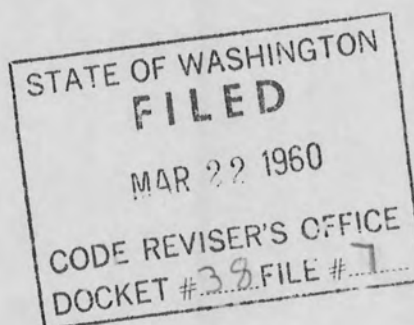


STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
MARKETING BRANCH
P. O. Box 617
Yakima, Washington

WASHINGTON SEED POTATO MARKETING ORDER

Providing for the Creation of a

WASHINGTON SEED POTATO COMMISSION



DIRECTOR'S FINDINGS AND FINAL DECISION
ISSUED AUGUST 17, 1956
EFFECTIVE DATE: OCTOBER 1, 1956

16-520

16-520

MARKETING ORDER FOR WASHINGTON SEED POTATOES

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 "Washington Seed Potato Marketing Order" to promote the general welfare of the state by enabling seed potato producers to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing and standardizing of the seed potatoes they produce, and in promoting and increasing the sale of such seed potatoes.

ARTICLE I

DEFINITIONS

Section A. DEFINITION OF TERMS. As used in this Marketing Order, the following terms shall have the following meanings:

1. "Director" means the Director of Agriculture of the State of Washington or his duly appointed representative.
2. "Act" means the Washington Agricultural Enabling Act, being Chapter 191, Session Laws of Washington, 1955.
3. "Person" includes any individual, firm, corporation, trust, association, partnership, society or any other organization of individuals.
4. "Producer" means any person who is engaged in the business of producing or causing to be produced for market in commercial quantities seed potatoes as herein defined grown in the State of Washington.
5. "Commercial Quantities" shall mean and include five hundred weight (5 cwt.) or more.
6. "Hundredweight" or "Affected Unit" are synonymous and mean and include each one hundred pound unit or any combination of packages making a one hundred pound unit of seed potatoes.
7. "Seed Potatoes" mean and include all kinds and varieties of Irish seed potatoes grown in the State of Washington and marketed, sold or intended for use for seed purposes.
8. "Seed Potato Commission" or "Commission" are synonymous and mean the commission established pursuant to the provisions of Article II of this Marketing Order.
9. "Marketing Season" or "Fiscal Year" are synonymous and mean the twelve (12) month period beginning July 1 of any year and ending upon the last day of June, both dates inclusive.
10. "Handler" means any person engaged in the business of handling, selling, processing, storing, shipping, or distributing seed potatoes which he has purchased or acquired from a producer, or which he is shipping for or on behalf of a producer, and shall include any lending agencies for Commodity Credit Corporation loan to producers, but shall not include a producer engaged in transporting seed potatoes produced by him for grading, washing, sorting, sacking, or otherwise preparing for marketing or market.
11. "Sale" means a transaction wherein the property in or to seed potatoes is transferred from the producer to a purchaser for consideration. "Sale" shall also include an agreement to acquire such property for a consideration.
12. "Affected Area" or "Area of Production" are synonymous and mean and include all of the State of Washington.

ARTICLE II
SEED POTATO COMMISSION

Section A. ESTABLISHMENT AND MEMBERSHIP. A Seed Potato Commission is hereby established to administer this Marketing Order which shall be composed of five (5) members who shall be producers elected by the producers as provided in the Act, and two (2) members who shall be appointed by the elected producer members. In addition, the Director shall be an ex officio member of the Commission.

Section B. MEMBERSHIP QUALIFICATIONS. Commission members shall be citizens and residents of this State, over the age of twenty-five (25) years and producer members of the commission shall be producers of seed potatoes in the State of Washington. 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 shall be either seed potato producers, others active in matters relating to seed potatoes or persons not so related.

Section C. TERM OF OFFICE; INITIAL COMMISSION. The term of office of Commission members shall be three (3) years from the date of their election and until their successors are elected and qualified so that one-third of the terms will commence as nearly as practicable each year provided, however, that the initial members of the Commission shall serve from the effective date of this Marketing Order in terms terminating as follows: Two (2) producer members, being Positions 1 and 2 shall be elected for one year terms terminating June 30, 1957; two (2) producer members, being Positions 3 and 4 shall be elected for 2 year terms terminating June 30, 1958; and one (1) producer member, being Position 5 shall be elected for a 3 year term terminating June 30, 1959.

The appointed members of the initial commission shall be elected by a majority of the elected commissioners at the first meeting of said commission. One (1) appointed member being Position 6, shall be appointed for a two (2) year term expiring June 30, 1958, and one (1) appointed member, being Position 7, shall be appointed for a three (3) year term, expiring June 30, 1959.

Section D. NOMINATION AND ELECTION OF COMMISSION MEMBERS.

1. Not earlier than March 19 and not later than April 3 of each year, the Director shall give notice by mail to all producers that a vacancy or vacancies will occur in the commission and call for nominations. Nominating petitions shall be signed by five (5) persons qualified to vote for such candidates. Such notice shall state the final date for filing said petitions which shall be not earlier than April 7 and not later than April 12 of such year.

2. The Director shall submit ballots by mail to all producers in the district wherein the vacancy will occur not earlier than April 17 and not later than May 2 of each year. Ballots shall be returned not later than June 1 of such year. Such mailed ballot shall be conducted in a manner so that it shall be a secret ballot in accordance with rules and regulations to be promulgated by the Director.

3. With respect to the initial seed potato 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 producers at the time the Director's Proposed Marketing Order is mailed to the producers for their referendum assent.

4. Except with respect to the initial seed potato commission, the members of the commission not elected by the producers shall be elected by a majority of the commission within ninety days prior to the expiration of the term.

Section E. VACANCIES.

1. 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 Section D of this Article.

2. To fill nonelective vacancies caused by other reasons 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.

Section F. POWERS AND DUTIES OF COMMISSION. The commission shall have the following powers and duties:

1. To administer, enforce, direct and control the provisions of this Marketing Order and of the Act relating thereto;

2. To elect a chairman and such other officers as the commission may deem advisable; and to select subcommittees of commission members;

3. 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;

4. 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;

5. To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

6. 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;

7. 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;

8. To borrow money and incur indebtedness;

9. To make necessary disbursements for routine operating expenses;

10. 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 Marketing Order;

11. 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;

12. To accept and receive gifts and grants and expend the same to effectuate the purposes of the Act and this Order;

13. 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 Order.

Section G. PROCEDURE FOR COMMISSION.

1. 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.

2. The commission shall hold at least two (2) regular meetings during each fiscal year with the time and date thereof to be fixed by the Resolution of the commission.

3. 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 of any special meeting may be waived by a waiver thereof signed by not less than a quorum of the membership.

4. Any action taken by the commission shall require the majority vote of the members present provided a quorum is present.

5. A quorum of the commission shall consist of at least five (5) members.

6. No members 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, which rate shall not exceed \$20.00 per day for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and travel expense of the rate allowed by law to state employees.

Section H. 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.

ARTICLE III
MARKETING ORDER PURPOSES

Section A. RESEARCH.

1. The seed potato 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, processing or handling research or survey studies relating to seed potatoes and to expend monies for such purposes.

2. Such research and survey studies may include, but shall not necessarily be limited to the following:

(a) Production problems, such as soil, fertilizers, irrigation, insecticides and the like.

(b) Investigating and developing more disease-resistant seed potatoes for marketing.

(c) Improving techniques and methods of harvesting and storing seed potatoes.

(d) Improving packing and handling techniques which promote more efficient operation in the marketing and distribution of seed potatoes.

(e) Investigating transportation rates and service costs, and if the commission after such investigation finds transportation rates and service costs are restricting the free flow of seed potatoes produced in this state the commission is authorized to institute proper action before the Interstate Commerce Commission or such other agency or body deemed necessary to correct the situation.

3. 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. Such research and/or survey studies may include the collection of data and information relating to seed potatoes; the analysis of such data and information; the dissemination of such data, information and analysis; and such other investigation that falls within the scope of the marketing, producing, or handling of seed potatoes.

Section B. ADVERTISING AND SALES PROMOTION PLANS.

1. The seed potato commission, subject to the provisions of the Act, is hereby authorized to prepare plans, administer and conduct programs and expend monies for advertising and sales promotion for promoting the sale of seed potatoes for the purpose of maintaining existing markets or creating new and/or larger markets for seed potatoes grown in the State of Washington, including but not necessarily limited to the following:

(a) Increasing the sale of Washington produced seed potatoes through the use of the press, radio, television and all other advertising media.

(b) Trade promotion, publicity, market development and expansion activities.

(c) Prevention, modification, or elimination of trade barriers which restrict the free flow of seed potatoes produced in this state.

(d) Presentation of facts to and negotiations with state, federal, or foreign governmental agencies on matters which affect the marketing of seed potatoes produced in this state, and such other activities and programs which are consistent with the objectives of this Marketing Order and the Act.

2. In carrying out any advertising and sales promotion plans or programs, the commission may engage or hire such advertising medias as may be necessary to accomplish the purposes of the Act and this Order, arrange for advertising space, display material and other advertising material, 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 seed potatoes, or in maintaining existing markets.

3. Programs and plans adopted by the commission under this Marketing Order shall be directed towards promoting the sale of seed potatoes without reference to any particular private brand or trade name and sales promotion and advertising 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 seed potatoes.

Section C. LABELING.

1. The seed potato commission, subject to the provisions of the Act, is hereby authorized to define, establish and provide labeling requirements for improving standards and grades for seed potatoes, as provided in the Act, not inconsistent with the Horticultural laws of this State with respect to the same, and to expend monies for such purposes.

2. The commission shall give reasonable written notice to all producer, handlers, and persons directly affected by the labeling requirements issued pursuant to this section, not less than ten (10) days prior to the effective time of such requirements.

3. 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 seed potatoes.

4. Nothing in this section shall be construed as authorizing the commission to set minimum grades, sizes or maturity of seed potatoes which a producer may sell, offer for sale or ship.

Section D. UNFAIR TRADE PRACTICES. The seed potato commission, subject to the provisions of the Act, is hereby authorized to investigate and take necessary action to prevent unfair trade practices and to correct, where possible, trade practices which hinder marketing of Washington produced seed potatoes. Information acquired in such investigation shall be confidential and shall be released only to the extent necessary to effectuate the purposes of the Act.

Section E. The provisions covering standards, grades, labels and trade practices shall apply with respect to seed potatoes marketed or sold within this state regardless of where produced.

A R T I C L E I V

ASSESSMENTS AND ASSESSMENT FUNDS

Section A. ASSESSMENTS LEVIED. On and after the effective date of this Order, there is hereby levied and there shall be collected by the Commission, as provided in the Act, upon all seed potatoes grown in the state an annual assessment of one cent (1¢) per hundredweight which shall be paid by the producer thereof upon each and every hundredweight of seed potatoes sold, processed, delivered for sale or processing by him or stored or delivered for storage when such storage or delivery for storage shall be outside the boundaries of this state; provided, however, that no assessment shall be collected on the following:

1. Seed potatoes of a producer's own production used by him on his own premises for seed, feed or personal consumption;
2. Seed potatoes donated or shipped for relief or charitable purposes; or
3. Sales on a producer's premises by a producer direct to a consumer of five hundred (500) pounds or less of seed potatoes from a producer's own production.

No assessment levied or made collectable by the Act under this Order shall exceed three per cent of the total market value of all such seed potatoes sold, processed or delivered for sale or processing by all producers of seed potatoes for the fiscal year to which the assessment applies.

Section B. COLLECTION OF ASSESSMENT.

1. 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 therefore. To collect such assessments, the Commission may require:

(a) Stamps to be known as "Washington Seed Potato 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 immediately upon being attached or fixed and the date of such cancellation shall be placed thereon;

(b) Handlers receiving seed potatoes from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and all monies 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 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 seed potatoes handled, processed, delivered and/or shipped during the period prescribed by the Commission.

(c) Payment of producer assessments before the seed potatoes are shipped off the farm or payments of assessments at different or later times and in such event, any person subject to the assessment shall give such adequate assurance or security for its payment as the Commission shall require.

2. The commission is authorized to make reasonable 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.

3. No affected units of seed potatoes 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, but no liability hereunder shall attach to common carriers in the regular course of their business. When any seed potatoes for which exemption as provided in Section A of this Article 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 exemptions.

4. 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.

Section C. FUNDS.

1. Monies collected by the Seed Potato 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.

2. At the end of each fiscal year the Commission shall credit each producer with any amount paid by such producer in excess of three per cent of the total market value of all seed potatoes sold, processed, delivered for sale or processing or delivered for storage or stored when such storage or delivery for storage was outside the boundaries of this state 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.

A R T I C L E V

INFORMATION REPORTS

Section A. All persons subject to the provisions of this 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 information obtained by any persons pursuant to the provisions of this Article shall be confidential and shall not be by him disclosed to any other 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 advise thereon or by court order.

A R T I C L E VI

SEPARABILITY

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.

A R T I C L E VII

EFFECTIVE TIME

Section A. EFFECTIVE TIME. The provisions hereof shall become effective at such time as the Director may declare above his signature attached hereto and shall continue in force until terminated as specified in the Act.

DIRECTOR'S FINDINGS AND FINAL DECISION

WHEREAS, it is provided in Section 2, Chapter 191, Laws of 1955, as follows:

" The marketing of agricultural products within this state is affected with a public interest. It is declared to be the policy and purpose of this Act to promote the general welfare of the state by enabling producers of agricultural commodities to help themselves in establishing orderly, fair, sound, efficient and unhampered marketing, grading and standardizing of the commodities they produce, and in promoting and increasing the sale of such commodities;" and

WHEREAS, it is further provided in Section 4, Chapter 191, Laws of 1955, that marketing orders and orders modifying or terminating existing marketing orders shall be promulgated by the Director; and

WHEREAS, the Director of Agriculture having reason to believe that the issuance of a Marketing Order would tend to effectuate the declared policy of the Act with respect to seed potatoes, did upon receipt of the industry petition signed by five per cent (5%) of the seed potato producers of the State of Washington, and pursuant to the provisions of the Act, issue on the 10th day of July, 1956 notice of public hearing to be held in Lynden, Washington on the 23rd day of July, 1956, upon a Proposed Marketing Order for Seed Potatoes grown in the State of Washington providing for the creation of a Washington Seed Potato Commission and did upon said date and at said place, personally, and through his duly authorized representative, Phyllis Dolvin Schoedel, Marketing Act Administrator, State Department of Agriculture, conduct a public hearing thereon and did give due notice of such hearing and opportunity to be heard to all persons directly affected by any action of the Director pursuant to the provisions of said Act whose names appear on the Official Affected Producer List for the seed potato producers in the State of Washington, whose names are on file in the office of the Director of Agriculture; and

WHEREAS, The Director of Agriculture has reviewed the provisions of such Marketing Order which authorizes the purposes set forth in Section 3 of said Act with provisions relating to the advertising and sales promotion; research; improving standards and grades; and investigating and preventing unfair trade practices, hereby finds that:

1. The proposed issuance of said Marketing Order is reasonably calculated to attain the objective sought in such Marketing Order;
2. The proposed issuance is in conformity with the provisions of Chapter 191, Laws of 1955, known as the Washington Agricultural Enabling Act, and within the applicable limitations and restrictions set forth therein will tend to effectuate the declared purposes and policies of said Act;
3. Said Marketing Order will protect the interests of consumers of seed potatoes by exercising the powers of said chapter of the laws of the State of Washington only to such extent as is necessary to attain the objectives sought in the Act; and

WHEREAS, this Marketing Order embraces all producers who are engaged in the production of seed potatoes in the State of Washington; and

WHEREAS, the Director of Agriculture did execute and issue his FINDINGS AND RECOMMENDED DECISION OF ISSUANCE of the Marketing Order for Washington Seed Potatoes on the 2nd day of August, 1956 and did cause copies of said Findings and Recommended Decision to be mailed to all parties of record appearing at the Public Hearing, or their attorneys of record, and did give proper and due consideration to such objections as were duly filed with the Director, all as required by the Act;

NOW THEREFORE, I Sverre N. Omdahl, Director of Agriculture of the State of Washington, do hereby execute and issue this Final Decision approving a Washington Seed Potato Marketing Order providing for the creation of a Washington Seed Potato Commission and herewith submit this Order for the referendum assent of the Affected Seed Potato Producers on the Official Affected Seed Potato Producer List of the State Department of Agriculture.

IN WITNESS WHEREOF, I have hereunto affixed my signature and caused the seal of the State of Washington, Department of Agriculture to be affixed in the City of Olympia, Washington this 17th day of August, 1956.


SVERRE N. OMDAHL
DIRECTOR OF AGRICULTURE

(Sealed with the Seal of the State of Washington, Department of Agriculture.)

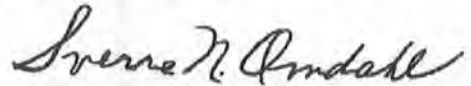
ORDER AND FINDINGS OF THE DIRECTOR OF AGRICULTURE
MAKING EFFECTIVE THE MARKETING ORDER FOR WASHINGTON SEED POTATOES
AND PROVIDING FOR THE CREATION OF A
WASHINGTON SEED POTATO COMMISSION

WHEREAS, The Director of Agriculture of the State of Washington acting pursuant to and by virtue of the authority vested in him by the provisions of the Washington Agricultural Enabling Act, being Chapter 191, Laws of 1955, issued on August 17, 1956, that certain Marketing Order entitled, "Marketing Order for Washington Seed Potatoes Providing for the Creation of a Washington Seed Potato Commission", for the written referendum assent of the affected producers in accordance with Section 9 of said Act and,

WHEREAS, The Director of Agriculture has found that more than fifty-one per cent (51%) of the affected producers have replied to the written referendum within the time specified by the Director and that said Marketing Order for Washington Seed Potatoes has been assented to in writing by more than sixty-five per cent (65%) of the producers who produced more than fifty-one per cent (51%) by volume of the said seed potatoes reported produced in the State of Washington during the past five years; said determination being based upon the Official Affected Producer List of seed potato producers established by the Director pursuant to the provisions of Section 6 of the Act, which list is now on file in the Department; said affected producers being qualified to assent to said Marketing Order;

NOW THEREFORE, I, Sverre N. Omdahl, Director of the Department of Agriculture of the State of Washington, acting pursuant to and by virtue of the authority vested in me by said Act, do hereby make effective the said Marketing Order for Washington Seed Potatoes Providing for the Creation of a Washington Seed Potato Commission, said Order to be effective at 12:01 a.m. October 1, 1956;

IN WITNESS WHEREOF, I have hereunto affixed my signature and caused the seal of the State of Washington, Department of Agriculture to be affixed in the City of Olympia, Washington this 18th day of September, 1956.



SVERRE N. OMDAHL
DIRECTOR OF AGRICULTURE

(Sealed with the Seal of the
State of Washington, Department
of Agriculture)

