

AMENDATORY SECTION (Amending WSR 07-23-088, filed 11/20/07, effective 12/21/07)

**WAC 16-461-010 Inspection certificate and/or permit required.**

(1) No person shall ship, transport, accept for shipment, or accept delivery of, any commercial lot of the following agricultural products without an inspection and the issuance of a certificate and/or a permit by the commodity inspection division of the department of agriculture allowing such shipment, movement or delivery:

(a) Apricots in closed or open containers for fresh market.

(b) Italian prunes in closed or open containers for fresh market.

(c) Peaches in closed or open containers for fresh market.

(d) Cherries in closed or open containers for fresh market.

No permit will be issued on cherries infested with live cherry fruit fly larvae.

(e) Apples in closed or open containers for fresh market.

~~((i))~~ (f) Apples may be shipped or transported if accompanied by a certificate of compliance issued by the shipper or packer of apples having the approval of the director to issue the certificates of compliance.

~~((ii) Apples of the Red Delicious and Delicious varieties must be certified as to quality and condition and must meet all the requirements of chapter 16-403 WAC, Standards for apples marketed within the state of Washington. Apples of the Red Delicious and Delicious varieties not allowed to enter channels of commerce within twenty-one days following the original date of inspection as indicated by a state lot stamp, will require recertification for meeting the minimum firmness requirement as stated in WAC 16-403-142.~~

~~(f))~~ (g) Pears in closed or open containers for fresh market. Pears may be shipped or transported if accompanied by a certificate of compliance issued by the shipper or packer of pears having the approval of the director to issue the certificates of compliance.

~~((g))~~ (h) Asparagus in closed or open containers for fresh market. Asparagus may be shipped or transported if accompanied by a certificate of compliance issued by the shipper or packer of the asparagus having the approval of the director to issue the certificates of compliance.

~~((h))~~ (i) Apples in containers or bulk, for processing.

(i) Apples for processing may be shipped or transported if accompanied by a certificate of compliance issued by the shipper of apples having the approval of the director to issue the certificates of compliance.

(ii) Apples for processing entering in-state commerce do not require a permit.

~~((i))~~ (j) Pears in containers or bulk, for processing.

(i) Pears for processing may be shipped or transported if accompanied by a certificate of compliance issued by the shipper of pears having the approval of the director to issue the certificates of compliance.

(ii) Pears for processing entering in-state commerce do not require a permit.

(2) Fruits and vegetables listed in WAC 16-461-010 are exempted from requirements for inspection and issuance of a certificate or permit:

(a) When the product is being transported from the premises where grown or produced to a horticultural facility other than wholesale or retail for the purpose of storing, grading, packing, packaging, labeling, or processing prior to entering commercial channels for resale.

(b) When sold or transported to a fruit/produce stand within the zone of production, not to exceed daily quantities of two thousand pounds net weight of a single commodity nor six thousand pounds net weight of any combination of commodities other than cherries, listed in subsection (1) of this section, when on a single conveyance. Exempt sales by the producer within a farmer's market shall not be restricted to the zone of production.

(c) When daily quantities do not exceed one hundred pounds net weight of dark or light sweet varieties of sweet cherries sold for home use and not for resale, and the containers are marked "not for resale" in letters at least one-half inch in height.

(3)(a) Any shipper or packer of apples, apricots, cherries, pears, peaches, prunes, or asparagus may petition the director for authority to issue certificates of compliance for each season. The director may issue certificate of compliance agreements, granting authority, on terms and conditions that the director deems appropriate. The authority shall be limited to the issuance of certificates of compliance for apples, apricots, cherries, pears, peaches, prunes, and asparagus under the applicant's direct control or being handled at the shipper's or packer's facilities.

(b) The certificate of compliance shall be issued at time of shipment by the shipper or packer authorized to do so.

(i) Apples, pears, cherries, and asparagus about to be shipped or transported must be in full compliance with the requirements of chapter 15.17 RCW, Standards of grades and packs, rules adopted under chapter 15.17 RCW, and administrative directives of the director.

(ii) Apricots, cherries, peaches, prunes, or pears about to be shipped or transported must be in full compliance with an existing federal marketing order requiring quality and condition certification and Washington state lot identification or federal-state lot identification.

(iii) Cherries of the dark sweet varieties must be certified as to quality, condition, and size and shall meet all of the requirements of chapter 16-414 WAC, Washington standards for cherries. Cherries of the Rainier variety or other varieties of "light colored sweet cherries" must meet only the requirements of

WAC 16-414-005 "mature" and WAC 16-414-011(3) size requirement.

(c) The director's approval to issue certificates of compliance may be suspended, revoked, or denied for cause, subject to RCW 34.05.422(3). Cause shall be the shipper's or packer's failure to comply with the requirements of subsection (3)(b) of this section, or for the shipper's or packer's actions which impede the department's abilities to ascertain full compliance with requirements of chapter 15.17 RCW, Standards of grades and packs, or rules adopted under chapter 15.17 RCW, or for violation of the terms of the certificate of compliance agreement. The period of any suspension will be determined by the director and will be commensurate with the seriousness of the violation.

(d) Any shipper or packer whose authority to issue certificates of compliance has been suspended, revoked, or denied by the director will be subject to those provisions of chapter 15.17 RCW and the regulations requiring the issuance of a shipping permit by the director before apples, apricots, cherries, pears, peaches, prunes, and asparagus may be shipped or transported.

(e) Certificates of compliance must be on forms approved and issued by the director of agriculture.

(f) Any shipper or packer authorized to issue certificates of compliance shall deposit with the director of agriculture the regular base fee equivalent to that charged by the director for a shipping permit for each certificate of compliance issued by the authorized shipper or packer. The base fees shall be deposited with the director of agriculture in the same manner as fees for shipping permits.