

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF AGRICULTURE

(agency name)

Administrative Order No. 1714

(1) I, Bob J. Mickelson, director of Agriculture

do promulgate and adopt at Olympia, Washington

(place)

the annexed rules relating to:

040 R/R

Amend WAC 16-512-030 Marketing Order for Washington Fryers, Broilers, and Roasters to increase the assessment rate from .17 of one cent per pound to .35 of one cent per pound.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 80-06-143 filed with the code reviser on June 4, 1980. Such rules shall take effect:

- checkbox pursuant to RCW 34.04.040(2).
checkbox at a later date, such date being 11/1/80

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04. (1977 c 19 § 2) that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

checkbox (a) This rule is promulgated pursuant to RCW 15.66 and is intended to administratively implement that statute.

checkbox (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

checkbox (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON APPROVED AND ADOPTED FILED

September 11, 1980

SEP 24 1980

By Bob J. Mickelson Director

Title

CODE REVISER'S OFFICE WSR 80-14-020

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

WAC 16-512-040 ASSESSMENTS AND ASSESSMENT FUNDS. (1) Assessments levied. On and after the effective date of this ((order)) amendment, there is hereby levied and there shall be collected by the commission((7)) as provided in the act, upon all fryers, roasters and broilers under the age of 6 months, an ((annual)) assessment of ((.47)) .35 of one cent per ((pound)) lb. live weight ((which)). Such assessment shall be paid by the producer thereof upon each and every pound of fryers, roasters, or broilers sold, ((processed-or)) delivered for sale or ((processing)) processed by him((7)); PROVIDED ((7however7 that-dressed-or-cut-up-fryers-shall-be-assessed-at-.22-of-one-cent-per-pound--of--such--dressed-or-cut-up-fryers-sold7-processed-or-delivered-for-sale-or-processing-by-the-producer--thereof;--provided--further7)) HOWEVER, That no assessment shall be collected on the following((7)):

(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 immediately upon being attached or fixed and the date of such 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 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 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 deposit exceed twenty-five percent of the estimated total annual assessment payable by such person. At the close of such marketing season the sums so deposited shall be adjusted to the total of such assessments payable by such person.

(iv) Handlers receiving fryers from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and all ((monies)) 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 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 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, 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 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) ((~~Monies~~)) 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.