



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 06, 2020

TIME: 2:08 PM

WSR 20-17-019

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 chapter 16-149 WAC, Cottage foods, by revising the labeling requirements to align with House Bill 2217 (chapter 171, Laws of 2020), and replacing the references to chapter 69.04 RCW with chapter 15.130 RCW.

Citation of rules affected by this order:

New: None.

Repealed: None.

Amended: WAC 16-149-020 and -110

Suspended: None.

Statutory authority for adoption: RCW 69.22.020

Other authority: chapter 171, Laws of 2020

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-12-098 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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>2</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	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: August 6, 2020

Name: Derek I. Sandison

Title: Director

Signature:



WAC 16-149-020 Definitions. (1) In addition to the definitions contained in this section and chapter 69.22 RCW, the definitions found in chapters ((69.04,)) 69.06, ((and)) 69.07, and 15.130 RCW, chapters 16-165, 16-167, and 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.

"Approved source" means a food source that is routinely and regularly inspected by a regulatory authority.

"Authorized person" means a person or persons who work with the cottage food operator in the preparation of cottage food products under this chapter.

"C.F.R." means the Code of Federal Regulations.

"Consumer" means a person who is a member of the public, takes possession of food for personal and nonbusiness use; is not functioning as an operator of a food establishment, such as a restaurant, bed and breakfast, or other business operation, or food processing plant; and does not offer the food for resale.

"Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

"Cottage food operation permit" means a permit to produce and sell cottage food products under chapter 69.22 RCW.

"Cottage food products" means nonpotentially hazardous baked goods, candies, jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. 150 as it existed on July 22, 2011; and other nonpotentially hazardous foods identified in WAC 16-149-120.

"Department" means the department of agriculture.

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

"Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. A domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.

"Labeling" means written, printed or graphic matter affixed to or used in connection with the sales of a cottage food product and intended to communicate the characteristics of the cottage food product including, but not limited to, the origin, ingredients, quality, quantity, or nutritional benefits of the product.

"Master or base recipe" means a standard mixture of ingredients from which variations may be created by adding small amounts of differing flavorings, dried fruits, nuts, candies, or the like. For example, variations of master or base muffin recipe may be created by adding walnuts to create a walnut muffin, adding cranberries and orange zest to create orange cranberry muffins, and so on.

"Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

"Pet" means any domesticated animal, regardless of species or number of legs, kept in the domestic residence.

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

"Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

AMENDATORY SECTION (Amending WSR 16-06-014, filed 2/19/16, effective 3/21/16)

WAC 16-149-110 Labeling. (1) A cottage food operation may only sell cottage food products which are prepackaged (except for certain products as outlined in subsection (2) of this section) with a label affixed that contains the following information (printed in English):

(a) The name and ((address)) permit number issued under RCW 69.22.030 of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight. Ingredients made from subcomponents must also list the subcomponents. For example, "imitation vanilla extract (water, sugar, caramel color, artificial flavor, citric acid, sodium benzoate (preservative))";

(d) The net weight or net volume of the cottage food product, metric weight is not required;

(e) Allergen information as specified by federal labeling requirements;

(f) If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and

(g) The following statement printed in at least the equivalent 11-point type in a color that provides a clear contrast to the background label: "Made in a Home Kitchen that has not been subject to standard inspection criteria." ((A label sample is shown below.

MADE IN A HOME KITCHEN THAT HAS NOT BEEN SUBJECT TO STANDARD INSPECTION CRITERIA
Chocolate Chip Cookies
Ashley Bryant 2550 Kingston Lane Seattle, WA 98102
Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract (water, sugar, caramel color, artificial flavor, citric acid, sodium benzoate (preservative)), baking soda.
Contains: Wheat, eggs, milk, soy, walnuts.
Net Weight: _____

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(2) The department may allow large cakes or a container of bulk products to be handled and labeled in the following manner:

(a) Be protected from contamination during transportation to the consumer.

(b) Have a product label sheet with all the required information as listed in subsection (1) of this section provided to the consumer.