



RULE-MAKING ORDER
(RCW 34.05.360)

2068
CR-103 (10/1/89)

Agency: Washington State Department of Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: 12-3-90

(2) Purpose: To increase the assessment on Washington blueberries; and to add to the definitions of commercial quantities to include blueberries produced out of state and stored or sold in the state of Washington to be subject to the assessment.

(3) Citation of existing rules affected by this order:
Repealed:
Amended: WAC 16-550-010; WAC 16-550-040
Suspended:

(4) Authority for adoption:
Statute: RCW 15.65.020; RCW 15.65.140
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 90-17-098 on August 21, 1990 (date).
Describe any changes other than editing from proposed to adopted version:
None

(5.2) EMERGENCY RULE ONLY

- Pursuant to RCW 34.05.350 the agency for good cause finds:
- (a) 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.
 - (b) 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:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules	Emergency Rules
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____*	<input type="checkbox"/> Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 13 1990
TIME 3:20
WSR 91-01-054

NAME (TYPE OR PRINT)
C. Alan Pettibone
SIGNATURE
C. Alan Pettibone, Asst. Director
TITLE
Director
DATE
12-3-90

AMENDATORY SECTION (Amending Order 1116, filed 5/14/69, effective 6/15/69)

WAC 16-550-010 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 Agricultural 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 blueberries in commercial quantities in the state of Washington, or who sells or stores blueberries in the state of Washington for fresh market or for processing.
- (6) "Commercial quantity" means any blueberries produced, or stored, for a market by a producer in any calendar year.
- (7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, or distributing blueberries not produced by him.
- (8) "Blueberry commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-550-020 of this blueberry order.
- (9) "Blueberries" means and includes all kinds, varieties, and hybrids of "vaccinium corym bosum" and "vaccinium australe" grown and marketed in the state of Washington.
- (10) "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 following, both dates being inclusive.
- (11) "Producer-handler" means any person who acts both as a producer and as a handler with respect to blueberries. A producer-handler shall be deemed to be a producer with respect to the blueberries which he produces and a handler with respect to the blueberries which he handles, including those produced by himself.
- (12) "Affected area" means the state of Washington.
- (13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.
- (14) "Affected unit" means one pound net of blueberries.

AMENDATORY SECTION (Amending Order 1594, filed 12/21/78)

WAC 16-550-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

- (a) The annual assessment on all varieties of blueberries shall be ~~((one-half))~~ three-quarters of a cent per affected unit (pound).
- (b) For the purpose of collecting assessments, the board may:
 - (i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or
 - (ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) 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 prorata 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.

(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 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.