

WAC 16-516-040 Assessments and assessment funds. (1) Assessments levied.

(a) 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 potatoes grown in the state an annual assessment of four cents per hundredweight which shall be paid by the producer thereof upon each and every hundredweight of potatoes sold, processed, delivered for sale or processing by him or her or stored or delivered for storage when storage or delivery for storage shall be outside the boundaries of this state: Provided, That no assessment shall be collected on the following:

(i) Potatoes grown and sold for seed under an established seed certification program;

(ii) Potatoes sold for livestock feed, regardless of grade;

(iii) Potatoes sold for nonfood products, such as industrial starch;

(iv) Potatoes of a producer's own production used by him or her on his or her own premises for seed, feed or personal consumption;

(v) Potatoes donated or shipped for relief or charitable purposes; or

(vi) Sales on a producer's premises by a producer direct to a consumer of five hundred pounds or less of potatoes from a producer's own production.

(b) The commission may provide by rule for an assessment discount not to exceed twenty-five percent of the total hundredweight on field run or ungraded potatoes to allow for cull potatoes not used or intended for use for human consumption.

(c) No assessment levied or made collectable by the act under this order shall exceed three percent of the total market value of all potatoes sold, processed or delivered for sale or processing by all producers of potatoes 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 therefore.

(b) Handlers receiving potatoes from the producer, including warehousemen and processors shall collect producer assessments from producers whose production they handle, and all 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 times required by rule file with the commission a return under oath on forms to be furnished by the commission, stating the quantity of potatoes handled, processed, delivered and/or shipped during the period prescribed by the commission.

(c) Producer assessments may be paid before the potatoes are shipped off the farm or at different or later times. If assessments are paid after the potatoes are shipped off the farm, any person subject to the assessment shall give adequate assurance or security for its payments as the commission shall require by rule.

(d) The commission may adopt rules 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 and of the assessment discount, if any, allowable on field run or ungraded potatoes.

(e) No affected units of 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, but no liability hereunder shall attach to common carriers in the regular course of their business. When any potatoes 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 the exemptions.

(f) Any producer or handler who fails to comply with the provisions of this subsection as herein provided shall be guilty of a violation of this order.

(3) Funds.

(a) Moneys collected by the 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.

(b) At the end of each fiscal year the commission shall credit each producer with any amount paid by the producer in excess of three percent of the total market value of all potatoes sold, processed, delivered for sale or processing during that period. Refund may be made only upon satisfactory proof given by the producer, which may include bills of lading, bills of sale, or receipts.

[Statutory Authority: RCW 15.66.030, 15.66.053, 15.66.055, and chapter 34.05 RCW. WSR 06-03-003, § 16-516-040, filed 1/4/06, effective 2/4/06. Statutory Authority: RCW 15.66.040. WSR 90-09-068, § 16-516-040, filed 4/18/90, effective 7/1/90. Statutory Authority: RCW 15.66.090. WSR 80-05-073 (Order 1684), § 16-516-040, filed 4/28/80, effective 6/1/80; Marketing Order, Article IV, effective 7/23/56.]