

LEGAL NOTICE

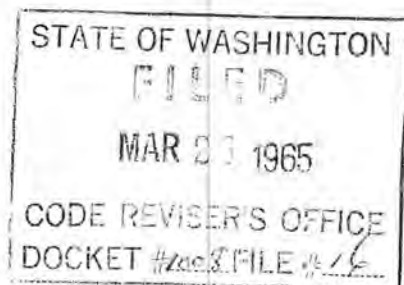
Pursuant to the requirements of Chapter 15.65 RCW and Chapter 34.04 RCW, notice is hereby given that the Marketing Order to create a Washington Dry Pea and Lentil Commission has received the requisite assent by the affected producers of dry peas and lentils in the State of Washington; that a copy of the order has been duly filed with Richard White, Code Revisor for the State of Washington on March 26, 1965 and that it will become effective on July 1, 1965.

Copies of the order may be obtained from the Marketing Division, Washington State Department of Agriculture, Post Office Box 128, Olympia, Washington.

Dated this 26th day of March, 1965.



Cameron S. Adams
Cameron S. Adams
Acting Director of Agriculture





STATUTE LAW COMMITTEE

OFFICE OF THE REVISER
LEGISLATIVE BUILDING
OLYMPIA

March 26, 1965

To Department of Agriculture

The attached document of eleven pages, being the final marketing order for dry peas and lentils produced in the state of Washington (Department of Agriculture) is a true copy of such rules as filed in the code reviser's office on March 26, 1965 pursuant to chapter 234, Laws of 1959 (chapter 34.04 RCW).

3. 27 by Jay

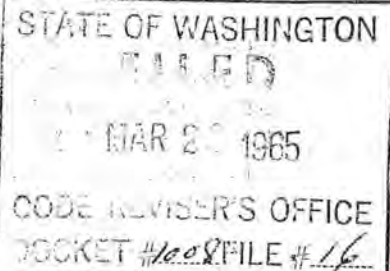
Richard O. White
Code Reviser

MARKETING ORDER FOR DRY PEAS AND LENTILS

PRODUCED IN

THE STATE OF WASHINGTON

ARTICLE I



Section A. DEFINITIONS OF TERMS. For the purpose of this marketing order:

1. "Director" means the Director of Agriculture of the State of Washington or his 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 or Chapter 15.65 RCW.
4. "Person" means any person, firm, association or corporation.
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.
8. "Dry Pea and Lentil Commodity Board" hereinafter referred to as "Board" means the Dry Pea and Lentil Commodity Board formed under the provisions of Article II of this Order.
9. "Dry Peas" means and includes all kinds and varieties of dry peas grown in the State of Washington: PROVIDED; that it shall not include dry peas used by the producer thereof for feed, seed and personal consumption or dry peas used for seed or seed stock in the production of green peas for fresh market, garden purposes, canning and/or freezing.
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 producers thereof on his 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 produces, and a handler with respect to the dry peas and/or lentils which he handles, including those produced by himself.

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.

ARTICLE II

THE DRY PEA AND LENTIL BOARD

Section A. 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.

Section B. BOARD MEMBERSHIP

1. The Board shall consist of nine members. Seven members shall be affected producers elected as provided in this Article. One member shall be an affected handler elected as provided in this Article. 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.

2. For the purpose of nomination and election of producer members of the Board, the affected area of the State of Washington shall be divided into four representative districts as follows:

a. District I shall have three Board members, being positions 1, 2 and 3 and shall include the County of Whitman.

b. District II shall have two Board members, being positions 4 and 5 and shall include the County of Spokane.

c. District III shall have one Board member being position 6 and shall include the Counties of Walla Walla, Garfield, Columbia and Asotin.

d. District IV shall have one Board member, being position 7 and shall include all other counties of the State of Washington located east of the summit of the Cascade mountains.

Section C. BOARD MEMBERSHIP QUALIFICATIONS.

1. The affected producer members of the Board shall be practical producers of dry peas and/or lentils in the district in and for which they are nominated and elected and shall be citizens and residents of the State of Washington, over the age of twenty-five years each of whom is and has 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 income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

2. The affected handler member of the Board shall 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 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 income therefrom.

3. The qualifications of members of the Board must continue during their term of office.

Section D. TERM OF OFFICE

1. 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 each year.

2. Membership positions on the Board shall be designated numerically; affected producers shall have positions one through seven, the affected handler shall have position eight and the member appointed by the Director position nine.

3. The term of office for the initial Board members shall be as follows:

Positions One, Two and Three - one year

Positions Four, Five and Six - two years

Positions Seven, Eight and Nine - three years

No elected member of the Board may serve more than two full consecutive three-year terms.

Section E. NOMINATION AND ELECTION OF BOARD MEMBERS

1. For the purpose of nominating candidates for election to Board membership the Director shall call separate meetings of affected producers and affected handlers.

2. Each year the Director shall call for nomination meetings in those districts whose Board members term is about to expire. Such meetings shall be held at least thirty days in advance of the date set by the Director for the election of Board members. Notice of every such 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. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer or handler may be nominated orally for membership on the Board at such nomination meetings. Nominations may also be made within five days after any such meeting by written petition filed with the Director signed by not less than five affected producers or affected handlers.

Section F. ELECTION OF BOARD MEMBERS. Members of the Board shall be elected by secret mail ballot within the month of May under the supervision of the Director. 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.

If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

Notice of every election 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. Not less than ten days prior to every election 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. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the Director upon establishing his qualifications. Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election of any Board member.

Section G. 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.

Section H. 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.

Section I. 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 any Board member.

Section J. POWERS AND DUTIES OF THE BOARD. The Board shall have the following powers and duties:

1. To administer, enforce and control the provisions of this order as the designee of the Director.

2. To elect a chairman and such other officers as the Board deems advisable.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. To adopt rules and regulations of a technical or administrative nature, subject to the provisions of Chapter 34.04 RCW (Administrative Procedures Act.)

12. 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.

13. 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.

14. 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.

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

Section K. PROCEDURES FOR BOARD

1. The Board shall hold regular meetings, at least quarterly with the time and date thereof to be fixed by resolution of the Board.

2. 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.

3. 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 of any special meeting may be waived by a waiver thereof by each member of the Board.

Section A. MARKETING ORDER PURPOSES. The Order is to promote the general welfare of the State, to enable producers of dry peas and/or lentils to help themselves establish orderly, fair, sound, efficient, unhampered marketing, grading and standardization of dry peas and/or lentils.

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 advertising, 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 in 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 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 and regulations 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 therefore;

iii. providing for inspection and enforcement to ascertain and effectuate compliance;

iv. establishing rules and regulations respecting the foregoing;

v. 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. Provide for marketing information and services to affected producers and 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.

ARTICLE IV

ASSESSMENTS AND COLLECTIONS

Section A. ASSESSMENTS.

1. The fixed annual assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be as follows:

a. Austrian and all other winter varieties - two cents per affected unit cleaned.

b. All other dry peas - three cents per affected unit cleaned.

c. All varieties of dry lentils - four cents per affected unit cleaned.

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, or on dry peas used for seed or seed stock in the production of green peas for fresh market, garden purposes, canning and/or freezing.

2. Handlers shall collect producer assessments from producers whose production they handle and remit the same to the Board in accordance with procedures adopted by the Board.

Section B. COLLECTIONS. Any moneys collected or received by the Board pursuant to the provisions of the 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 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 policies and purposes.

Section C. 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 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 to defray the cost of enforcing the collecting of the same. 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 person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

ARTICLE V

Section A. OBLIGATIONS OF THE BOARD. Obligations incurred by the Board or employee or agent thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required or permitted them by the Act or this Order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the Order were a corporation. No liability for the debts or actions of the Board, employee or agent incurred in their official capacity under this Order shall exist either against the Board, officers, employees and/or agents in their individual capacity, nor against the State of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator or board (or employee or agent thereof) established pursuant to this Act or the assets thereof. The Board, and its agents and employees, 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 Board, member of the Board, or other person. The liability of the members of the Board shall be several and not joint and no member shall be liable for the default of any other member.

ARTICLE VI

Section A. 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 RCW 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.

ARTICLE VII

EFFECTIVE TIME

This marketing order for Dry Peas and Lentils shall become effective on and after July 1, 1965.

ARTICLE VIII


This Order shall remain in full force and effect until July 1, 1972 unless terminated prior thereto under the provisions of Chapter 15.65 RCW as set forth in Article VI: PROVIDED, That if it remains in effect until said July 1, 1972 the Director shall conduct a referendum election as required for the approval of an order under Chapter 15.65 RCW at such time prior to such date so that he may determine if the affected producers and handlers desire that the order be terminated on such date or continued in full force and effect beyond such date. All the costs of conducting such election shall be defrayed from the funds of the Board.

ARTICLE IX

Section A. SEPARABILITY. If any provisions hereof are declared invalid, or the applicability thereof to any person, circumstances or thing is held invalid, the validity of the remainder hereof or of the applicability thereof to any other person, circumstances or thing shall not be affected thereby.

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I hereby certify that the foregoing is a true and correct copy of the regulations promulgated by the Department of Agriculture.


Cameron S. Adams
Acting Director of Agriculture
State of Washington

Signed at Olympia, Washington

March 26, 1965