

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Washington State Department of Agriculture
(agency name)

Administrative Order No. 1857

(1) I, C. Alan Pettibone, director of the Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Creation of Chapter 16-530 WAC, Washington Barley Commission

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

This action is taken pursuant to Notice No. 84 - 21 - 066 filed with the code reviser on Oct. 17, 1984. These rules shall take effect:
[] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[X] at a later date, such date being July 1, 1985.

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

I, find that an emergency exists and that this 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 the emergency is:

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

(3) Pursuant to the requirements of RCW 34.04.026 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:

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

[] (c) This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(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.

APPROVED AND ADOPTED STATE OF WASHINGTON FILED

May 22

1985

By C. Alan Pettibone

Director

Title

MAY 22 1985

[Form CR-7: Rev. 7/23/82]

CODE REVISER'S OFFICE WSR 85-11-089

Chapter 16-530 WAC

WASHINGTON BARLEY COMMISSION

WAC

16-530-010	Definition of terms.
16-530-020	Barley commission.
16-530-030	Marketing order purposes.
16-530-040	Assessments and collection.
16-530-050	Effective time.
16-530-060	Separability.

NEW SECTION

WAC 16-530-010 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 the director's duly appointed representatives.

(2) "Act" means the Washington Agriculture Enabling Act of 1955 or chapter 15.66 RCW.

(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, barley grown in the designated affected area of the state of Washington.

(5) "Commercial quantities" shall mean and include twenty tons produced for market in any calendar year by any producer.

(6) "Barley" means and includes all kinds and varieties of barley grown in the state of Washington.

(7) "Barley commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-530-020 of this marketing order.

(8) "Marketing season" or "fiscal year" are synonymous and mean the twelve month period beginning July 1 of any year and ending upon the last day of June, the following year, both dates inclusive.

(9) "Handler" means any person engaged in the business of handling, selling, processing, storing, shipping, or distributing barley which he/she has purchased or acquired from a producer, or which he/she is shipping for or on behalf of a producer, and shall include any lending agency for a commodity credit corporation loan to producers.

(10) "Commercial channels" means the sale of barley for use as food, feed, seed or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any barley, or products produced from barley.

(11) "Affected area" shall mean and include the following counties located in the state of Washington: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

NEW SECTION

WAC 16-530-020 BARLEY COMMISSION. (1) Establishment and membership. A barley commission is hereby established to administer this marketing order and shall be composed of five members who shall be

producers elected as provided in this section and two members who shall be appointed by the elected producer members. In addition, the director shall be an ex officio member of the commission.

(2) Representative districts. The affected area shall be divided into the five following districts:

(a) District I shall have one commission member, and shall include the counties of Chelan, Douglas, Ferry, Grant, Okanogan, Spokane, Stevens, and Pend Oreille.

(b) District II shall have one commission member, and shall include Whitman county.

(c) District III shall have one commission member, and shall include the counties of Asotin, Benton, Columbia, Garfield, and Walla Walla.

(d) District IV shall have one commission member, and shall include the counties of Adams, Franklin, Kittitas, Klickitat, and Yakima.

(e) District V shall have one commission member, and shall include Lincoln county.

(f) Each district shall nominate one or more nominees, but elect one commission member only.

(3) Membership qualifications. Commission members shall be citizens and residents of this state, over the age of twenty-five years. Producer members of the commission shall be producers of barley in the district in and for which they are nominated and elected. The qualifications of producer members of the commission as herein set forth must continue during their term of office.

(4) Term of office--Initial commission. The term of office of commission members shall be three years from the date of their election and until their successors are elected and qualified. The terms of office for the initial commission members shall be as follows:

District I shall terminate December 31, 1986.

Districts II and III shall terminate December 31, 1987.

Districts IV and V shall terminate December 31, 1988.

One appointed member's term shall terminate December 31, 1986.

The second appointed member's term shall terminate December 31, 1988.

The appointed members of the initial commission shall be elected by a majority of the elected commissioners on or before the adjournment of its third meeting.

(5) Nomination and election of commission members.

(a) Nomination and election of commission members shall be as set forth in the act and specified by the director. Dates will be set as follows:

(i) Nominating petitions shall be mailed not earlier than September 17 and not later than October 2 of each year in the district wherein a vacancy will occur. Nominating petitions shall be signed by not less than five affected producers of the district from which such a candidate will be elected.

(ii) Final date for filing of nominating petitions to the director shall not be earlier than October 8 and not later than October 13 of each year.

(iii) Ballots will be mailed to all producers in the district wherein a vacancy will occur, not earlier than October 18 and not later than November 2 of each year.

(iv) Ballots shall be returned not later than December 2 of such year.

(b) With respect to the initial barley commission, the director shall call for nominations and elections as soon as practical after passage of the referendum. The ballot for the election of commissioners shall be secret.

(c) When only one nominee is nominated for any position on the board, the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

(6) Vacancies. In the event of a vacancy in an elected or appointed position on the commission, the remaining elected members of

the commission shall select a qualified person to fill the unexpired term, at its first meeting after the occurrence of the vacancy.

(7) Powers and duties of commission. The commission shall have the following powers and duties:

(a) To elect a chairman and such other officers as determined advisable.

(b) 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 the marketing order.

(c) To administer, enforce, direct, and control the provisions of the marketing order and of this chapter relating thereto.

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

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

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

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

(h) Borrow money and incur indebtedness.

(i) Make necessary disbursements for routine operating expenses.

(j) Such other powers and duties that are necessary to carry out the purposes of this chapter.

(k) 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.

(l) 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.

(m) To accept and receive gifts and grants and expend same.

(8) Procedure for commission.

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

(b) The commission shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by the resolution of the commission.

(c) The commission 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 barley commission at least ten days prior to the meeting, through the regular news media.

(d) The commission shall establish by resolution, the time, place and manner of calling 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 each member thereof.

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

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

(g) No members of the commission shall receive any salary or other compensation from the commission, except that each member shall receive an amount not to exceed the amount specified in RCW 15.66.130 as it exists now or as hereafter amended, 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 expenses allowed by law to state employees.

NEW SECTION

WAC 16-530-030 **MARKETING ORDER PURPOSES.** Purposes. The marketing order for barley is to promote the general welfare of the state, to enable the producers of barley to help themselves establish orderly, fair, sound, efficient, unhampered marketing, grading and standardization of barley.

(1) To establish plans and conduct programs for advertising, education and sales promotion, to maintain present markets or to create new or larger markets for barley grown in the state of Washington.

(2) To provide for carrying on research studies to find more efficient methods of production, processing, handling and marketing barley.

(3) To provide for improving standards and grades of barley by defining, establishing and providing labeling requirements with respect to the same.

(4) To investigate and take necessary action to prevent unfair trade practices.

NEW SECTION

WAC 16-530-040 **ASSESSMENTS AND COLLECTION.** (1) Assessments. The assessment on barley shall be one-half of one percent of the net receipts at the first point of sale. The assessment shall be levied and paid by the producer, or deducted, as provided in this section, whether the barley is sold in this or any other state.

(2) Collection of assessments. The collection of the assessment made and levied by the barley commission, pursuant to the provisions of the act, shall be paid by the producer thereof upon all commercial quantities of barley sold, under any or all of the methods of collection set forth in RCW 15.66.150, in accordance with rules and regulations to be promulgated by the barley commission: PROVIDED, HOWEVER, That no assessment shall be levied or collected on barley grown and used by the producer for feed, seed, or personal consumption.

(3) Funds. All moneys collected by the barley commission shall be used 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 the barley marketing order.

At the end of each fiscal year, the commission shall credit each producer with any amount paid by such producer in excess of the assessment rate. Refund may be made only upon satisfactory proof given by the producer in accordance with reasonable rules and regulations prescribed by the director.

NEW SECTION

WAC 16-530-050 **EFFECTIVE TIME.** This marketing order for barley shall become effective on and after July 1, 1985.

NEW SECTION

WAC 16-530-060 **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, circumstance or thing shall not be affected thereby.