



# RULE-MAKING ORDER

## R-103 (June 2004) (Implements RCW 34.05.360)

Agency: WA State Department of Agriculture

- Permanent Rule  
 Emergency Rule

**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)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

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

- Yes  No If Yes, explain:

**Purpose:** Amendments were made to sections within the Washington Dry Pea and Lentil Commission's Marketing Order, WAC 16-536. During past legislative sessions, significant amendments were made to the Commission's enabling statute, chapter 15.65 RCW. These statutory changes prompted the proposed amendments to WAC 16-536. The changes achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order.

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

Repealed: WAC 16-536-030  
 Amended: WAC 16-536-010, 16-536-020, 16-536-040, 16-536-060  
 Suspended:

**Statutory authority for adoption:** RCW 15.65.047 and chapter 34.05 RCW

**Other authority :**

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

Adopted under notice filed as WSR 04-04-107 on Feb. 4, 2004 (date).  
 Describe any changes other than editing from proposed to adopted version: The department will not be adopting the assessment increase as proposed in WAC 16-536-040(1)(a). The assessment rate will remain as currently written.

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

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

- Under RCW 34.05.350 the agency for good cause finds:
- 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.
  - 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:

**Date adopted:** August 9, 2004

**NAME (TYPE OR PRINT)**  
 Valoria H. Loveland

**SIGNATURE**

**TITLE**  
 Director

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
 STATE OF WASHINGTON  
 FILED

AUG 9 2004

TIME 1203 AM  
 WSR 04-12-021 PM

**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	<u>2</u>	Amended	<u>4</u>	Repealed	<u>1</u>

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

New	<u>2</u>	Amended	<u>4</u>	Repealed	<u>1</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	<u>2</u>	Amended	<u>4</u>	Repealed	<u>1</u>

NEW SECTION

**WAC 16-536-005 Marketing order for Washington dry peas and lentils--Policy statement.** (1) The marketing of dry peas and lentils 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 dry peas and lentils be properly promoted by:

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

(b) Working towards stabilizing the agricultural industry by increasing consumption of dry peas and lentils within the state, the nation, and internationally.

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

(a) Enhance the reputation and image of Washington state's dry peas and lentils.

(b) Increase the sale and use of Washington state's dry peas and lentils 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 dry peas and lentils.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's dry peas and lentils and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of dry peas and lentils produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state dry pea and lentil commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to dry peas and lentils under the provisions of this marketing order.

NEW SECTION

**WAC 16-536-006 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 dry peas and lentils in Washington state. The Washington state dry pea and lentil commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the order, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for dry peas and/or lentils. Such programs shall be directed toward increasing the sale of dry peas and/or lentils without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of dry peas and/or lentils nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of dry peas and/or lentils and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for dry peas and/or lentils or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of dry peas and/or lentils and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of dry

peas and/or lentils for the verification of grades, standards, weights, tests, and sampling of quality and quantity of dry peas and/or lentils purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) Dry peas and lentils-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of dry peas and/or lentils produced in Washington state to any elected official or officer or employee of any agency.

(2) 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 dry peas and/or lentils; and

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

AMENDATORY SECTION (Amending Order 1768, filed 7/13/82)

**WAC 16-536-010 Definitions ((of terms)).** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

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

(3) "Act" means the Washington State Agriculture ((~~Enabling Act of 1961~~)) Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any ((~~person~~)) individual, firm, ((association or)) corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, dry peas and/or lentils in the state of Washington.

(6) "Commercial quantity" means all the dry peas and/or lentils produced for market in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing dry peas and/or lentils not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Dry pea and lentil commodity board" hereinafter referred

to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020.

(9) "Dry peas" means and includes all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(10) "Lentils" means and includes all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to dry peas and/or lentils. A producer-handler shall be deemed to be a producer with respect to the dry peas and/or lentils which he or she produces, and a handler with respect to the dry peas and/or lentils which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the dry peas and lentils marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(13) "Affected area" means (~~that portion of~~) the state of Washington (~~located east of the summit of the Cascade Mountains~~).

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means one hundred pounds of (~~cleaned~~) dry peas and/or lentils.

AMENDATORY SECTION (Amending Order 5079, filed 8/23/95, effective 9/23/95)

**WAC 16-536-020 The dry pea and lentil board. (1) Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of ten members. Eight members shall be affected producers (~~elected~~) appointed as provided in this (~~article~~) marketing order. One member shall be an affected

handler (~~(elected)~~) appointed as provided in this (~~(article)~~) marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the (~~(department and the public)~~) director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and (~~(election)~~) appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington (~~(located east of the summit of the Cascade Mountains)~~): Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

**(3) Board membership qualifications.**

(a) The (~~(affected)~~) producer members of the board (~~(shall)~~) must be practical producers of dry peas and/or lentils in the district in and for which they are nominated and (~~(elected)~~) appointed and each shall be a citizen(~~(s)~~) and resident(~~(s)~~) of the state (~~(of Washington)~~), over the age of (~~(twenty-five)~~) eighteen years(~~(, each of whom is and has)~~). Each producer board member must be and have been actually engaged in producing dry peas and/or lentils within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and (~~(who)~~) is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The (~~(affected)~~) handler member of the board (~~(shall)~~) must be a practical handler of dry peas and/or lentils and shall be a citizen and resident of the state (~~(of Washington)~~), over the age of (~~(twenty-five)~~) eighteen years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling dry peas and/or lentils within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

**(4) Term of office.**

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be (~~(elected)~~) appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through (~~(seven)~~) eight, the affected handler shall have position (~~(eight)~~)

nine and the member (~~((appointed by))~~) representing the director position (~~((nine))~~) ten.

(c) The term of office for the initial board members shall be as follows:

Positions (~~((one, two and three))~~) seven, eight, nine, and ten  
- one year

Positions four, five and six - two years

Positions (~~((seven, eight, nine, and ten))~~) one, two, and three  
- three years

~~((No elected))~~ (d) Except for the director's representative, no appointed member of the board may serve more than two full consecutive three-year terms.

(e) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination (~~((and election))~~) of director-appointed board members.

(a) For the purpose of nominating candidates for (~~((election))~~) appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call (~~((for))~~) a nomination meeting(~~((s))~~) for director-appointed board members in those districts whose board members term is about to expire. (~~((Such))~~) The meeting(s) shall be held at least thirty days in advance of the date set by the director for the (~~((election))~~) advisory vote of board members.

(c) Notice of (~~((every such))~~) a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the (~~((director pursuant to RCW 15.65.200 of the act))~~) board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at (~~((such))~~) a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at (~~((such))~~) a nomination meeting(~~((s))~~). Nominations may also be made within five days after (~~((any such))~~) the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the (~~((vacancy))~~) open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-



appointed position, RCW 15.65.250 shall apply.

(6) ~~((Election))~~ Advisory vote of board members.

(a) ~~((Members of the board shall be elected by secret mail ballot within the month of May))~~ An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote. ((Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer shall be entitled to one vote. The affected handler member of the board shall be elected by a majority of votes cast by the affected handlers. Each affected handler shall be entitled to one vote.))

(b) ~~((If a nominee does not receive a majority of the votes on the first ballot a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.))~~ An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every ~~((election))~~ advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of ~~((such election))~~ the advisory vote. Not less than ten days prior to every ~~((election))~~ advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the ~~((director in accordance with RCW 15.65.200))~~ board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the ~~((election))~~ advisory vote of any board member.

(7) Vacancies ((prior to election)). ~~((In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.))~~ In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) Board compensation. No member of the board shall receive any salary or other compensation, but each member ~~((shall receive ten dollars for each day in actual attendance on or traveling to and from meetings of the board or on special assignment for the~~

~~board, together with subsistence and traveling expense at the rate allowed by law to state employees. Provided, That the method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the board in advance of the incurrence of such expenses by a board member))~~ may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "dry pea and lentil board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of

the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen 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.

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

(k) To adopt rules (~~and regulations~~) of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of dry peas and lentils.

(t) 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.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the

production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of dry peas and lentils including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) 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 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle dry peas and lentils within the affected area and data on the amount and value of the dry peas and lentils handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce dry peas and lentils and the amount, by unit, of dry peas and lentils produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle dry peas and lentils and the amount of dry peas and lentils handled by each person during the past three years pursuant to RCW 15.65.295.

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

**(11) Procedures for board.**

(a) The board shall hold regular meetings(~~(, at least quarterly,)~~) with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The 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.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver (~~thereof by each~~) from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending Order 1895, filed 7/3/86, effective 8/4/86)

**WAC 16-536-040 Assessments and collections. (1) Assessments.**

(a) The assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That ((such)) an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) ((Such)) Assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of ((the)) this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of ((such)) this marketing ((~~agreement or~~) order, to all persons from whom ((such)) moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate ((such)) the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and ((the)) this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the ((same)) unpaid assessment to defray the cost of enforcing the collecting of ((~~the same~~) it. In the event of failure of such person or persons to pay any ((such)) due and payable assessment or other such sum, the board may bring a civil action against ((such)) the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent ((~~thereon~~)), and ((such)) the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**WAC 16-536-060 Termination of the order.** (~~The order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.~~) Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-536-030 Marketing order purposes.