



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

<b>Agency:</b> WA State Department of Agriculture	<input checked="" type="checkbox"/> Permanent Rule
<b>(1) Date of adoption:</b> March 22, 2004	<input type="checkbox"/> Emergency Rule
	<input type="checkbox"/> Expedited Rule Making

**(2) Purpose:** Amendments were made to sections within the Washington Fryer Commission's marketing order, WAC 16-512. During the past 3 legislative sessions, significant amendments were made to the Commission's enabling statute, chapter 15.66 RCW. These statutory changes prompted the proposed amendments to WAC 16-512. The changes achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order.

**(3) Citation of existing rules affected by this order:**  
 Repealed: WAC 16-512-002, 16-512-030  
 Amended: WAC 16-512-005, 16-512-010, 16-512-020, 16-512-040, 16-512-050  
 Suspended:

**(4) Statutory authority for adoption:** RCW 15.66.030, 15.66.053, 15.66.055  
 Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**  
 Adopted under notice filed as WSR 03-19-098 on Sept. 15, 2003 (date).  
 Describe any changes other than editing from proposed to adopted version:

**EMERGENCY RULE ONLY**  
 Under RCW 34.05.350 the agency for good cause finds:  
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.  
  
 Reasons for this finding:

**(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:**  
 Yes  No If Yes, explain:

<b>(6) Effective date of rule:</b> <b>Permanent Rules</b>	<b>Emergency Rules</b>
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____ *	<input type="checkbox"/> Later (specify) _____

<b>Name (Type or Print)</b> Valoria H. Loveland	
<b>Signature</b> 	
<b>Title</b> Director	<b>Date</b> 3/22/04

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**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	<u>1</u>	Amended	<u>5</u>	Repealed	<u>2</u>
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**The number of sections adopted in 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:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending Marketing Order for Washington Fryers, Broilers and Roasters, effective 4/15/57)

WAC 16-512-005 Marketing order--Policy ((and purpose)) statement. ((The marketing of agricultural products within this state is affected with a public interest. It is declared to be the policy and purpose of the "act" and of this "fryer, broiler and roaster marketing order" to promote the general welfare of the state by enabling fryer, broiler and roaster producers to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the fryers, broilers and roasters they produce, and in promoting and increasing the sale of such fryers, broilers and roasters.)) (1) The marketing of fryers, broilers, and roasters within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its fryers, broilers, and roasters be properly promoted by:

(a) Enabling producers of fryers, broilers, and roasters to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the fryers, broilers, and roasters they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of fryers, broilers, and roasters within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the fryer, broiler, and roaster industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that fryers, broilers, and roasters be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's fryers, broilers, and roasters;

(b) Increase the sale and use of Washington state's fryers, broilers, and roasters in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's fryers, broilers, and roasters;

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's fryers, broilers, and roasters and products; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of fryers, broilers, and roasters produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.66 RCW through the adoption of this marketing order.

(4) The Washington state fryer commission exists primarily for

the benefit of the people of the state of Washington and its economy, and with oversight by the director, the commission is authorized to speak on behalf of Washington state government with regard to fryers, broilers, and roasters under the provisions of this marketing order.

#### NEW SECTION

**WAC 16-512-006 Marketing order purposes.** This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of fryers in Washington state. The Washington state fryer commission is designated by the director to conduct the following programs in accordance with chapter 15.66 RCW:

**(1) Marketing and sales promotion plans.**

(a) Subject to the provisions of the act, the commission is hereby authorized to prepare plans, administer and conduct programs, and expend moneys for marketing and sales promotion for promoting the sale of fryers, including, but not necessarily limited to the following:

(i) Increasing the sale and consumption of Washington-produced fryers through the use of the press, radio, television, and all other marketing media;

(ii) Dealer service work, trade promotion, publicity, market development, and expansion activities;

(iii) Prevention, modification, or elimination of trade barriers which restrict the free flow of fryers produced in this state;

(iv) Presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of fryers produced in this state, including cooperation with any agency or group in efforts to increase per capita consumption of fryers, and such other activities and programs which are consistent with the objectives of this marketing order and the act.

(b) In carrying out any marketing and sales promotion plans or programs, the commission may engage or hire such advertising media as may be necessary to accomplish the purposes of the act and this order, arrange for marketing space, display material and other marketing material, conduct dealer service work, or may use any other methods consistent with the act and this marketing order which the commission considers appropriate in promoting or creating new and larger domestic or foreign markets for fryers, or in maintaining existing markets. The commission may also engage in cooperative efforts in the domestic or foreign marketing of fryer

food products.

(c) Programs and plans adopted by the commission under this marketing order shall be directed towards promoting the sale of fryers without reference to any particular private brand or trade name and sales promotion and marketing programs so conducted shall not disparage the value, quality, sale, or use of any other agricultural commodity or make use of any unwarranted or false claims on behalf of fryers.

**(2) Research.**

(a) The commission, subject to the provisions of the act, is hereby authorized to carry on or cause to be carried on any necessary and proper marketing, production, transportation, processing, or handling research or survey studies relating to fryers and to expend moneys for such purposes.

(b) The commission is authorized to engage in research and survey studies that may include, but shall not necessarily be limited to, the following:

(i) Production problems.

(ii) Developing objective quality factors for fryers.

(iii) Disease control.

(iv) Developing and improving methods of processing fryers for the purpose of increasing and expanding their use for food purposes.

(v) Improving packaging and handling techniques which promote more efficient operation in the marketing and distribution of fryers.

(vi) Investigating transportation rates and service costs.

(c) The commission may, in addition to the activities enumerated above, carry on any other proper and necessary research and/or survey programs and activities consistent with, and subject to, the limitations of the act. Research and/or survey studies may include the collection of data and information relating to fryers; the analysis of the data and information; the dissemination of the data, information and analysis; and other investigation that falls within the scope of the marketing, producing, transportation, processing or handling of fryers.

**(3) Labeling.**

(a) The commission may adopt rules, subject to the provisions of chapter 34.05 RCW, to provide for the improving of standards and grades for fryers by defining, establishing and providing labeling requirements, as provided in the act, and not inconsistent with the laws of this state, with respect to the same, and to expend moneys for such purposes.

(b) The commission shall be authorized to cooperate with state and federal agencies or departments responsible for revising and modernizing grades and standards and labeling of fryers.

(c) All chickens commonly referred to as fryers, broilers, or fryer-roasters and including any and all breeds or varieties of chicken under the age of six months, sold or offered for sale in the state of Washington, must be labeled as to the state of origin at the point of retail sale. The state of origin is defined as the state wherein the bird has been raised to market weight. Specific

requirements for labeling shall be made by the fryer commission pursuant to rules promulgated in accordance with the provisions of chapter 34.05 RCW.

(4) **Unfair trade practices.** The commission may investigate and take necessary action to prevent unfair trade practices and to correct, where possible, trade practices which hinder marketing of Washington-produced fryers. Information acquired in an investigation shall be confidential and shall be released only to the extent necessary to effectuate the purposes of the act.

(5) **Standards, grades, labels and trade practices.** The provisions covering standards, grades, labels and trade practices shall apply with respect to fryers produced in Washington state.

(6) The commission is authorized, subject to the provisions of the act, to provide information and communicate on matters pertaining to the production, processing, transportation, marketing, or uses of fryers produced in Washington state to any elected official or officer or employee of any agency.

(7) **Information and education.** The commission may conduct programs for the purpose of providing information and education including:

(a) Marketing information and services for producers of fryers;

(b) Information and services enabling producers to meet their resource conservation objectives;

(c) Fryer-related education and training.

(8) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of fryers; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of fryers may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending Marketing Order, Article I, effective 4/15/57)

**WAC 16-512-010 Definitions.** (~~(As used in this marketing order, the following terms shall have the following meanings:))~~ Definitions for terms used in this chapter are also found in chapter 15.66 RCW, Washington State Agricultural Commodity Commissions Act. For purposes of the fryers, broilers, and roasters marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or ~~((his duly appointed representative))~~ any qualified person or persons designated by the director of

agriculture to act for him or her concerning some matter under this chapter;

(2) "Act" means the Washington (~~(Agricultural Enabling)~~) State Agricultural Commodity Commissions Act, ((being)) chapter 15.66 RCW;

(3) "Person" includes any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state government;

(4) "Producer" means any person who is engaged in the business of producing or causing to be produced for market in commercial quantities fryers as herein defined. "To produce" means to act as a producer;

(5) "Commercial quantities" shall mean and include one or more pound;

(6) "Pound" or "affected unit" are synonymous and mean and include each pound unit or any combination of packages making a one-pound unit of fryers;

(7) "Fryers" means and includes any and all breeds or varieties of chickens under the age of six months marketed for human consumption as fryers, broilers or fryer-roasters;

(8) "Fryer commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-512-020;

(9) "Marketing season" or "fiscal year" are synonymous and mean the twelve month period beginning January 1 of any year and ending upon the last day of December, both dates inclusive;

(10) "Handler" means any person who (~~((handles, sells, processes, stores, ships, or distributes fryers whether for himself or which he has purchased or acquired from a producer, or which he is shipping for or on behalf of a producer, or who acts as a sales or purchasing agent, broker or factor of fryers, and shall include any lending agencies for commodity credit corporation loan to producers))~~) acts, either as principal, agent, or otherwise, in the processing, selling, marketing, or distributing of fryers that are not produced by the handler. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler;

(11) "Affected producer" means any producer who is subject to this marketing order;

(12) "Sale" means a transaction wherein the property in or to fryers is transferred from the producer to a purchaser for consideration. "Sale" shall also include an agreement to acquire such property for a consideration;

~~((+12))~~ (13) "Affected area" or "area of production" are synonymous and mean and include all of the state of Washington;

~~((+13))~~ (14) "District" means the geographical divisions of the affected area of fryer production established pursuant to the provisions of WAC 16-512-020 of this order;

(15) "Affected handler" means any handler of fryers.

AMENDATORY SECTION (Amending Order 1405, filed 7/7/75)

**WAC 16-512-020 Fryer commission--Structure, powers, duties, and procedure.** (1) **Establishment and membership.** A fryer commission is hereby established to administer this marketing order which shall be composed of six members who shall be affected producers (~~(elected)~~) appointed at large by the director as provided in subsection (2) of this section and two members who shall be appointed by the (~~(elected producer)~~) commission members. In addition, the director shall be (~~(an ex officio member)~~) a voting member of the commission.

(2) **Representative membership.** For the purpose of nomination and (~~(election)~~) appointment of producer members of the commission, the affected area of the state of Washington shall be one representative district. (~~(Each elected producer position shall be elected at large and shall be numbered one through six. Positions appointed by the elected producer members shall be numbered seven and eight.)~~) Producer positions appointed at large by the director shall be numbered one through six. Positions appointed by the commission members shall be numbered seven and eight. The director's position shall be position nine.

(3) **Membership qualifications.** Commission members shall be citizens and residents of this state, over the age of (~~(twenty-five)~~) eighteen years. Producer members of the commission shall be producers of fryers in this state. The qualifications of producer members of the commission as herein set forth must continue during their term of office. Members appointed by the (~~(elected producers)~~) commission shall be either fryer producers(~~(7)~~) or others active in matters relating to fryers(~~(7 or persons not so related)~~).

(4) **Term of office.**

(a) The term of office of the commission members shall be three years from the date of their (~~(election)~~) appointment and until their successors are (~~(elected)~~) appointed and qualified(~~(7 Provided, however, That)~~).

(b) The initial members of the commission shall serve from the effective date of this marketing order in terms terminating as follows: Positions 3 and 6 shall terminate December 31, 1957; positions 1 and 5 shall terminate December 31, 1958; and positions 2 and 4 shall terminate December 31, 1959. One appointed member's term, being position 7, shall terminate December 31, 1958, and the second appointed member's term, being position 8, shall terminate December 31, 1959.

(~~(a)~~) (i) The appointed members of the initial commission shall be elected by a majority of the elected commissioners at the first meeting of said commission.

(~~(b)~~) (ii) With respect to the establishment of positions at large, commission members in office shall serve out their terms.

(c) To accomplish the transition to a commodity commission structure where the director appoints a majority of the commission members, the names of the currently elected or appointed commission members in positions one through six shall be forwarded to the



director for appointment within thirty days of the effective date of this amended marketing order.

(5) **Nomination and (~~election~~) appointment of commission members.** Nomination and appointment of director-appointed commission members shall be as set forth in chapter 15.66 RCW and specified by the director. Dates will be set as follows:

(a) Not earlier than September 17 and not later than October 2 of each year, the director shall give notice by mail to all affected producers of (~~such vacancy or vacancies~~) an open commission position(s) and call for nominations. Nominating petitions shall be signed by five persons qualified to vote (~~for such candidates~~). (~~Such~~) The notice shall state the final date for filing (~~said~~) nomination petitions which shall be not earlier than October 8 and not later than October 13 of each year.

(b) The director shall (~~submit ballots~~) conduct an advisory vote by mail to all affected producers not earlier than October 18 and not later than November 2 of each year. Ballots shall be returned not later than December 2 of each year. (~~Such mailed ballot~~) The advisory vote shall be conducted in a manner so that it shall be a secret ballot in accordance with rules (~~and regulations to be promulgated~~) adopted by the director. An affected producer is entitled to one vote.

(c) (~~With respect to the initial fryer commission, the director shall call for nominations in the notice of his decision following the hearing designated in the act. The ballot specified herein shall be forwarded to the producer at the time the director's proposed marketing order is mailed to the producers for their referendum assent.~~) When only one nominee is nominated by the affected producers for a director-appointed position, RCW 15.66.120 shall apply.

(d) Except with respect to the initial fryer commission, the members of the commission not elected by the producers or appointed by the director shall be (~~elected~~) appointed by a majority of the commission within ninety days prior to the expiration of the term.

(6) **Vacancies.**

(~~(a) To fill any vacancy occasioned by the failure to qualify of any person elected by the producers as a member of the commission, or in the event of the death, removal, resignation or disqualification of any member, the director shall call for nominations and conduct such election in the manner provided in subsection (5) of this section.~~

(~~b) To fill nonelective vacancies caused by reasons other than the expiration of the term, the new members shall be elected by the commission at its first meeting after the occurrence of the vacancy.~~) (a) In the event of a vacancy in a commission-appointed position, the remaining members shall select a qualified person to fill the term. The appointment shall be made at the commission's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in chapter 15.66 RCW.

(7) **Powers and duties of commission.** The commission shall

have the following powers and duties:

(a) To administer, enforce, direct and control the provisions of this marketing order and of the act relating thereto;

(b) To elect a chairman and such other officers as the commission may deem advisable;

(c) To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under this marketing order;

(d) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(e) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(f) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings, before administrative tribunals or other governmental authorities necessary to carry out the provisions of the act and of this marketing order;

(g) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the department and other legal agencies of the state and make annual reports therefrom to the state auditor.

(h) To borrow money and incur indebtedness;

(i) To make necessary disbursements for routine operating expenses;

(j) To collect the assessments of producers as provided in this marketing order and to expend the same in accordance with and to effectuate the purposes of the act and this order;

(k) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this marketing order during each fiscal year. The commission, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget;

(l) To accept and receive gifts, grants, and contributions from private persons or private and public agencies and expend the same to effectuate the purposes of the act and this order;

(m) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes set forth in this marketing order;

(n) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes set forth in this marketing order. Personal service contracts must comply with chapter 39.29 RCW;

(o) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of fryers, broilers, and roasters;

(p) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(g) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by this marketing order;

(r) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, manufacture, regulation, transportation, distribution, sale, or use of fryers, broilers, and roasters including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(s) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.66.140;

(t) To maintain a list of the names and addresses of persons who handle fryers within the affected area and data on the amount and value of the fryers handled for a minimum three-year period by each person pursuant to RCW 15.66.140;

(u) To maintain a list of names and addresses of all affected persons who produce fryers and the amount, by unit, of fryers produced during the past three years pursuant to RCW 15.66.143;

(v) To maintain a list of all persons who handle fryers and the amount of fryers handled by each person during the past three years pursuant to RCW 15.66.143;

(w) To establish a foundation using commission funds as grant money for the purposes established in this marketing order;

(x) To request records and audit the records of producers or handlers of the affected commodity during normal business hours to determine whether the appropriate assessment has been paid;

(y) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to the affected commodity; and

(z) To exercise such other powers and perform such other duties as are necessary and proper to effectuate the purposes of the act and of this marketing order.

**(8) Procedure for commission.**

(a) The commission may by resolution establish a headquarters which shall continue as such unless and until so changed by the commission, at which headquarters shall be kept the books, records, and minutes of the commission meetings.

(b) The commission shall hold regular meetings at least quarterly, with the time and date thereof to be fixed by the resolution of the commission. Notice of the time and place of regular meetings shall be published on or before January of each year in the Washington State Register. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(c) The commission may hold ((such)) special meetings as it may deem advisable and shall establish by resolution the time, place, and manner of calling such special meetings with reasonable notice to the members: Provided, ((however,)) That the notice to a member of any special meeting may be waived by a waiver ((thereof

~~signed by not less than a quorum of the membership))~~ from that member of the commission. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

(d) Any action taken by the commission shall require the majority vote of the members present, provided a quorum is present.

(e) A quorum of the commission shall consist of at least five members.

(f) No member of the commission shall receive any salary or other compensation from the commission, except that each member shall be paid a specified sum to be determined by resolution of the commission (~~(not to exceed \$20.00 per day)~~) which shall not exceed the compensation rate set by RCW 43.03.230 for each day spent in the actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and travel expenses ((at the rate allowed by law to state employees)) in accordance with RCW 43.03.050 and 43.03.060. The commission may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members of the commission in carrying out the provisions of this marketing order pursuant to RCW 15.66.130.

(9) **Limitation of liability of commission members and employees.** Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any other commission established pursuant to the act or the assets thereof or against any member officer, employee, or agent of the commission in his individual capacity. The members of the commission, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

AMENDATORY SECTION (Amending Order 1714, filed 9/24/80, effective 11/1/80)

**WAC 16-512-040 Assessments and assessment funds. (1) Assessments levied.** On and after the effective date of this amendment, there is hereby levied and there shall be collected by the commission as provided in the act, upon all fryers, roasters and broilers under the age of 6 months, an assessment of .35 of one

cent per lb. live weight. Such assessment shall be paid by the producer thereof upon each and every pound of fryers, roasters, or broilers sold, delivered for sale or processed by him or her: Provided (~~however~~), That no assessment shall be collected on the following:

(a) Sales on a producer's premises by a producer direct to a consumer of thirty pounds or less of fryers from a producer's own production;

(b) Fryers of a producer's own production used by him for personal consumption; or

(c) Fryers donated or shipped for relief or charitable purposes.

No assessment levied or made collectable by the act under this order shall exceed three percent of the total market value of all such fryers sold, processed or delivered for sale or processing by all producers of fryers for the fiscal year to which the assessment applies.

(2) **Collection of assessment.**

(a) All assessments made and levied pursuant to the provisions of the act under this marketing order shall apply to the respective producer who shall be primarily liable therefor. To collect (~~such~~) assessments, the commission may require:

(i) Stamps to be known as "Washington fryer commission stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases or receiving receipts or tickets. Any (~~such~~) stamps shall be (~~cancelled~~) canceled immediately upon being attached or fixed and the date of (~~such~~) the cancellation shall be placed thereon;

(ii) Payment of producer assessments before the fryers are shipped off the farm or payment of assessments at different or later times and in (~~such~~) that event, any person subject to the assessments shall give (~~such~~) adequate assurance or security for its payment as the commission shall require.

(iii) Every producer subject to the assessment under this order to deposit with the commission in advance an amount based on the estimated number of affected units upon which (~~such~~) the person will be subject to (~~such~~) assessments in any one year during which this marketing order is in force, but in no event shall (~~such~~) a deposit exceed twenty-five percent of the estimated total annual assessment payable by (~~such~~) the person. At the close of (~~such~~) the marketing season the sums so deposited shall be adjusted to the total of (~~such~~) assessments payable by (~~such~~) the person.

(iv) Handlers receiving fryers from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and all moneys so collected shall be paid to the commission on or before the twentieth day of the succeeding month for the previous month's collections. Each handler shall at (~~such~~) times (~~as~~) required by rule (~~and regulation required~~), file with the commission a return under oath on forms to be furnished by the commission, stating the quantity of

fryers handled, processed, delivered and/or shipped during the period prescribed by the commission.

(b) The commission is authorized to (~~make reasonable~~) adopt rules (~~and regulations~~) in accordance and conformity with the act and with this section to effectuate the collection of assessments. On or before the beginning of each marketing season, the commission shall give reasonable notice to all producers, handlers and other affected persons of the method or methods of collection to be used for that marketing season.

(c) No affected units of fryers shall be transported, carried, shipped, sold, stored or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued or stamp (~~cancelled~~) canceled, but no liability hereunder shall attach to common carriers in the regular course of their business. When any fryers for which exemption as provided in subsection (1) of this section is claimed are shipped either by railroad or truck, there shall be plainly noted on the bill of lading, shipping document, container or invoice, the reasons for (~~such~~) the exemptions.

(d) Any producer or handler who fails to comply with the provisions of this section as herein provided shall be guilty of a violation of this order.

**(3) Funds.**

(a) Moneys collected by the fryer commission pursuant to the act and this marketing order as assessments shall be used by the commission only for the purposes of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of the act and this marketing order.

(b) At the end of each fiscal year the commission shall credit each producer with any amount paid by such producer in excess of three percent of the total market value of all fryers sold, processed, delivered for sale or processing during that period. Refund may be made only upon satisfactory proof given by the producer (~~in accordance with reasonable rules and regulations prescribed by the director~~), which may include bills of lading, bills of sale, or receipts.

AMENDATORY SECTION (Amending Marketing Order, Article V, effective 4/15/57)

**WAC 16-512-050 Information reports.** All persons subject to the provisions of this marketing order shall make and render (~~such~~) reports and furnish such information to the director or the commission as may be necessary or required under the act or this order to effectuate the purposes thereof. Any financial and commercial information and records obtained by (~~any person pursuant to the provisions of this article shall be confidential and~~) the director or commission are exempted from public

disclosure under the provisions of RCW 15.66.1 and 42.17.31907  
but shall not be (~~by him~~) disclosed to any person save to a  
person with like right to obtain the same or any attorney employed  
by the director or the commission to give legal advice thereon or  
by court order.

REPEALER

The following sections of the Washington Administrative Code  
are repealed:

WAC 16-512-002

Director's findings and decision  
approving a marketing order.

WAC 16-512-030

Marketing order purposes.