

Chapter 16-524 WAC

TULIP, IRIS AND NARCISSUS BULBS

WAC

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WAC 16-524-002 Director's findings and decision approving a marketing order. Whereas, it is provided in RCW 15.66.020, as follows:

(1) "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

(2) Whereas, it is further provided in RCW 15.66.040, that marketing orders and orders modifying or terminating existing marketing orders shall be promulgated by the director; and

(3) 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 bulbs, did upon receipt of the industry petition signed by five percent of the bulb industry, and pursuant to the provisions of the act, issue on the 31st day of August, 1955 notice of public hearing to be held in Seattle, Washington on the 14th day of September, 1955, upon a proposed marketing order for tulip, iris and narcissus bulbs grown in the state of Washington, 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 upon the official affected producer list for the tulip, iris and narcissus bulb producers in the state of Washington, whose names are on file in the office of the director of agriculture; and

(4) Whereas, the director of agriculture has reviewed the provisions of such marketing order which authorizes the purposes set forth in RCW 15.66.030 with provisions relating to the advertising and sales promotion; research; improving standards and grades; and investigating and preventing unfair trade practices, hereby finds that:

(a) The proposed issuance of said marketing order is reasonably calculated to attain the objectives sought in such marketing order;

(b) The proposed issuance is in conformity with the provisions of chapter 15.66 RCW, 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;

(c) Said marketing order will protect the interests of consumers of tulip, iris and narcissus bulbs 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

(5) Whereas, this marketing order embraces all persons who are engaged in the specific and distinct agricultural industry within the state and to be regulated by said marketing order; and

(6) Whereas, the director of agriculture did execute and issue his findings and recommended decision of issuance of the marketing order for Washington tulip, iris and narcissus bulbs on the 29th day of November, 1955 and did cause copies of said findings and recommended decision to be mailed to all affected producers on the official affected producer list of tulip, iris and narcissus bulb producers and did give proper and due consideration to such objections as were duly filed with the director, all as required by the act;

(7) Now, therefore, I, Sverre N. Omdahl, director of agriculture of the state of Washington, do hereby execute and issue this final decision approving a marketing order for Washington tulip, iris and narcissus bulbs, and herewith submit the same for the referendum assent of the affected tulip, iris and narcissus bulb producers on the official affected producer list of the state department of agriculture.

[Director's Findings and Final Decision, effective 1/26/56.]

WAC 16-524-003 Director's order making marketing order effective. (1) 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 15.66 RCW, issued on January 26, 1956, that certain marketing order entitled, "marketing order for Washington tulip, iris and narcissus bulbs," for the written referendum assent of the affected producers in accordance with RCW 15.66.090 and,

(2) Whereas, the director of agriculture has found that more than fifty-one percent of the affected producers have replied to the written referendum within the time specified by the director and that said marketing order for Washington tulip, iris and narcissus bulbs has been assented to in writing by more than sixty-five percent of the producers who produced more than fifty-one percent by volume of the said tulip, iris and narcissus bulbs in the state of Washington during the past five years. Said determination is based upon the official affected producer list of tulip, iris and narcissus bulb producers established by the director pursuant to the provisions of RCW 15.66.060, which list is now on file with

the department; said affected producers being qualified to assent to said marketing order;

(3) 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 tulip, iris and narcissus bulbs; said order to be effective at 12:01 a.m., April 16, 1956.

[Order and Findings, effective 4/16/56.]

WAC 16-524-010 Definitions. 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 15.66 RCW;

(3) "Person" includes any individual, firm, corporation, trust, association, partnership, society or any other organization of individuals;

(4) "Bulbs" for the purposes of this marketing order means and includes tulip, iris and narcissus bulbs of any kind and variety grown in the state of Washington;

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities, bulbs as defined herein;

(6) "Bulb commission" or "commission" are synonymous and mean the commission established pursuant to WAC 16-524-020;

(7) "Marketing season" or "fiscal year" are synonymous and mean the twelve month period beginning with January 1 of any year and ending upon the last day of December, both dates inclusive;

(8) "Sell" means a transaction wherein the property in or to bulbs is transferred from the producer to a purchaser for consideration. "Sell" shall also include an agreement to acquire such property for a consideration;

(9) "Affected area" shall mean and include all of the state of Washington.

[Marketing Order, Article I, effective 4/16/56.]

WAC 16-524-020 Bulb commission. (1) **Establishment and membership.** A bulb commission is hereby established to administer this marketing order which shall be composed of five members who shall be producers elected as provided in subsection (2) of 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.** For the purpose of nomination and election of producer members of the commission, the state of Washington shall be divided into representative districts, as follows:

(a) District No. 1 shall be and include the counties of Snohomish, Skagit, Whatcom and Island.

(b) District No. 2 shall be and include all other counties in the state of Washington.

(c) District No. 3 shall be the entire state of Washington and shall include the areas defined in districts 1 and 2.

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Two of the producer members, being positions 1 and 2, shall be elected from District No. 1; two of the producer members, being positions 3 and 4, shall be elected from District No. 2; and one producer member, being position 5 shall be elected from District No. 3. The producer member elected for position 5 shall be known as the commissioner-at-large and shall be elected by all of the producers.

(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 elected for positions 1 through 4 inclusive shall be producers of bulbs in the district in and for which they are nominated and elected. The qualifications of members of the commission as herein set forth shall 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 provided, however, that the initial members of the commission shall serve from the effective date of this marketing order as follows: Positions 1 and 3 shall terminate December 31, 1956, positions 2 and 4 shall terminate December 31, 1957 and position 5 shall terminate December 31, 1958; the term of one appointed member, being position 6, shall terminate December 31, 1957; the term of the second appointed member, being position 7, shall terminate December 31, 1958. The appointed members of the initial commission shall be elected by a majority of the commissioners at the first meeting of said commission.

(5) **Nomination and election of commission members.**

(a) Not earlier than September 18 nor later than October 2 of each year, the director shall give notice by mail to all producers in a district wherein a vacancy or vacancies will occur in the commission of such vacancy or vacancies and call for nominations. Nominating petitions shall be signed by five persons qualified to vote for such candidates. Such notice shall state the final date for filing said petitions which shall be not earlier than October 8 and not later than October 13 of each year.

(b) The director shall submit ballots by mail to all producers in the district wherein the vacancy or vacancies will occur not earlier than October 18 and not later than November 2 of each year. Ballots shall be returned not later than December 2 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.

(c) With respect to the initial bulb 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 producer at the time the director's proposed marketing order is mailed to the producers for their assent.

(d) The two appointed members of the commission, being positions 6 and 7, shall be elected by a majority of the commission within ninety days prior to the expiration of the term.

(6) **Vacancies.**

(a) 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

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or disqualification of any member, the director shall call for nominations and conduct such election within the district wherein the vacancy occurred in the manner as provided in subsection (5) of this section.

(b) 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.

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

(a) To administer, enforce, direct and control the provisions of this marketing order and of the act relating thereto;

(b) To elect a chairman from its membership, and to elect such other officers as the commission may deem advisable;

(c) 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;

(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 the act and of this marketing order;

(g) To keep accurate records of all 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;

(h) To borrow money and incur indebtedness;

(i) To make necessary disbursements for routine operating expenses;

(j) 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;

(k) 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;

(l) To accept and receive gifts and grants and to expend the same to effectuate the provisions of the act and this order;

(m) 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.

(8) **Procedure for commission.**

(a) The commission shall hold at least two regular meetings during each fiscal year and such other special meetings as may be called in accordance with rules and regulations to be prescribed by the commission.

(b) A quorum of the commission shall consist of at least five members. Any action taken by the commission shall require the concurring vote of the majority of the members present; provided, that in no event shall any action be taken unless a quorum is present.

(c) No member of the commission shall receive any salary or other compensation from the commission, except that each member shall be paid not to 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 traveling expense at the rate allowed by law to state employees.

(9) **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.

[Marketing Order, Article II, effective 4/16/56.]

WAC 16-524-030 Marketing order purposes. (1) Advertising and sales promotion plans. The bulb commission, subject to the provisions of the act, is hereby authorized to prepare plans and administer programs and expend moneys for promoting the sale of bulbs for the purpose of maintaining existing markets or creating new and larger markets for bulbs; provided, that any such plans so developed and conducted shall be directed toward promoting the sale of bulbs without reference to a particular private brand or trade name, and, provided, further, that such plans or programs make no false or unwarranted claims on behalf of bulbs.

In carrying out any advertising and sales promotion plans or programs, the commission may arrange for advertising space, display material and other advertising material, conduct dealer service work 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 bulbs, or in maintaining existing markets. Advertising and sales promotion activities of the commission may include the presentation of facts to and negotiations with state, federal or foreign governmental agencies on matters which affect the marketing of bulbs produced in Washington.

(2) **Research.** The bulb 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 bulbs, and to expend moneys for such purposes. Such research and/or survey studies may include the collection of data and information relating to bulbs; 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, processing or handling of bulbs.

(3) **Standards and grades.** The bulb commission, subject to the provisions of the act, is hereby authorized to provide for the improving of standards and grades for bulbs by defining, establishing and providing labeling requirements, not inconsistent with the agricultural and horticultural laws of the state, with respect to the same, and to expend moneys for such purposes.

(4) **Unfair trade practices.** The bulb commission, subject to the provisions of the act, is hereby authorized to investigate and take necessary action to prevent any unfair trade practices. Information acquired in any such investigation shall be confidential and shall be released only to the extent necessary to effectuate the purposes of the act.

[Marketing Order, Article III, effective 4/16/56.]

WAC 16-524-040 Assessments and assessment funds.

(1) **Rate of assessment.** There is hereby levied, and shall be collected by the commission, upon each and every one thousand bulbs or part thereof in excess of five hundred bulbs, an assessment as provided in the act which shall be paid by the producer thereof upon each and every one thousand bulbs or part thereof in excess of five hundred bulbs, sold, processed, stored or delivered for sale, processing or storage by him, as follows: Twenty-five cents per thousand narcissus bulbs; twenty cents per thousand iris and tulip bulbs if sold by count. For bulbs sold by weight, the assessment shall be set at one and one-quarter percent of the receipts to the grower at the first sale. No assessment levied or made collectible by the act under this order shall exceed three percent of the total market value of all such bulbs sold, processed, stored or delivered for sale, processing or storage, by all producers of bulbs for the fiscal year to which the assessment applies.

(2) **Collection of assessment.** All assessments made and levied pursuant to the provisions of the act under this marketing order shall be paid by the respective producers, who shall be primarily liable therefore. Such assessments shall be collected by stamps to be known as "bulb commission stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases, receiving receipts or tickets. Any such stamps shall be canceled immediately upon being attached or fixed and the date of cancellation shall be placed on such

stamps. The commission is authorized to make such reasonable rules and regulations in accordance and conformity with the act and with this section to effectuate the collection of this assessment.

(3) **Funds.**

(a) Moneys collected by the bulb commission pursuant to the act and this marketing order as assessments shall be used by the commission only for the purpose of paying for the cost or expenses arising in connection with carrying out the purposes and provisions of the act and of 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 bulbs sold, processed, stored or delivered for sale, processing or storage during that period. Refund shall be made only upon satisfactory proof given by the producer in accordance with reasonable rules and regulations prescribed by the director.

[Statutory Authority: Chapter 15.66 RCW. WSR 86-13-057 (Order 1891), § 16-524-040, filed 6/16/86, effective 7/18/86; Marketing Order, Article IV, effective 4/16/56.]

WAC 16-524-050 Information reports. 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 person 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 advice thereon or by court order.

[Marketing Order, Article V, effective 4/16/56.]

WAC 16-524-060 Separability. If any provision hereof is 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.

[Marketing Order, Article VI, effective 4/16/56.]

WAC 16-524-070 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.

[Marketing Order, Article VII, effective 4/16/56.]

WAC 16-524-110 Producer's annual sales report—Form.

Washington State Bulb Commission

P.O. Box 215

Sumner, Washington

PRODUCER'S ANNUAL SALES REPORT

Name

Date
Address

NARCISSUS

Assessment

Number acres planted

Number bulbs sold by count

@ 20c per 1000 \$

Tulip, Iris and Narcissus Bulbs

16-524-110

Value of bulbs sold by weight \$ @ 1% of value

IRIS

Number acres planted

Number bulbs sold by count @ 15c per 1000 \$

Value of bulbs sold by weight \$ @ 1% of value

TULIPS

Number acres planted

Number bulbs sold by count @ 15c per 1000 \$

Value of bulbs sold by weight \$ @ 1% of value

TOTAL assessment due \$

I, the undersigned, do hereby certify under penalty of perjury, that the above is a true and correct statement of my sales for the season of ...

(Year)

Subscribed this day of 19 at Wash.

Title

For

RETURN THIS REPORT WITH YOUR REMITTANCE BEFORE DECEMBER 1st

[Form, (codified as WAC 16-524-110), adopted 6/10/57.]

Reviser's note: Filed with the code reviser's office on February 23, 1960, was the following excerpt from the commission's minutes of June 10th, 1957: "Mr. Fryar presented a copy of a revised form for reporting bulb sales, which had the approval of the state department of agriculture (copy attached). The date of December 1st was established as the deadline for grower reporting. Mr. Staatz moved that the reporting form, as presented, be formally adopted, Mr. Hatch seconded and the motion carried."