

Chapter 15.17 RCW
STANDARDS OF GRADES AND PACKS

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Grain and other commodities, standard grades: Chapter 22.09 RCW.

Weights and measures, standards, packages, boxes, etc.: Chapter 19.94 RCW.

RCW 15.17.010 Purpose. The purpose of this chapter is to provide for the fair and orderly marketing of fruits and vegetables in the state of Washington by establishing uniform grades and standards and by providing for the inspection of these products. This chapter is vital to protecting the national and international reputation of fruit and vegetable products grown and shipped from this state and protecting consumers from the sale of inferior and misrepresented fruits and vegetables. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the immediate and future health, safety, and general welfare of the citizens of this state. [1998 c 154 s 1; 1963 c 122 s 1.]

RCW 15.17.020 Definitions. For the purpose of this chapter:
(1) "Agent" means broker, commission merchant, solicitor, seller, or consignor, and any other person acting upon the actual or implied authority of another.

(2) "Certification" means, but is not limited to, the issuance by the director of an inspection certificate or other official document stating the grade, classification, and/or condition of any fruits or vegetables, and/or if the fruits or vegetables are free of plant pests and/or other defects.

(3) "Combination grade" means two or more grades packed together as one, except cull grades, with a minimum percent of the product of the higher grade, as established by rule.

(4) "Compliance agreement" means an agreement entered into between the department and a shipper or packer, that authorizes the shipper or packer to issue certificates of compliance for fruits and vegetables.

(5) "Container" means any container or subcontainer used to prepackage any fruits or vegetables. This does not include a container used by a retailer to package fruits or vegetables sold from a bulk display to a consumer.

(6) "Deceptive arrangement or display" means any bulk lot or load, arrangement, or display of fruits or vegetables which has in the exposed surface, fruits or vegetables which are so superior in quality, size, condition, or any other respect to those which are concealed, or the unexposed portion, as to materially misrepresent any part of the bulk lot or load, arrangement, or display.

(7) "Deceptive pack" means the pack of any container which has in the outer layer or any exposed surface fruits or vegetables which are in quality, size, condition, or any other respect so superior to those in the interior of the container in the unexposed portion as to materially misrepresent the contents. Such pack is deceptive when the outer or exposed surface is composed of fruits or vegetables whose size is not an accurate representation of the variation of the size of the fruits or vegetables in the entire container, even though the fruits or vegetables in the container are virtually uniform in size or comply with the specific standards adopted under this chapter.

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

(9) "Director" means the director of the department or his or her duly authorized representative.

(10) "Facility" means, but is not limited to, the premises where fruits and vegetables are grown, stored, handled, or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport fruits and vegetables.

(11) "Fruits and vegetables" means any unprocessed fruits or vegetables, but does not include cannabis as defined in RCW 69.50.101.

(12) "Handler" means any person engaged in the business of handling, selling, processing, storing, shipping, or distributing fruits or vegetables that he or she has purchased or acquired from a producer.

(13) "Inspection" means, but is not limited to, the inspection by the director of any fruits or vegetables at any time prior to, during, or subsequent to harvest.

(14) "Mislabel" means the placing or presence of any false or misleading statement, design, or device upon any wrapper, container, container label or lining, or any placard used in connection with and having reference to fruits or vegetables.

(15) "Person" means any individual, firm, partnership, corporation, company, society, or association, and every officer, agent, or employee thereof.

(16) "Plant pests" means, but is not limited to, any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(17) "Sell" means to sell, offer for sale, hold for sale, or ship or transport in bulk or in containers.

(18) "Standards" means grades, classifications, and other inspection criteria for fruits and vegetables. [2022 c 16 s 12; 2016 c 229 s 2; 2014 c 140 s 33; 1998 c 154 s 2; 1996 c 188 s 1; 1963 c 122 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

RCW 15.17.030 Enforcement—Director's duties—Rules. (1) The director shall enforce and carry out the provisions of this chapter and may adopt the necessary rules to carry out its purpose.

(2) The director shall, whenever he or she considers the adoption of rules or amendments to existing rules, consult with growers, associations of growers or other industry associations, or other persons affected by such rules or amendments. [1998 c 154 s 3; 1963 c 122 s 3.]

RCW 15.17.050 Rules—Authority of director. (1) The director shall adopt rules providing standards for apples, apricots, Italian prunes, peaches, sweet cherries, pears, potatoes, and asparagus and may adopt rules providing standards for any other fruit or vegetable. When establishing these standards, the director shall consider the factors of maturity, soundness, color, shape, size, and freedom from mechanical and plant pest injury and other factors important to marketing.

(2) The director shall adopt rules providing for mandatory inspection of apples, apricots, Italian prunes, peaches, sweet cherries, pears, and asparagus and may adopt rules providing for mandatory inspection of any other fruit or vegetable.

(3) The director may adopt rules:

(a) Fixing the sizes and dimensions of containers to be used for the packing or handling of any fruits or vegetables; and

(b) Establishing combination grades for fruits and vegetables. The standards for combination grades shall, by percentage quantities, include two or more of the grades provided for under this chapter. [1998 c 154 s 4; (2004 c 211 s 1 expired December 31, 2009); 1963 c 122 s 5.]

Expiration date—2004 c 211 s 1: "Section 1 of this act expires December 31, 2009." [2007 c 237 s 1; 2005 c 234 s 1; 2004 c 211 s 2.]

Effective date—2004 c 211: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 29, 2004]." [2004 c 211 s 3.]

RCW 15.17.060 Adoption of standards. The director may adopt any United States or other state's standard for any fruits and vegetables, if that standard is determined by the director to be substantially equivalent to or better than the standard adopted under this chapter. [1998 c 154 s 5; 1963 c 122 s 6.]

RCW 15.17.080 Fresh fruits—Culls—Basket markings—Designation on bills of lading, invoices, etc. It is unlawful for any person to sell for fresh consumption any fresh fruits classified as culls under the provisions of this chapter or rules adopted hereunder unless such fruit is packed in one-half bushel or one bushel wooden baskets ring faced, with the fruit in the ring face representative of the size and quality of the fruit in such baskets. The baskets shall be lidded and the words "cull" including the kind of fruit and variety must appear on the top and side of each basket and on any label in clear and legible letters at least two and one-half inches high. Every bill of lading, invoice, memorandum, and document referring to the fruit shall designate them as culls. [1998 c 154 s 6; 1963 c 122 s 8.]

RCW 15.17.090 Private grades or brands—Approval and registration. The director may approve and register a private grade or brand for any fruit or vegetable. The private grade or brand shall not be lower than the second grade and/or classification established under the provisions of this chapter or rules adopted under this chapter for the fruit or vegetable. [1998 c 154 s 7; 1963 c 122 s 9.]

RCW 15.17.140 Inspections and certifications—Request for—Fees.

(1) Any person financially interested in any fruits or vegetables in this state may request inspection and/or certification services provided for those fruits or vegetables under this chapter.

(2) To facilitate the movement or sale of fruits and vegetables or other agricultural commodities, the director may provide, if requested by growers or other interested persons, special inspections or certifications not otherwise authorized under this chapter and shall prescribe a fee for that service.

(3) Persons requesting services shall be responsible for payment of fees for those services prescribed by the director under RCW 15.17.150. [1998 c 154 s 9; 1963 c 122 s 14.]

RCW 15.17.143 Certificates of compliance—Petition by shipper—Rules. Any shipper or packer of apples, apricots, cherries, pears, peaches, Italian prunes, potatoes, 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 this authority, on terms and conditions defined by rule. Certificates of compliance shall only be issued for fruits or vegetables that are in full compliance with this chapter and the rules adopted under this chapter. [1998 c 154 s 20.]

RCW 15.17.150 Inspections and certifications—Fees adopted by rule—Failure to pay. The director shall adopt rules establishing the

necessary fees to recover the costs of providing inspection and/or certification or other requested services.

(1) The fees are due and payable upon billing.

(2) A late fee of one and one-half percent per month on the unpaid balance shall be assessed against persons more than thirty days in arrears.

(3) In addition to other penalties, the director may refuse to perform any inspection or certification service provided under this chapter for any person in arrears unless the person makes payment in full prior to such inspection or certification service.

(4) The director may refuse to perform inspection or certification service for any person who has failed to pay assessments required by law to any agricultural commodity commission. [1998 c 154 s 10; 1963 c 122 s 15.]

RCW 15.17.170 Inspection certificate or other official document as evidence. Every inspection certificate or other official document issued by the director under the provisions of this chapter shall be received in all the courts of the state as prima facie evidence of the statements therein. [1998 c 154 s 11; 1963 c 122 s 17.]

RCW 15.17.190 Inspections—Right of access—Samples—Denial of access—Search warrants. The director may enter during business hours and inspect any facility where any fruits or vegetables are processed, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and may inspect all fruits or vegetables and the containers and the equipment in that facility. The director may take for inspection representative samples of fruits or vegetables and containers as may be necessary to determine whether or not this chapter or rules adopted under this chapter have been violated. If the director is denied access to any facility, the director may apply to a court of competent jurisdiction for a search warrant authorizing access to the facility. The court may upon such application issue a search warrant for the purpose requested. [1998 c 154 s 12; 1963 c 122 s 19.]

RCW 15.17.200 Noncomplying fruits or vegetables—Enforcement procedure—Notice—Hearing. (1) For the purposes of this section, "lot" means any lot or any part of a lot.

(2) When the director determines that any lot of fruits or vegetables fails to comply with the requirements of this chapter, the director may issue a hold order prohibiting the sale or movement of that lot except under conditions that may be prescribed.

(3) (a) Written notice of the hold order must be provided to the person in possession of the lot of fruits or vegetables and a tag may be affixed to the lot or its containers. It is unlawful for any person except the director to alter, deface, or remove the tag or notice or to move or allow the lot of fruits or vegetables to be moved except under the conditions prescribed on the tag or notice.

(b) The notice shall include:

(i) A description of the lot that is in noncompliance;

(ii) The location of the lot;

(iii) The reason that the hold order is placed on the lot;

(iv) Any reconditioning, other corrective measures, or diversion to processing that may be required to release the lot for sale;

(v) Time frames to affect the reconditioning or other corrective measures; and

(vi) A reference to the violation of this chapter that provides the basis for the hold order.

(c) Any corrective measures required by the notice pursuant to (b) (iv) of this subsection and the costs associated therewith are the sole responsibility of the person holding the fruits or vegetables for sale.

(4) Upon issuance of a hold order by the director under this section, the seller or holder of the fruits or vegetables may request a hearing. The request for hearing must be in writing and filed with the director. Any hearing shall be held in conformance with RCW 34.05.422 and 34.05.479. [1998 c 154 s 13; 1987 c 202 s 172; 1963 c 122 s 20.]

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 15.17.210 Fruits or vegetables—Unlawful practices when selling, offering for sale, or shipping—Containers—Director's powers—Rules. It is unlawful:

(1) To sell any fruits or vegetables:

(a) As meeting the standards for any fruit or vegetable as prescribed by the director unless they in fact do so;

(b) For which no standards have been established under this chapter unless ninety percent or more by weight or count, as determined by the director, are free from plant pest injury that has penetrated or damaged the edible portions and from worms, mold, slime, or decay;

(c) In containers other than the size and dimensions prescribed by the director by rule;

(d) Unless the containers in which the fruits or vegetables are placed or packed are marked with the proper grade and additional information as may be prescribed by rule. The additional information may include:

(i) The name and address of the grower, or packer, or distributor;

(ii) The varieties of the fruits or vegetables;

(iii) The size, weight, and either volume or count, or both, of the fruits or vegetables;

(e) Which are in containers marked or advertised for sale or sold as being either graded or classified, or both, according to the standards prescribed by the director by rule unless the fruits or vegetables conform with the standards;

(f) Which are deceptively packed;

(g) Which are deceptively arranged or displayed;

(h) Which are mislabeled; or

(i) Which do not conform to this chapter or rules adopted under this chapter;

(2) For any person to ship or transport or any carrier to accept any lot of fruits or vegetables without an inspection certificate, permit, or certificate of compliance when the director has prescribed by rule that such products be accompanied by an inspection certificate, permit, or certificate of compliance. The inspection

certificate, permit, or certificate of compliance shall be on a form prescribed by the director and may include methods of denoting that all assessments provided for by law have been paid before the fruits or vegetables may lawfully be delivered or accepted for shipment;

(3) For any person to refuse to submit any container, load, or display of fruits or vegetables for inspection by the director, or refuse to stop any vehicle or equipment containing such products for the purpose of inspection by the director;

(4) For any person to move any fruits or vegetables or their containers to which any tag has been affixed, except as provided in RCW 15.17.200; or

(5) After October 1st of any calendar year, for any person to sell containers of apples, containing apples harvested in a prior calendar year, to any retailer or wholesaler for the purpose of resale to the public for fresh consumption. [2002 c 316 s 1; 1998 c 154 s 14; 1994 c 67 s 2; 1963 c 122 s 21.]

RCW 15.17.213 Exemption of certain fruits or vegetables from chapter.

(1) This chapter does not apply:

(a) To the movement in bulk of any fruits or vegetables from the premises where they are grown or produced to a packing shed, warehouse, or processing plant for the purpose of storing, grading, packing, labeling, or processing prior to entering commercial channels for wholesale or retail sale;

(b) To any processed, canned, frozen, or dehydrated fruits or vegetables;

(c) To any infected or infested fruits or vegetables to be manufactured into by-products or to be shipped to a by-products plant; or

(d) To the sale of up to five hundred pounds per day of any fruit or vegetable by any producer or handler directly to an individual ultimate consumer unless otherwise established by rule for an individual commodity. These fruits and vegetables shall meet the requirements of RCW 15.17.210(1)(b).

(2) The inspection requirements of this chapter do not apply to the sale or transportation within a zone of production, as defined by rule, of any fruit or vegetable named in RCW 15.17.050(1) or any combination of those fruits and vegetables to a fruit or produce stand or farmers market in a quantity specified by the director by rule. [1998 c 154 s 8; 1963 c 122 s 13. Formerly RCW 15.17.130.]

RCW 15.17.240 Fruit and vegetable inspection account—Fees—

Rules. (1) The fruit and vegetable inspection account is created in the custody of the state treasurer. All fees collected under this chapter must be deposited into the account. The director may authorize expenditures from the account solely for the implementation and enforcement of this chapter and any other expenditures authorized by statute or session law and applying specifically to the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) By August 1, 2004, and by August 1st of each even-numbered year thereafter, the director shall review the balance in the fruit and vegetable inspection account at the end of the previous fiscal year. If the balance in the account exceeds the sum of the following:

An amount equal to the total expenditures of the program served by that account for the last six months of that previous fiscal year; any budgeted capital expenditures from the account for the current fiscal year; and six hundred thousand dollars, the director shall temporarily and equally, on a percentage basis, reduce each of the fees accruing to the account until such time that the account has a balance equal to the amount of the total expenditures from the account for the last seven months of the previous fiscal year, at which time the fees shall be returned to the amounts before the temporary reduction. In making the reductions, the director shall attempt to reduce fees for a twelve-month period so as to apply the reductions to as many of the persons who annually pay fees for services provided by the program. The temporary fee reductions shall be initially provided through the adoption of emergency rules. The emergency and subsequent rules temporarily reducing the fees are exempt from the requirements of RCW 34.05.310 and chapter 19.85 RCW. These fees shall be reinstated through the expiration of the rules temporarily reducing them and the authority to reinstate them is hereby granted. [2016 c 229 s 1; 2002 c 322 s 2; 1998 c 154 s 16; 1975 c 40 s 3; 1963 c 122 s 24.]

Effective date—2002 c 322: "This act takes effect July 1, 2002. However, the director of the department of agriculture and the state treasurer may take actions before July 1, 2002, to permit the creation of the fruit and vegetable inspection account and the district accounts described in RCW 15.17.240 by July 1, 2002." [2002 c 322 s 8.]

RCW 15.17.260 Injunctions. The director may bring an action to enjoin the violation of any provision of this chapter or rule adopted pursuant to this chapter in the superior court of Thurston county or of any county in which such violation occurs, notwithstanding the existence of other remedies at law. [1998 c 154 s 17; 1963 c 122 s 26.]

RCW 15.17.270 Cooperation with governmental agencies. The director may cooperate with and enter into agreements with governmental agencies of this state, other states, and agencies of federal government in order to carry out the purpose and provisions of this chapter. [1963 c 122 s 31.]

RCW 15.17.290 Violation of chapter or rules—Suspension—Civil penalty. Any person who violates this chapter or rules adopted under this chapter may be subject to:

(1) Suspension of any compliance agreement under this chapter to which the person is a party for a period not to exceed twelve consecutive months; and/or

(2) A civil penalty in an amount of not more than one thousand dollars for each violation. [1998 c 154 s 18; 1963 c 122 s 30.]

RCW 15.17.900 Provisions cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy. [1963 c 122 s 27.]