 99-13-048, filed 6/9/99, effective 7/10/99)

**WAC 16-142-170 ((What-are-the)) Storage conditions and temperature requirements for perishable packaged foods((?)).** Storage conditions and temperature requirements for perishable packaged foods are the same as required under chapter 246-215 WAC rules and regulations of the state board of health for food service and chapter 69.10 RCW Food storage warehouses.

AMENDATORY SECTION (Amending Order 1069, filed 9/20/67, effective 11/1/67)

**WAC 16-144-010 Definitions.** ~~((a))~~ The definitions and standards contained in chapters ~~((15.32))~~ 15.36 and ~~((69.04))~~ 15.130 RCW shall apply ~~((under this order))~~ in this chapter unless the context ~~((of this order))~~ clearly indicates otherwise.

~~((b))~~ (1) Frozen desserts means ice cream, frozen custard, ice milk, nonfat frozen dairy dessert, dietetic frozen desserts, fruit sherbets, and water ices. Such terms shall also include any food product which is prepared or manufactured and which contains as an ingredient a substantial portion of any of the above mentioned frozen desserts.

~~((c))~~ (2) The terms "pasteurization," "pasteurized" and similar terms used in this ~~((order))~~ chapter shall mean heating every particle of the product to a temperature of not less than 155 degrees Fahrenheit and holding continuously for at least thirty minutes in approved and properly operated equipment or heating to a temperature of not less than 175 degrees Fahrenheit for not less than 25 seconds continuously in approved and properly operated equipment.

~~((d))~~ (3) All frozen desserts shall be manufactured, processed, and pasteurized to conform with a bacteriological standard of not to exceed 50,000 per milliliter and a coliform limit not exceeding 10 per milliliter as determined by Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the 11th Edition of Official Methods of Analyses of the Association of Official Agricultural Chemist. The frozen desserts shall be properly pasteurized as evidenced by the phosphatase test.

(4) Harmful microorganisms means bacteria or other microorganisms which have been shown to be capable of causing disease in humans by consumption or contact.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-146** ~~((How may))~~ Transporting frozen dessert mix ~~((be transported))~~ without requiring repasteurization(?). Frozen dessert mixes must be transported in:

(1) Single service containers which meet the requirements for Grade A milk products under Appendix J of the pasteurized milk ordinance (PMO) ~~((-))~~; or

(2) Containers with single service liners which meet the requirements for Grade A milk products under Appendix J of the PMO.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-147** ~~((Can))~~ Transporting frozen dessert mix ~~((be transported))~~ in milk tank trucks or milk cans(?). ~~((No-))~~ Transport of mix in milk trucks or milk cans is not allowed. The risk of

post pasteurization contamination is too great without final pasteurization at the plant where the mix is frozen and packaged.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-148 ((What)) Required temperature ((must)) to hold frozen dessert mix ((be held at?)).** Frozen dessert mix is required to be held at forty-five degrees Fahrenheit or less at all times.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-149 ((How long may)) Holding frozen dessert mix ((be held)) after pasteurization((?)).** (1) Frozen dessert mix containers approved under WAC 16-144-146 must bear a pull date which establishes the last day it may be used. This pull date must meet the requirements for pull dating of perishable packaged food under chapters ((69.04)) 15.130 RCW and 16-142 WAC.

(2) Pasteurized frozen dessert mix may be held for up to seventy-two hours in storage tanks before it must be repasteurized.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-150 ((What)) Ingredients that must be added to ((the)) frozen dessert mix before final pasteurization((?)).** If used, the following ingredients must be added to frozen dessert mix prior to final pasteurization:

(1) All dairy products including milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, and other milk products.

(2) Egg products.

(3) Reconstituted or recombined dry mixes including cocoa and cocoa products which are mixed with water or other liquids.

(4) Liquid sweeteners.

(5) Dry sugars.

(6) Emulsifiers or stabilizers which do not meet one of the requirements under WAC 16-144-151.

AMENDATORY SECTION (Amending WSR 95-16-062, filed 7/26/95, effective 8/26/95)

**WAC 16-144-151 ((What)) Ingredients ((may be added)) allowed to be added to the frozen dessert mix after final pasteurization or at**

**the freezer(?)**. The following ingredients can be added to frozen dessert mix after final pasteurization or at the freezer:

- (1) Ingredients which have been subjected to prior heat treatment sufficient to kill harmful microorganisms.
- (2) Ingredients with 0.85% water activity or less.
- (3) High acid ingredients with pH 4.7 or less.
- (4) Roasted nuts or confectionery chips (added at the freezer).
- (5) Harmless lactic acid forming bacteria cultures.
- (6) Fruits and vegetables (added at the freezer).
- (7) Ingredients with high alcohol content (i.e., fifteen percent or more by volume).
- (8) Ingredients which have been subjected to any other process approved by the director which will ensure that the finished product is free of harmful microorganisms.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-144-145	Requirements for frozen dessert mix processing, handling, transportation and pasteurization.
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AMENDATORY SECTION (Amending WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-100 Food establishments—Inspection criteria—Purpose.**

The purpose of the following rules is to:

(1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, ~~((69.04,))~~ 69.07 ~~((and)),~~ 69.10, and 15.130 RCW, and regulations adopted thereunder, including Title 21 C.F.R.

(2) Identify steps leading to enforcement actions by the department.

(3) Establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

READOPTED SECTION (Readopting WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-110 Food processor licensing—New application—Inspection criteria.** To qualify for a new food processing plant license issued under chapter 69.07 RCW, the Washington Food Processing Act, a food processing facility must first make application to the department. After the department receives a complete application, the department will inspect the facility. The facility must be in compliance with the following requirements prior to issuance of a license:

The food processing facility must achieve a score of ninety points or higher on the prelicensing inspection AND be in compliance with licensing criteria. Refer to WAC 16-165-140 for the inspection criteria. For the purposes of licensing, a food processing facility may incur a one-point debit of a licensing criteria that has sliding scale.

AMENDATORY SECTION (Amending WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-120 Food establishments—Definitions.** (1) Definitions for terms used in this chapter may be found in chapters ~~((69.04,))~~ 69.07 ~~((and)),~~ 69.10, and 15.130 RCW, and Title 21 C.F.R. as adopted, unless otherwise provided in this chapter.

(2) For the purposes of this chapter, the following definitions apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW ~~((69.04.040 (1), (2), (3) or (4)))~~ 15.130.200 with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

(c) "Department" means the department of agriculture of the state of Washington (WSDA).

(d) "Director" means the director of agriculture.

(e) "Establishment or food establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles or stores food or food products for sale in intrastate commerce including food processors, food storage warehouses, custom slaughter operations, refrigerated lockers, and dairy manufacturing plants.

(f) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a food processor's license under chapter 69.07 RCW.

(g) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(h) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-165-140(2).

AMENDATORY SECTION (Amending WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-130 Food establishments—Inspection criteria definitions—Interpretations.** WSDA will use the definitions and interpretations in this section to determine if a food establishment inspection complies with the inspection criteria.

(1) **"Clean and adequate protective clothing and hair restraints"** means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift; and

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging or food contact surfaces becomes imminent; and

(c) Suitable to the specific food processing operation for protection against the contamination of food, food packaging, and food contact surfaces.

Clean and effective hair restraints, such as hairnets, or beard nets if appropriate, are worn for the protection of food from contamination. Hats, caps, scarves or other head cover are acceptable if the hair is properly contained to protect food from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

(2) **"Adequate washing and sanitizing of hands as necessary"** means washing and sanitizing hands thoroughly to protect against contamination of food from undesirable microorganisms in an adequate handwash facility by:

(a) Using proper handwashing methods which consist of:

(i) Applying soap to hands;

(ii) Using warm water;

(iii) Scrubbing hands thoroughly;

(iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the work station, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper handwashing methods.

(3) **"Garments and personal belongings stored appropriately; not a source of contamination"** means personal belongings and garments, either personal or plant supplied, are stored or kept separately from food processing, handling and storage operations such as in an area, locker, cupboard, or other closeable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to food, food packaging or food contact surfaces; and

No food, packaging materials, utensils or equipment used in the food processing operation are kept, stored or (~~comingled~~) commingled with personal belongings or garments.

(4) **"Processes separated as required"** means there is a separation of processes for the purpose of reducing potential contamination in food processing operations where contamination is likely to occur. One or more of the following means may accomplish this:

- (a) Location;
- (b) Time;
- (c) Partition;
- (d) Air flow;
- (e) Enclosed systems; or
- (f) Other effective method.

(5) **"Adequate light"** means a minimum of 25 foot candles at the working surfaces of food processing areas and a minimum of 10 foot candles at the floor level in all other food processing areas.

(6) **"Detergents, sanitizers and toxic materials properly identified"** means:

- (a) Labeling any container containing detergent, sanitizer or toxic material with the:
  - (i) Product name;
  - (ii) Chemical description;
  - (iii) Directions for use;
  - (iv) Any required precautionary and warning statements;
  - (v) First-aid instructions;
  - (vi) Name and address of the manufacturer or distributor; and
  - (vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or
- (b) Small transport or use containers for detergents, sanitizers or toxic materials are used only under the following conditions:
  - (i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;
  - (ii) No food container is used as a container for detergents, sanitizers or toxic materials;
  - (iii) No container used for detergents, sanitizers or toxic materials, is used as a food container.

(7) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential"** means:

- (a) Product contact surfaces of equipment, utensils, containers and other articles used in the processing of food, when its continued

use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW ((69.04.210)) 15.130.200; and

(b) Food residues are removed from food product contact surfaces frequently enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and

(c) The food product contact surfaces are sanitized prior to use and after cleaning.

(8) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation"** means it is a critical violation if a food product contact surface comes into contact with potentially hazardous food and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated, but are cleaned and sanitized prior to use are not considered a critical violation.

(9) **"Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition"** means nonproduct contact surfaces of equipment used in the processing of food are kept reasonably free from dirt, old food residues, foreign material, dust, mold, mildew, slime and other accumulations that occur because of day-to-day food processing operations.

(10) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses"** means the utensils used in the processing of foods, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, are placed or stored in a manner to prevent food contact surfaces from being contaminated with filth. Filth includes, but is not limited to, microorganisms, unsuitable toxic chemicals, and microscopic physical contaminants.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

(a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;

(b) In contact with containers of nonpotable water (other than sterilizing solutions); and

(c) In contact with other contaminants.

(11) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses: Critical violation"** means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(12) **Water supply—"Safe and of sanitary quality"** means the water supply used in the processing of food is potable from an approved source and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

(a) Food processors who produce bottled water meet the requirements of 21 C.F.R., Part 129 and comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(b) Food processors who produce ice comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(c) Food processors with twenty-five or more employees and operating sixty days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(d) Processors with less than twenty-five employees or operating less than sixty days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC).

(e) Processors that operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC) with respect to monitoring for bacteriological, chemical and physical properties. Processors that do not use water as an ingredient or incorporate water into their product need only meet the bacteriological testing requirements.

(f) Water used for certain purposes within the food processing operation (such as circulated water used in the washing of soil from raw agricultural commodities or fluming) is acceptable if:

(i) The water does not impart harmful or deleterious substances or additives to food products; and

(ii) The food products in contact with the water undergo a final potable water wash/rinse; and

(iii) The water meets the requirements of the good manufacturing practices under 21 C.F.R., Part ((110)) 117.

(13) "**Current satisfactory water test**" means analysis verifying the bacteriological, physical and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules or, in the case of bottled water operations, according to the requirements of Title 21 C.F.R., Part 129 and that reports of such analysis are on file at the processing facility and available for review by WSDA during routine facility inspection.

(14) "**Ice from an approved source**" means:

(a) Ice is manufactured on the premises of a food establishment with water that is safe and of sanitary quality; or

(b) Ice is supplied by an establishment that is under license and inspection of a federal, state or local government agency, and proof of the water's potability is on file with the food processing plant using the ice.

(15) "**Ice properly handled**" means ice is processed, handled and held according to sanitary practices provided in 21 C.F.R., Part ((110)) 117, and ice used in the processing of food is protected from contamination by taking the necessary precautions during its manufacture, storage, transport and use. Necessary precautions include, but are not limited to:

(a) Storage bins and containers of water are covered;

(b) All storage and packaging containers, including ice house or storage room contact surfaces, are sanitary, readily cleanable, and do not impart deleterious materials to the ice. Wooden totes are not to be used for the transporting or holding of ice;

(c) Scoops, shovels and other utensils used in the handling of ice are in a sanitary condition, properly stored, readily cleanable, and do not impart deleterious materials to the ice;

(d) The ice does not come into contact with floor areas where foot traffic is possible; and

(e) Equipment used to manufacture ice is in a sanitary condition, readily cleanable and does not impart any deleterious or other foreign substances to the ice.

(16) **"No cross connections, no back siphonage"** means there is no backflow from or cross connection between piping systems that discharge waste water sewage and piping systems that carry water for food manufacturing. This includes any cross connection between a potable water system and:

(a) A system in which the water contains boiler additives; or

(b) A CIP (clean in place) system; or

(c) A recirculating system used to wash or flume food products, such as raw fruits or vegetables.

(17) **"Adequate floor drains and plumbing to convey wastes and sewage from the plant, into approved sewage disposal system"** means:

(a) Plumbing is designed, sized, installed and maintained in accordance with applicable state and local plumbing codes so that sewage and liquid disposable waste is readily conveyed from the plant;

(b) Floor drainage is sufficient to prevent excessive pooling of water or other disposable waste;

(c) Plumbing and drains do not provide a source of contamination to food, potable water, food contact surfaces or food packaging material or create any insanitary condition; and

(d) Sewage is disposed into a municipal sewer system or other system approved by a federal, state or local agency having jurisdiction.

(18) **"Adequate, readily accessible toilet facilities"** means:

(a) A food establishment provides its employees with toilet facilities that are located within a reasonable distance to the work area, and the toilet facilities are maintained in accordance with 21 C.F.R., Part ((110.37)) 117, and:

(i) Toilet facilities are located on the premises of a licensed food establishment; or

(ii) If the food establishment shares space in a multiple building complex, toilet facilities are located within the complex and within a reasonable distance from the work area; or

(iii) A domestic toilet facility is sufficient if the food processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 C.F.R., Part ((110.37)) 117.

(b) Outhouses, chemical toilets or other nonflush toilets may not be used in a food establishment.

(19) **"Toilets clean, in good repair, not opening directly into process areas, self-closing doors"** means toilet rooms are kept clean, free of trash and litter, in good repair and all toilet room doors are self-closing and do not open directly into a food processing area.

(20) **"Handwash facilities adequate and convenient, with hot and cold or tempered water"** means food handlers in a food establishment have access to one or more handwashing facilities with hot, cold, or tempered running water, and:

(a) There is at least one handwash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpackaged ready to eat food. (Hand sanitizing stations may be required if appropriate); or

(b) Handwash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or

(c) Handwash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food processing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical and microbiological contaminants introduced by handling.

(21) **"Hand dips provided as necessary"** means hand sanitizing stations are provided, and properly positioned and maintained in all food operations as provided in subsection (20)(c) of this section.

(a) For the purposes of this subsection "properly positioned" means:

(i) Food handlers have ready access to hand sanitizing stations when returning from the toilet, handwash stations, lunch and breaks and whenever necessary while working; and

(ii) At least one hand sanitizing station is inside the process room entryways on each side of the processing table, lines and equipment where food is manipulated by hand, and at least one hand sanitizing station for every ten food handlers at processing tables, lines and equipment.

(b) For the purposes of this subsection "properly maintained" means sanitizing solutions are checked and recharged to a strength equal to 10 PPM chlorine or 25 PPM iodine, and changed every four hours while in use.

(c) Hand sanitizing stations are recommended for all food operations provided for in subsection (20)(c) of this section.

(22) **"Food protected from contamination in storage"** means food is stored under conditions that protect food against physical, chemical and microbial contamination, as well as against deterioration of the food and the container.

(23) **"Food protected from contamination in storage: Critical violation"** means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished food products, particularly ready to eat food. For example, the storage of raw fish and seafood, meat, poultry and other food which inherently contains pathogenic and spoilage microorganisms, as well as soil and other foreign material, is in direct contact with other food in the same container or in any other cross-contaminating circumstance with finished food products; or

(b) Raw materials or food products from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses. Raw products include, but are not limited to:

(i) Unpasteurized milk and dairy products;

(ii) Unpasteurized eggs used in products which are not heated to pasteurization temperatures during processing;

(iii) Home canned low-acid foods;

(iv) Raw uncertified shellfish; and

(v) Uninspected meat products.

(24) **"Adequate records maintained as required"** means all records are maintained as provided under Title 21 C.F.R., Part 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, (~~(Acid)~~) Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring record-

keeping, EXCEPT that water tests under Part 129 are covered under subsection (13) of this section, "Current satisfactory water test."

(25) **"Adequate records maintained as required: Critical violation"** means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection (24) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

(26) **"Products coded as required"** means all products are coded as provided under Title 21 C.F.R., Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring that products be coded.

(27) **"Products coded as required: Critical violation"** means it is a critical violation when a product is not coded as required in subsection (26) of this section, or so inadequately coded with respect to the food product, the plant where manufactured, the date manufactured, time or batch manufactured, cannot be readily identified.

(28) **"Packaging material properly handled and stored"** means:

A food contact surface of food packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

(a) Boxes, liners and other primary containers are stored off floors or other insanitary surfaces;

(b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;

(c) All single service containers, caps, roll stock, liner jars, bottles, jugs and other preformed containers are stored in closed sanitary tubes, wrappings, boxes or cartons prior to use;

(d) The forming, make-up or other package assembly is conducted in a manner that precludes contamination; and

(e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material or other contaminants.

(29) **"Potentially hazardous food"** means any food, whole or in part, capable of supporting the germination, growth and/or toxin production by infectious or toxic microorganisms is at temperatures between 38°F and 145°F, and/or food is otherwise harmful to health.

AMENDATORY SECTION (Amending WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-140 Food establishment—Inspection criteria.** The food inspection criteria shall be in accordance with the following table for determining:

(1) If a food establishment is in compliance with chapters 16.49, ~~((69.04,))~~ 69.07 ~~((and)),~~ 69.10, and 15.130 RCW, and rules adopted thereunder;

(2) The debit value for each significant violation; and

(3) Whether a violation is critical, or a licensing requirement:

<b>INSPECTION CRITERIA</b>		
<b>Critical Inspection Criteria</b>		
	<b>Criteria Item-Critical*</b>	<b>Licensing Requirement?</b>
1.	Food products free from adulteration.	Yes
2.	Persons with apparent infections or communicable diseases properly restricted.	Yes
3.	Adequate washing and sanitizing of hands as necessary, gloves used in food handling sanitary conditions.	Yes
4.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	Yes
5.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	No
6.	Water used safe and of adequate sanitary quality; from approved source.	Yes
7.	No cross connections; no back-siphonage.	Yes
8.	Ice from approved source.	Yes
9.	Hot and cold water, under pressure, in areas where foods are processed or equipment washed.	Yes
10.	Adequate, readily accessible toilet facilities provided.	Yes
11.	No evidence of human defecation or urination about the premises.	Yes
12.	Handwash facilities adequate and convenient, including hot and cold or tempered water.	Yes
13.	Food protected from contamination in storage.	No
14.	Critical control points and factors such as time, temperature, pressure, flow rate, pH, Aw, inhibitors adequate to ensure safety of product.	Yes
15.	Process registered as required; processes approved as required.	Yes
16.	Persons involved in LACF, acidified food, pasteurized operation licensed or certified as required.	No
17.	Adequate records maintained as required.	No
18.	Products coded as required.	No

INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
19.	Required critical control point monitoring devices such as retort thermometers, recorder/controllers, pH meters, approved, accurate and in place.	Yes
20.	Required critical control point monitoring, measurements, test, and analysis on products and containers performed as required.	No
21.	Potentially hazardous foods maintained at proper temperatures.	Yes
*A critical violation results in an establishment not being in substantial compliance, therefore no debit values are assigned.		

INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
1.	Jewelry, watches other personal items not a source of contamination.	1	No
2.	Clean and adequate protective clothing and hair restraints.	1-2	No
3.	Use of tobacco, eating and drinking of food and beverages and gum chewing restricted to appropriate areas.	1	No
4.	Garments and personal belongings stored appropriately, not a source of potential contamination.	2	No
5.	Employee work procedures preclude contamination.	1-2	No
6.	Grounds: Free from pest attractions, breeding places, harborage, excessive dust and other contaminants.	1	No

<b>INSPECTION CRITERIA</b>			
<b>Significant Inspection Criteria</b>			
<b>Criteria Item-Significant</b>		<b>Debit Value</b>	<b>Licensing Requirement?</b>
7.	Suitable size and location, construction including walls, floors, ceiling, counters, shelving, other fixtures, smooth, readily cleanable and in good repair.	1-5	Yes
8.	Processes separated as required.	1-2	Yes
9.	No operations in domestic living or sleeping quarters (including domestic kitchens).	0	Yes
10.	Adequate light.	1-2	Yes
11.	Lights; glass over food protected; breakproof.	1	No
12.	Adequate ventilation to minimize vapors, steams, noxious fumes.	1-2	Yes
13.	Drip or condensate from ceiling, fixtures, pipes, ducts not a potential source of contamination.	1-3	No
14.	Screened or protected to exclude pests.	1-2	No
15.	Building, fixtures, facilities clean; including transport vehicles.	1-5	Yes
16.	Detergents, sanitizers, toxic materials safely used and stored.	1-3	No
17.	Detergents, sanitizers and toxic materials properly identified.	1-2	No
18.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	1-2	No
19.	Nonproduct contact surfaces of equipment clean and maintained in a sanitary condition.	1-2	No

<b>INSPECTION CRITERIA</b>			
<b>Significant Inspection Criteria</b>			
<b>Criteria Item-Significant</b>		<b>Debit Value</b>	<b>Licensing Requirement?</b>
20.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	1-2	No
21.	Effective measures taken to exclude pests from the facility. No harborage/breeding areas.	1-2	No
22.	Pesticides safely used and stored.	1-3	No
23.	No evidence of rodents, insects, birds or other animals.	1-5	Yes
24.	Current satisfactory water supply test.	5	Yes
25.	Water supply sufficient in quantity for intended operations.	2	Yes
26.	Adequate floor drains and plumbing to convey wastes and sewage from plant.	1-2	Yes
27.	Sewage and waste lines protected not a source of contamination.	1-2	Yes
28.	Adequate offal, rubbish and waste disposal.	1-2	Yes
29.	Toilet facilities clean and in good repair, no direct opening to process area, self-closing door.	1-2	Yes
30.	Soap and single service towels or suitable drying devices provided at handwash facilities. Adequate refuse receptacles provided.	1-2	No
31.	Readily understandable handwash signs provided at handwash facilities.	1	No
32.	Hand dips provided as necessary.	1-2	No

<b>INSPECTION CRITERIA Significant Inspection Criteria</b>			
<b>Criteria Item-Significant</b>		<b>Debit Value</b>	<b>Licensing Requirement?</b>
33.	Design, material and workmanship durable, readily cleanable and in good repair. Contact surfaces nontoxic and corrosion resistant.	1-3	Yes
34.	Design and use preclude contamination with lubricants, fuel, contaminated water, paint, rust, compressed air/gas and other contaminants.	1-3	No
35.	Freezers and cold storage units equipped with adequate thermometers.	1	No
36.	Incoming raw materials, ingredients or processed food from an approved source, in an obvious sanitary condition. Items inspected on receipt, suitable for intended use, segregated as necessary and properly stored (clean storage containers, facilities, products properly covered), frozen foods stored frozen, properly thawed; ingredients properly identified; raw materials washed or cleaned as required.	1-5	No
37.	Adequate records maintained as required - Noncritical.	1	No
38.	Products coded as required - Noncritical.	1	No
39.	Required monitoring, measurements, tests, analysis on products and containers performed as required - Noncritical.	1	No

INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
40.	No contaminating material used, stored or transported with supplies, ingredients or processed foods.	1-2	No
41.	Packing material properly handled and stored.	1	No
42.	Food products not misbranded, including pull dates.	1	Yes
43.	Cleaning operations - conducted to minimize contamination.	1-3	No

READOPTED SECTION (Readopting WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-150 Food establishment inspection rating system—Inspection score.** (1) A food establishment is rated as follows at the completion of an inspection conducted by the department:

(a) A food establishment will be debited the point value assigned to the inspection item listed in WAC 16-165-140 for each violation found during an inspection.

(b) The sum of the points debited for an inspection are subtracted from the maximum point value of one hundred. The remaining sum is the establishment's score for that inspection.

(c) When the department on a food establishment inspection identifies a critical violation, no score will be listed unless the critical violation is satisfactorily corrected during the inspection.

(2) An establishment is considered in substantial compliance with the inspection criteria if:

- No critical violations are found, or if critical violations are found and corrected prior to completion of the inspection; and
- The establishment's inspection score is ninety points or above.

AMENDATORY SECTION (Amending WSR 99-13-001, filed 6/3/99, effective 7/4/99)

**WAC 16-165-160 Food establishments—Basis for enforcement action.** (1) The department may issue a notice of correction for:

(a) Food establishments that score less than ninety points on an inspection; or

(b) Critical violations found during an inspection of a food establishment.

(2) The department may review and consider initiating enforcement action, such as license suspension, civil penalties, and/or other penalties provided in chapters 16.49, (~~(69.04,)~~) 69.07, (~~(69.10,)~~) or 15.130 RCW when:

(a) Food establishments score less than ninety points on two separate inspections within a consecutive three-year period; or

(b) Food establishments fail to correct critical violations during an inspection.

(3) Nothing herein shall prevent the department from:

(a) Choosing not to pursue a case administratively.

(b) Issuing a notice of correction in lieu of pursuing administrative action.

(c) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-010 General.** (1) Consistent with the concept of uniformity where possible with the federal regulations adopted under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq., this chapter adopts the version of the referenced federal rule current at the time this rule becomes effective.

(2) To promote continued uniformity with federal rules; amendments to the federal rules referenced in this chapter are hereby incorporated and enforceable under this chapter upon the effective date of the federal amendment provided:

(a) The director of the Washington state department of agriculture or his or her authorized representative (director) gives notice of the federal rule amendment at the time it is published as a final rule in the Federal Register;

(b) The notice is published, at a minimum, in the state register and on the agency's web site; and

(c) The director has not otherwise determined that the amendment should not be adopted as provided in subsection (3) of this section.

(3) If the director determines that a proposed amendment to a federal rule referenced in this chapter should not be adopted, the director shall initiate rule making under chapter 34.05 RCW to amend this chapter to reflect the version of the federal rule, if any, effective under this chapter.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-020 Pesticide chemicals.** The following federal regulations are adopted as Washington tolerances for pesticide chemicals: 40 C.F.R. Chapter I Part 180 - Tolerances and Exemptions for Pesticide Chemical Residues in Food.

(1) Subpart A - Definitions and Interpretative Regulations.

(2) Subpart C - Specific Tolerances.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-030 Food additives.** The following federal regulations prescribing the conditions under which such food additives may safely be used are adopted as Washington food additive regulations. 21 C.F.R. Chapter I.

(1) Part 170 - Food Additives.

(2) Part 172 - Food Additives Permitted for Direct Addition to Food for Human Consumption.

(3) Part 173 - Secondary Direct Food Additives Permitted in Food for Human Consumption.

(4) Part 174 - Indirect Food Additives: General.

- (5) Part 175 - Indirect Food Additives: Adhesives and Components of Coatings.
- (6) Part 176 - Indirect Food Additives: Paper and Paperboard Components.
- (7) Part 177 - Indirect Food Additives: Polymers.
- (8) Part 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers.
- (9) Part 179 - Irradiation in the Production, Processing and Handling of Food.
- (10) Part 180 - Food Additives Permitted in Food or in Contact with Food on an Interim Basis Pending Additional Study.
- (11) Part 181 - Prior-Sanctioned Food Ingredients.
- (12) Part 182 - Substances Generally Recognized as Safe.
- (13) Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe.
- (14) Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe.
- (15) Part 189 - Substances Prohibited From Use in Human Food.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-040 Color additives.** The following federal regulations prescribing the use or limited use of such color additives are adopted as Washington color additive regulations. 21 C.F.R. Chapter I.

- (1) Part 70 - Color Additives.
- (2) Part 73 - Listing of Color Additives Exempt From Certification.
- (3) Part 74 - Listing of Color Additives Subject to Certification.
- (4) Part 81 - General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs and Cosmetics.
- (5) Part 82 - Listing of Certified Provisionally Listed Colors and Specifications.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-050 General requirements.** The following provisions of 21 C.F.R. Chapter I are adopted as Washington requirements for regulating food in intrastate commerce.

- (1) The following parts in Subchapter A - General.
  - (a) Part 1 - General Enforcement Regulations.
    - (i) Subpart A General Provisions.
    - (ii) Subpart B General Labeling Requirements.
    - (iii) Subpart O Sanitary Transportation of Human and Animal Food.
  - (b) Part 2 - General Administrative Rulings and Decisions.
    - (i) Subpart A General Provisions.
    - (ii) Subpart B Human and Animal Foods.
  - (c) Part 7 - Enforcement Policy.

(2) All parts of Subchapter B - Food for Human Consumption, except for Part 119.

READOPTED SECTION (Readopting WSR 16-22-061, filed 10/31/16, effective 12/1/16)

**WAC 16-167-900 Access to publications adopted under this chapter.** (1) Electronic access to Titles 21 and 40 C.F.R. is available at <https://www.gpo.gov/fdsys/search/home.action>. Print copies of the titles can be purchased from the U.S. Government Bookstore online at <https://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print> or, if you do not have electronic access, contact the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000; phone 1-866-512-1800.

(2) Electronic access to the FDA's Manual of Compliance Policy Guides is available at <http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/default.htm>. If you do not have electronic access, contact the Food and Drug Administration, 1093 New Hampshire Avenue, Silver Spring, MD 20993-0002; phone 1-888-463-6332.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-010** (~~((Independent sanitation consultants What is the purpose of these rules?))~~) Purpose of rule. The purpose of (~~WAC 16-168-010 through 16-168-090~~) this chapter is to establish minimum qualifications, application approval procedures, list maintenance and reporting requirements for independent sanitation consultants.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-020** (~~((Independent sanitation consultants Where does the department get authority to establish these rules?))~~) Promulgation. The department is given authority under RCW 69.10.055 for (~~promulgating~~) adopting these rules.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-030** (~~((Independent sanitation consultants Where can I find the definitions for terms used in this rule?))~~) Definitions. The definitions for terms used in this chapter may be found in chapters (~~69.04 and~~) 69.10 and 15.130 RCW and WAC 16-167-050(2) (~~(-k)~~). For the purposes of this chapter, the term "we" means department as defined in chapter 69.10 RCW.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-050** (~~((What are the))~~) Minimum qualifications for an independent sanitation consultant(?). The minimum qualifications for an independent sanitation consultant are:

**Education and experience:**

(1) A bachelor's degree in biology, chemistry, microbiology, food science, dairy science or a related natural science plus three years experience inspecting food storage warehouses or similar operations for compliance with the Current Good Manufacturing Regulations, 21 C.F.R. part 110 (GMPs); or

(2) Three years of college completed with study in the above subjects plus five years experience inspecting food storage warehouses or similar operations for compliance with the GMPs; or

(3) Two years of college completed with study in the above subjects plus seven years experience inspecting food storage warehouses or similar operations for compliance with the GMPs; or

(4) Eight years experience inspecting food storage warehouses or similar operations for compliance with the GMPs plus verifiable training in pest control, cleaning practices, food storage warehouse inspection or application of the GMPs.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-060** (~~((How do I apply))~~) **Applying for approval as an independent sanitation consultant(?)**. The steps in applying for approval as an independent sanitation consultant are:

- (1) Obtain an application from the department.
- (2) Complete the application, listing your qualifications.
- (3) Each applicant must sign the application and have his/her signature notarized.
- (4) Return the application to the address on the application.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-070** (~~((How will I know if my application for independent sanitation consultant was approved?))~~) **Notification of application decision.** (1) **On approval of ((your)) an application for independent sanitation consultant,** ((we)) the department will send ((you)) an identification card and place ((your)) the name of the independent sanitation consultant on a list of approved independent sanitation consultants that is available on request from the department.

(2) **If ((we are)) the department is not able to approve ((your)) an application for independent sanitation consultant,** ((we)) the department will notify ((you)) the applicant and (~~(tell you)~~) explain why within twenty-five working days after receiving the application.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-075** (~~((How long will I stay on the))~~) **List of approved independent sanitation consultants(?)**. ((Your name)) The department will maintain a list of approved independent sanitation consultants. The names of approved independent sanitation consultants will stay on the list (~~(of approved independent sanitation consultants)~~) as long as ((you)) they continue to indicate that ((you)) they wish to remain on the list. The department will mail out information requests by April 1<sup>st</sup> of each even-numbered year to all approved independent sanitation consultants.

~~((If you want))~~ (1) **To remain on the list,** the independent sanitation consultant must fill out the request with ((your)) current information, indicate that ((you)) they want to remain on the list and return it to the department no later than May 1<sup>st</sup>.

~~((If you do not want to remain on))~~ (2) To be removed from the list, ~~((you can))~~ the independent sanitation consultant should return the request indicating ~~((you))~~ they no longer wish to be listed as an approved independent sanitation consultant by May 1st. ~~((If you do not))~~ Failure to return the request ~~((your name will also be))~~ will also result in being removed from the list.

(3) It is the responsibility of the independent sanitation consultants to notify the department of address changes. If ~~((we are))~~ the department is unable to locate ~~((you))~~ an independent sanitation consultant at the address or telephone number ~~((listed with us, we will remove your name))~~ provided, that name will be removed from the list.

~~((Your))~~ (4) A name will ~~((return))~~ be returned to the list upon receipt of ~~((your))~~ the request and new information.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-080** ~~((What would cause the department to deny or withdraw approval of my application for approved))~~ Reasons for denial or withdrawal of approval as an independent sanitation consultant(?). The department may withdraw or deny approval of independent sanitation consultants or applicants under the following circumstances:

(1) For failing to meet the minimum qualifications in WAC 16-168-050.

(2) For knowingly making false or inaccurate statements regarding qualifications on an application.

(3) For failing to accurately report violative conditions present in food storage warehouse at the time of inspection.

(4) For knowingly making or acquiescing in false or inaccurate statements on inspection reports as to the date of the inspection, findings, corrective actions taken, or any other statement material to the compliance status of a warehouse.

AMENDATORY SECTION (Amending WSR 98-03-089, filed 1/21/98, effective 2/21/98)

**WAC 16-168-090** ~~((Do I have a right to appeal denial of my application or withdrawal of my approved status as an independent sanitation consultant?))~~ Appeal rights. ~~((Yes, you have a))~~ Applicants and approved independent sanitation consultants have the right to appeal denial of approval or withdrawal of approval as an independent sanitation consultant under provisions of chapter 34.05 RCW, the Administrative Procedure Act and chapter 16-08 WAC, the department's practice and procedure rules.

**WAC 16-168-100** (~~(What are the)~~) **Reporting requirements** (~~(for food storage warehouse inspections made by independent sanitation consultants?)~~). ((You)) Independent sanitation consultants can meet reporting requirements (~~(for independent sanitation consultants)~~) by using a standard food storage warehouse inspection form provided by the department or by using ((your)) their own form if it covers and indicates visual inspection of at least the following points:

**STORAGE CONDITIONS**

1. Are incoming lots examined visually for damage or contamination prior to placement in storage?
2. Are food products stored off the floor and away from walls?
3. Does firm maintain a morgue area for damaged and returned goods, sufficiently away from main storage area?
4. Are morgue items disposed of in a proper and timely manner to prevent a source of pest breeding and harborage?
5. Are fertilizers, toxic chemicals, and other potential adulterants adequately separated from human food storage areas?
6. Are rodenticides and insecticides properly used and stored?
7. Are refrigerated storage and frozen storage maintained at proper temperatures, 45 degrees or less?
8. Are cold storage units equipped with suitable thermometers?
9. Is storage area free of evidence of current insect, rodent, bird, etc., activity?

**BUILDING AND GROUNDS**

1. Are outside premises free from spillage, trash, etc., which may attract or harbor rodents or other pests?
2. Is adequate drainage provided to avoid contamination of facilities and products?
3. Is the building of suitable construction and generally in good physical repair?
4. Are floors, walls and ceilings constructed of easily cleanable materials and kept clean?
5. Are doors, windows and other openings protected to eliminate entry by insects, rodents and other pests? Are open windows screened and are loading doors kept closed when not in use?
6. Is interior lighting sufficient to allow adequate inspection and cleaning of premises?
7. Are food products and processing areas protected against contamination from breakage of light bulbs and other glass fixtures?
8. Does firm have a scheduled cleaning and pest control program, including at least weekly inspection by qualified employees?

**SANITARY OPERATIONS**

1. Is cleaning of facilities done in such a manner as to avoid contamination of food products?
2. Are detergents, sanitizers, hazardous materials and other supplies used in a safe and effective manner?
3. Are cleaning compounds and hazardous materials kept in original containers, stored separate from food products?

4. Is all refuse properly stored and protected where necessary from insects, rodents and other pests and disposed of in an adequate manner?

**TOILETS, DRESSING ROOMS AND EMPLOYEES**

1. Are toilets and dressing rooms in good repair, clean, properly ventilated and adequately separated from storage areas?
2. Are handwashing facilities clean and supplied with soap, hot water and sanitary towels?

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-168-040

How is independent sanitation consultant defined in RCW 69.10.005(5)?

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-010 ((What is the)) Purpose of ((this chapter?)) rule.** The purpose of this chapter is to implement chapter 69.07 RCW by establishing rules relating to the:

(1) Issuance of special permits regulating the slaughter, preparation and sale of one thousand or fewer whole raw poultry in a calendar year by the agricultural producer when the poultry are sold directly to the ultimate consumer at the producer's farm.

(2) Conditions under which poultry identified in this chapter are slaughtered, prepared and sold that are generally patterned after those established by the state board of health for temporary food service establishments under chapter 246-215 WAC but are tailored to poultry slaughter, preparation, and sale activities.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-020 ((What)) Definitions ((are important to this chapter?)).** (1) In addition to the definitions contained in this section, definitions found in chapters ((69.04 and)) 69.07 and 15.130 RCW, chapter 246-215 WAC and Title 21 C.F.R. may apply.

(2) For the purposes of this chapter, the following definitions apply:

**"Adequate"** means that which is needed to accomplish the intended purpose in keeping with good public health practices.

**"Agricultural producer"** means a person or persons who raise poultry and who slaughter and sell one thousand or fewer whole raw poultry from their farm directly to the ultimate consumer.

**"Authorized person"** means a person or persons who work with the agricultural producer in the preparation and slaughter of poultry under this chapter.

**"Department"** means the Washington state department of agriculture (WSDA).

**"Director"** means the director of the WSDA.

**"Potable water"** means water that is in compliance with chapter 16-165 WAC and with the Washington state department of health's drinking water quality standards in chapters 246-290 and 246-291 WAC.

**"Poultry"** means domesticated fowl that is valued for its meat or eggs such as chickens, turkeys, ducks or geese.

**"Sanitize"** means to adequately treat poultry slaughtering, preparation and sale surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the whole raw poultry or its safety for the consumer.

**"Special permit"** means a permit to slaughter poultry issued under RCW 69.07.103. The permit expires on December 31st and is issued for either one or two years as requested by the permit applicant.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-030 ((Who is required)) Requirement to obtain a special permit ((to slaughter, prepare and sell poultry?)).** An agricultural producer of poultry who slaughters and prepares one thousand or fewer poultry in a calendar year and sells the poultry as whole raw poultry from their farm to the ultimate consumer, must obtain a special permit before slaughter of the poultry.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-035 ((How can I obtain a special permit?)) Applications.** (1) An application for a special permit may be obtained by:

Writing to:

Washington State Department of Agriculture  
Food Safety Program  
P.O. Box 42560  
Olympia, WA 98504-2560; or  
Calling 360-902-1876; or  
Faxing to 360-902-2087; or  
Accessing website <http://agr.wa.gov>.

(2) The department must receive the completed special permit application packet along with check or money order for the permit fee at least six weeks prior to the planned slaughter of poultry. In accordance with RCW 69.07.103(4), the fee for the special permit is seventy-five dollars for one year, or one hundred twenty-five dollars for two years.

(3) The special permit application packet must include:

- (a) A completed application form;
- (b) A diagram of the slaughter/preparation site;
- (c) A description of the processing steps or a process flow diagram;
- (d) The proposed days or dates of slaughter for the current year;
- (e) A description of the rinse water and offal disposal procedures; and

(f) Documentation verifying that the water used at the slaughter/preparation site complies with the requirements in WAC 16-170-155. If the well, spring or other private water supply, the water must have a passing bacterial test conducted within sixty days of submitting the application to the department. A copy of the test results must be attached to the special permit application.

(4) Once WSDA receives the special permit application, the applicant will be contacted to schedule an on-site inspection. The inspection must occur before the special permit can be further processed or issued.

(5) Once received, the special permit must be prominently and conspicuously posted at the slaughter site so customers are able to see it.

(6) Slaughtering, preparing and selling poultry regulated by this chapter is prohibited prior to receipt of the special permit.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-036** (~~((What other))~~) Additional information (~~((must I submit to the department if I am issued))~~) required for a two-year special permit (~~((?))~~). A two-year special permit holder must submit to the department the following information at least six weeks prior to slaughtering poultry during the second year of the permit:

- (1) The proposed second year days or dates of slaughter; and
- (2) If the site utilized a well, spring or other private water supply, a copy of a passing bacterial test conducted within sixty days prior to submitting the second year slaughter dates to the department.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-037** (~~((What type of slaughter/preparation))~~) Site diagram (~~((is required?))~~) requirements. (1) The site diagram must clearly show the location of all poultry slaughter and preparation equipment, contact work surfaces, chilling equipment, equipment washing and sanitizing sinks or tubs, handwashing areas, rinse water and offal collection areas and poultry rearing areas.

- (2) All items illustrated on the site diagram under subsection (1) of this section must be clearly labeled.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-041** (~~((Must I reapply for a special permit if there is a))~~) Significant change in (~~((the))~~) conditions (~~((under which my))~~) Two-year special permit (~~((was issued?))~~). (1) If there is a significant change in the conditions under which the two-year special permit is issued, you must reapply for a special permit under WAC 16-170-035. Significant change under this section means a substantial change in the information previously submitted to the department under WAC 16-170-035.

- (2) If the special permit holder was issued a two-year special permit and must reapply for a permit under this section, the department will apply fifty dollars of the two-year permit fee towards the new permit application fee.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-050** (~~((Must I notify the department before I change the dates I plan to slaughter my poultry?))~~) Change of slaughter dates.

The department must be notified at least one week in advance if slaughter of poultry regulated by this chapter is planned on dates other than those previously reported to the department. The department may be notified by mail, email, fax, or by telephone followed by a written confirmation.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-060** (~~((What happens when I reach the one thousand poultry limit in the statute?))~~) Slaughter limit. The special permit issued under this chapter provides for the slaughter of a total of one thousand or fewer whole raw poultry to the ultimate consumer. Agricultural producers who slaughter more than one thousand poultry in a calendar year must comply with the requirements of chapter 69.07 RCW.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-070** (~~((What are the))~~) Site requirements (~~((for slaughtering, preparing and selling poultry covered by this chapter?))~~). At a minimum, the poultry slaughter/preparation site must:

- (1) Be constructed or assembled to minimize insects, pests, birds, dust, mud and overhead contamination;
  - (2) Include adequate lighting to illuminate the areas where poultry are slaughtered, prepared and sold;
  - (3) Have an adequate handwashing station;
  - (4) Be readily accessible to a toilet facility;
  - (5) Include potable running water;
  - (6) Include a means of safely disposing of rinse water and offal;
- and
- (7) Means of properly cooling slaughtered poultry unless the customer takes possession within four hours.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-075** (~~((What))~~) Equipment requirements (~~((apply to the equipment used to slaughter, prepare and sell poultry covered by this chapter?))~~). All equipment used to slaughter, prepare and sell poultry must be readily cleanable and in good repair.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-080 ((Can a) Use of mobile processing unit ((be used to slaughter, prepare and sell poultry covered by this chapter?)).** If the mobile processing unit (MPU) is a self-contained processing unit that meets all of the conditions designed for the sanitary processing of poultry under this chapter, a MPU may be used.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-090 ((Who can be in my poultry) Access to slaughter site ((while the slaughter-preparation process is taking place?)).**

(1) Only authorized persons may be present in the poultry slaughter site while the slaughter-preparation process is taking place. Unauthorized persons must be kept out of the site.

(2) Any authorized person infected with a communicable disease, has open sores or infected cuts on hands, is vomiting or has diarrhea is prohibited from working in the poultry slaughter site.

(3) Authorized persons are prohibited from smoking, eating or drinking while in the poultry slaughter site.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-100 ((Must I wear) Protective clothing ((while slaughtering, processing and selling poultry covered by this chapter?)).** Anyone slaughtering, preparing and selling poultry covered by this chapter must:

(1) Wear clean and adequate clothing.

"Clean and adequate" means that the clothing must be:

(a) Clean at the start of the slaughter-preparation-sale process; and

(b) Changed when the clothing becomes soiled when contamination of the raw whole poultry, any process work surface, the equipment used to chill slaughtered poultry or the bags used to transport poultry that are sold becomes imminent; and

(c) Suitable to the specific part of the process (slaughter, preparation or sale).

(2) Remove hand jewelry that cannot be adequately sanitized during periods when carcasses are handled by hand. If such hand jewelry cannot be removed, impermeable or disposable gloves must be worn.

(3) Maintain gloves, if they are used in processing, in an intact, clean, and sanitary condition. The gloves should be of an impermeable material.

(4) Clean and effective hair restraints, such as hairnets or beard nets are not required, but hats, caps, scarves or other head covers are recommended to prevent contamination of the whole raw poultry being slaughtered, prepared and sold.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-110 ((Can I store)) Storage of personal garments and belongings ((in my poultry slaughter site?)).** All personal garments and belongings must be stored separately and apart from the poultry slaughter site to ensure that they do not become a source of contamination to the raw whole poultry, slaughter and preparation work surfaces and equipment, and the bags used to transport poultry that are sold.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-115 ((Can I store)) Storage of detergents, sanitizers and other materials ((in my poultry slaughter site?)).** (1) Commercially purchased detergents, sanitizers and other materials related to the process may be stored in the poultry slaughter site if they are properly labeled with:

- (a) Product name;
- (b) Chemical description;
- (c) Directions for use;
- (d) Any required precautionary and warning statements;
- (e) First-aid instructions;
- (f) Name and address of the manufacturer or distributor; and
- (g) Any other information required by the U.S. Environmental Protection Agency or other laws or rules.

(2) Small "transport" or "use" containers containing detergents, sanitizers or other materials may be stored in the slaughter site but only under the following conditions:

(a) The contents must be properly identified on the container. Labeling the container with the common name is acceptable if the original commercially purchased storage container is on hand and properly identified.

(b) Food containers must not be used as containers for detergents, sanitizers or toxic materials.

(c) Containers used for detergents, sanitizers or other materials must not be used as food containers.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-120 ((Must I wash my hands before slaughtering poultry?)) Handwashing requirements.** (1) Anyone involved in the poultry slaughter process must adequately wash their hands:

- (a) Before the poultry slaughtering process begins;
- (b) Between the slaughtering and preparation steps in the process;
- (c) Between the poultry preparation and sale steps in the process;

- (d) After each absence from the poultry slaughter site; and
- (e) Any time hands become contaminated.
- (2) "Adequately washing hands" means thoroughly washing hands to prevent contaminating the slaughtered poultry. Adequate handwashing methods consist of:
  - (a) Applying soap to hands;
  - (b) Using warm water;
  - (c) Scrubbing your hands thoroughly; and
  - (d) Using methods to rinse and dry hands that prevent contamination.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-125 ((Are)) Handwashing stations ((required at my poultry slaughter site?)).** (1) Anyone involved in the poultry slaughter process must have access to at least one handwashing station equipped with warm running water, hand soap, and paper towels.

(2) Handwashing stations must be conveniently located in the poultry slaughter site and near toilet facilities.

(3) If handwashing stations are not conveniently located in the poultry slaughter site and near toilet facilities, five-gallon insulated containers with continuous flow spigots filled with warm water between one hundred and one hundred and twenty degrees Fahrenheit with pump type liquid soap, paper towels and five-gallon buckets to catch rinse water are required on-site and near the toilet facilities.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-130 ((Can I use)) Hand dips ((at my poultry slaughter site?)) and hand sanitizing stations.** (1) "Hand dips" or "hand sanitizing stations" are recommended but not required in the poultry slaughter site. Sanitizing hands using hand dips or hand sanitizing stations is not a substitute for adequate handwashing methods. However, if hand dips are used, they must be properly positioned and maintained.

(2) "Properly maintained" means sanitizing solutions are:

- (a) Checked and recharged to a strength equal to 100 PPM chlorine or 25 PPM iodine; and
- (b) Changed every four hours while in use.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-135 ((Do I need a toilet near my poultry slaughter site?)) Toilet requirements.** (1) At least one toilet must be available and conveniently located at the poultry slaughter site.

(2) A domestic toilet is sufficient if the poultry slaughter operation is a family operation where only family members are employed. However, if the operation has employees, toilet facilities must be provided at the slaughtering site or employees must be allowed to use the domestic toilet.

(3) Portable chemical toilets may be used at the poultry slaughter site if they are conveniently located with a self-closing door, screened to exclude insects, and properly maintained.

(4) All nondomestic toilet areas must be kept clean, free of trash and litter, and in good repair. All doors used to enter the nondomestic toilet area must be self-closing and must not open directly into the poultry slaughter site.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-140 ((What)) Offal and rinse water disposal requirements ((apply to my poultry slaughter site?)).** The poultry slaughter site must be designed and maintained to ensure that the:

(1) Offal and rinse water the site generates are readily and safely removed; and

(2) Offal and rinse water do not create an unsanitary condition or contaminate:

(a) The raw whole poultry;

(b) Any potable water stored and used at the slaughter site;

(c) Any product contact surfaces at the slaughter site; or

(d) Any bags used to package raw whole poultry sold to the ultimate consumers.

(3) The rinse water disposal system must not allow any backflow from or cross connection between the piping that discharges rinse water and the piping that carries potable water to the poultry slaughter area.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-145 ((How do I store my poultry)) Storage requirements for slaughter equipment and utensils ((to prevent contamination?)).** (1) All of the poultry slaughter equipment and utensils must be stored so they will not become contaminated between uses.

(2) All utensils used to slaughter and prepare poultry, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, must be placed or stored to prevent contact surfaces from being contaminated.

(3) Contaminated equipment and utensils must be cleaned and sanitized before they are used again.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-150** (~~(How do I ensure that my poultry slaughter contact surfaces are clean and maintained in a sanitary condition?)~~) Cleaning and sanitizing requirements.

(1) All contact surfaces of equipment, utensils, containers and other articles used in the slaughter and preparation of poultry, must be kept free of any residue or contaminant that could contaminate or adulterate (as defined in RCW ((69.04.210)) 15.130.200), the raw whole poultry carcass.

(2) Residues and contaminants must frequently be removed from all slaughter and preparation contact surfaces to prevent the residues from becoming:

- (a) Unwholesome or unfit for the raw whole poultry carcass;
- (b) Decomposed, filthy, or putrid; or
- (c) Injurious to public health.

(3) All poultry slaughter and preparation contact surfaces must be sanitized:

- (a) Before they are used; and
- (b) After they are cleaned.

(4) A separate bucket of sanitizer must be kept in the poultry slaughter site for rinsing/storing the wipe down cloths used to sanitize all slaughter equipment and slaughter/preparation contact surfaces. The sanitizing solution in the bucket should be at a minimum 100 ppm (mg/L) for chlorine solution or 50 ppm (mg/L) for iodine solution.

(5) Any noncarcass contact surfaces of equipment used in the slaughter of poultry must be kept reasonably free of dirt, old slaughter/preparation residues, foreign material, dust, mold, mildew, slime and other accumulations that occur as a result of the slaughter/preparation operation.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-155** (~~(What requirements apply to the water used in my poultry slaughter site?)~~) Water requirements.

(1) Any water used in the slaughter, preparation or sale of your poultry must be of a safe and sanitary quality, which means the water supply is potable from an approved source and is monitored according to applicable laws and rules.

(2) Processors that operate from single-family residences on private water supplies need only meet bacteriological testing requirements. Optionally, potable water may be hauled onto the poultry slaughter site for use by the processor as long as the transport vehicle and water are of safe and sanitary quality.

(3) Water used from a private water system for the slaughter, preparation or sale of poultry must be sampled and tested at least annually. Copies of water test reports must be on file at the farm and available for review by WSDA during routine slaughter site inspections.

(4) Any ice manufactured on the farm for use in the poultry slaughter process must be manufactured from potable water.

(5) All ice used at the poultry slaughter site that is not manufactured on the farm must be from an approved source.

(6) All ice used at the poultry slaughter site must be properly handled and stored to protect against contamination.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-170** (~~(What requirements apply to the storing and handling of the bags I give my customers to transport the poultry they purchase from me?)~~) Packaging requirements. (1) All bags used to package the slaughtered whole poultry must be new, of food grade quality and properly handled and stored, which means they must be protected from potential sources of contamination when they are handled and stored.

(2) Methods of properly handling and storing bags at the poultry slaughter site include, but are not limited to:

(a) All bags must be stored off of the floor or any other unsanitary surfaces.

(b) All bags must be stored in closed boxes or cartons before they are used.

(c) Bags must be removed from the closed box or carton in a way that prevents contamination.

(d) When a slaughtered whole poultry is inserted into a bag, the bag must be handled so it and the poultry is not exposed to contamination by dust, foreign material or other contaminants.

(e) Any bag dropped on the floor or some other unsanitary surface must not be used.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-175** (~~(What)~~) Requirements ((apply to)) for the chilling and storing of slaughtered poultry((?)). (1) All slaughtered poultry must be chilled to a temperature at or below forty-five degrees Fahrenheit within four hours of slaughter unless the customer takes possession of the slaughtered poultry during this time.

(2) Chilling poultry may be accomplished through the use of mechanical refrigeration, an ice chest using ice from an approved source (see WAC 16-170-155), or by being immersed in cold running water.

(3) A temperature control (TC) must be used to monitor slaughter cool down temperature by inserting a calibrated thermometer into the thickest portion of the first slaughtered poultry carcass and monitoring the temperature to ensure proper chilling at or below forty-five degrees Fahrenheit within four hours of slaughter.

(4)(a) Slaughtered poultry can be stored for up to forty-eight hours before they are sold.

(b) During their storage period, poultry carcass temperatures must be kept at or less than forty-five degrees Fahrenheit by mechanical refrigeration equipped with a thermometer or by maintaining the carcasses in a properly designed storage container with the use of a

temperature control (TC) as outlined in subsection (3) of this section.

(5) All chilled and/or stored poultry carcasses must be protected from physical, chemical, microbial contamination and deterioration.

AMENDATORY SECTION (Amending WSR 09-16-035, filed 7/28/09, effective 8/28/09)

**WAC 16-170-180 ((What)) Recordkeeping requirements ((apply to my special permit poultry slaughter operation?)).** (1) At a minimum, the following records must be kept at the special permit holder's farm:

- (a) A record of the poultry slaughter dates;
- (b) The number of poultry by species slaughtered on each slaughter date and the cumulative total of poultry by species slaughtered;
- (c) The temperature control log monitoring proper poultry slaughter cool down and storage; and
- (d) The water testing records if required by WAC 16-170-155.

(2) All records required under subsection (1) of this section must be:

- (a) Maintained so that the information they intend to convey is clear and understandable.
- (b) Available at the farm and available to department inspectors upon request.
- (c) Retained at the farm for six months after the expiration of the special permit.