

Chapter 16-561 WAC
WASHINGTON RED RASPBERRY COMMISSION

Last Update: 7/6/18

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-561-030	Marketing order purposes. [Statutory Authority: RCW 15.65.050. WSR 98-22-091, § 16-561-030, filed 11/4/98, effective 12/5/98. Statutory Authority: RCW 15.65.180. WSR 83-24-028 (Order 1809), § 16-561-030, filed 12/1/83; Order 1478, § 16-561-030, filed 7/29/76.] Repealed by WSR 14-03-007, filed 1/6/14, effective 2/6/14. Statutory Authority: Chapters 15.65 and 34.05 RCW.
16-561-100	Purpose. [Statutory Authority: RCW 15.04.200 and 15.65.380. WSR 93-20-088 (Order 5016), § 16-561-100, filed 10/5/93, effective 11/5/93.] Repealed by WSR 18-15-009, filed 7/6/18, effective 8/6/18. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
16-561-110	Definitions. [Statutory Authority: RCW 15.04.200 and 15.65.380. WSR 93-20-088 (Order 5016), § 16-561-110, filed 10/5/93, effective 11/5/93.] Repealed by WSR 18-15-009, filed 7/6/18, effective 8/6/18. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.

WAC 16-561-005 Marketing order for Washington red raspberries—Policy statement. (1) The marketing of red raspberries within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its red raspberries be properly promoted by:

(a) Enabling producers of red raspberries to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing of the red raspberries they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of red raspberries within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the red raspberry industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that red raspberries be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's red raspberries;

(b) Increase the sale and use of Washington state's red raspberries in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's red raspberries;

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's red raspberries and products; and

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of red raspberries produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through adoption of this marketing order.

(4) The Washington state red raspberry commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to red raspberries under the provisions of this marketing order.

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-005, filed 1/6/14, effective 2/6/14.]

WAC 16-561-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of red raspberries grown in Washington state. The Washington state red raspberry commodity board is designated by the director to conduct programs in accordance with chapter 15.65 RCW.

(1) To carry out the purposes of the marketing order, the board may provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion or other programs for maintaining present markets or creating new or larger markets for raspberries. Programs shall be directed toward increasing the sale of raspberries without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of raspberries nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of red raspberries;

(b) Develop and engage in research for developing better and more efficient production, processing, irrigation, transportation, handling, or marketing of red raspberries and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by Washington State University, but if in the judgment of the board, Washington State University does not have adequate facilities for a particular project or if some other research agency has better facilities, the project may be carried out by other research agencies selected by the board;

(c) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services to affected producers for the verification of weights, tests, and sampling of quality and quantity of raspberries purchased by handlers from affected producers;

(ii) Information and services enabling producers to meet their resource conservation objectives;

(iii) Red raspberry-related education and training.

(d) Subject to the provisions of chapter 15.65 RCW, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of red raspberries produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of red raspberries; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of the affected commodity may be encouraged, expanded, improved, or made more efficient.

(3) The Washington state red raspberry commission will not adopt rules relating to grades and standards.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-006, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-006, filed 1/6/14, effective 2/6/14.]

WAC 16-561-010 Definitions. Definitions for terms used in this chapter must be interpreted as consistent with the definitions in chapter 15.65 RCW, Washington state agricultural commodity boards.

"Affected area" means that portion of the state of Washington located west of the summit of the Cascade Mountains.

"Affected producer" means any person who produces or stores in the state of Washington raspberries in commercial quantities for fresh market, for processing, or for sale to processors. "To produce" means to act as a producer.

"Affected unit" means one pound net of raspberries.

"Commercial quantity" means any raspberries produced or stored in quantities of three tons (6,000 pounds) or more, in any calendar year.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing raspberries not produced by him or her. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Harvest season" means that period from May 1st to September 15th of each year.

"Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment and normal incidental expenses at meetings or gatherings.

"Marketing season" or "fiscal year" means the twelve-month period beginning with January 1st of any year and ending with the last day of December following, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state or federal government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to raspberries. A producer-handler shall be deemed to be a producer with respect to the raspberries which he or she produces and a handler with respect to the raspberries which he or she handles, including those produced by himself or herself.

"Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations, promoting sales of red raspberries, developing industry unity, and furthering the objectives of the commission.

"Raspberries" means and includes all kinds, varieties, and hybrids of "*rubus idaeus*" of red color.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

"Washington red raspberry commission," hereinafter referred to as "board," "commission," or "WRRRC" means the commodity board formed under the provisions of WAC 16-561-020.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-010, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-010, filed 1/6/14, effective 2/6/14. Statutory Authority: Chapter 15.65 RCW. WSR 86-13-012 (Order 1888), § 16-561-010, filed 6/6/86. Statutory Authority: RCW 15.65.180. WSR 83-24-028 (Order 1809), § 16-561-010, filed 12/1/83; Order 1478, § 16-561-010, filed 7/29/76.]

WAC 16-561-020 Red raspberry commodity board. (1) Administration. The provisions of this order and the applicable provisions of chapter 15.65 RCW shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of seven voting members. Six members shall be affected producers appointed or elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the director. The position representing the director shall be a voting member.

(b) Director-appointed producer positions on the board shall be designated as position 1, position 5, and position 6.

(c) Elected producer positions on the board shall be designated as position 2, position 3, and position 4.

(d) The position representing the director who is neither an affected producer nor a handler shall be designated as position 7.

(e) For the purpose of nomination, appointment, and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into two representative districts as follows:

(i) District I shall have three board members, being positions 1, 2, and 3, and shall include the counties of Whatcom, Skagit, Snohomish, and King.

(ii) District II shall have one board member, being position 4, and shall include all western Washington counties not included in District I.

(iii) Positions 5 and 6 are designated as at-large position and may be filled from any western Washington county. The positions are filled in accordance with RCW 15.65.250.

(f) The voting board may also appoint up to two additional non-voting members to serve in an advisory capacity from among the crop advisors, handlers or others with expertise in the red raspberry industry. The voting members of the board will make these appointments at the first meeting of the calendar year. Advisory board member ap-

pointments are for a one-year period. Nonvoting advisory members may serve additional consecutive terms of office if reappointed by the board.

(3) **Board membership qualifications.** The producer members of the board must be practical producers of raspberries and each shall be a resident of this state, and over the age of eighteen years. Each producer board member must be and have been actually engaged in producing raspberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his or her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of appointment or election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year. Terms shall expire on November 30th.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member representing the director, position seven.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - One year;

Positions three, four, five, and nine - Two years;

Positions six, seven, eight, ten, and eleven - Three years.

(d) To accomplish the transition to the newly defined districts and areas and to a commodity board structure where the director appoints a majority of the voting board members, the initial producer appointments are as follows:

(i) The current incumbent representing position 6 will be appointed to the new position 1 with an expiration date of November 30, 2015;

(ii) The current incumbent representing position 8 will be appointed to the new position 2 with an expiration date of November 30, 2016;

(iii) The current incumbent representing position 3 will be appointed to the new position 3 with an expiration date of November 30, 2014;

(iv) The current incumbent representing position 5 will be appointed to the new position 4 with an expiration date of November 30, 2014;

(v) The current incumbent representing position 9 will be appointed to the new position 5 with an expiration date of November 30, 2015;

(vi) The current incumbent representing position 10 will be appointed to the new position 6 with an expiration date of November 30, 2016.

Any remaining board members not appointed to a new position will serve out the remainder of their existing term.

(e) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms. Any previous board member may be reelected to a qualified position after such term limits if at least one full three-year period has passed since the last date of the second consecutive term in office.

(5) Nomination of elected or director-appointed board members.

Each year the director shall call a nomination meeting for elected or director-appointed producer board members. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of a nomination meeting shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director, signed by not less than five affected producers.

(6) Election or advisory vote of board members.

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of October. Each affected producer shall be entitled to one vote.

(b) Elected members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area.

(c) If a nominee for an elected position does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(d) An advisory vote shall be conducted for producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(e) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of the election. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of affected producers within the affected area maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(f) Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) Vacancies.

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the remaining board members shall recommend to the director a qualified person for appointment to the vacant position. The director shall appoint the person recommended by the board unless the person fails to meet the qualifications of board members under chapter 15.65 RCW and this order.

(8) **Quorum.** A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each voting and advisory board member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Procedures for board.**

(a) The board shall hold regular meetings, at least four times annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change of the regular meeting schedule shall be published in the *Washington State Register* at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news service.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice of special meetings will be in compliance with chapter 42.30 RCW.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-020, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-020, filed 1/6/14, effective 2/6/14. Statutory Authority: Chapter 15.65 RCW. WSR 92-12-003, § 16-561-020, filed 5/21/92, effective 6/21/92; WSR 86-13-012 (Order 1888), § 16-561-020, filed 6/6/86. Statutory Authority: RCW 15.65.180. WSR 83-24-028 (Order 1809), § 16-561-020, filed 12/1/83; Order 1478, § 16-561-020, filed 7/29/76.]

WAC 16-561-035 Powers and duties of the board. The board shall have the following powers and duties to:

(1) Administer, enforce, and control the provisions of this order as the designee of the director.

(2) Elect a chairman and such other officers as the board deems advisable.

(3) Employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of chapter 15.65 RCW.

(4) Pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

- (5) Reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.
- (6) Establish a "raspberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board shall be deposited as often as advisable.
- (7) Keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.
- (8) Require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.
- (9) Prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.
- (10) Establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.
- (11) Adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).
- (12) Carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of chapters 16-561 WAC and 15.65 RCW, along with the necessary authority and procedure for obtaining such information.
- (13) Bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by chapter 15.65 RCW or 16-561 WAC.
- (14) Confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.
- (15) Authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030 or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.
- (16) Work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(17) Enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.26 RCW.

(18) Accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(19) Enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of red raspberries.

(20) Retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(21) Engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(22) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of red raspberries, including activities authorized under RCW 42.17A.635, including the reporting of those activities to the public disclosure commission.

(23) Maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the units of each producer's production pursuant to RCW 15.65.295. This list may be compiled from information used to collect producer assessments for a three-year period.

(24) Maintain a list of the names and addresses of persons who handle red raspberries within the affected area and data on the amount of the red raspberries handled by each person pursuant to RCW 15.65.295 for a minimum three-year period.

(25) Establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(26) Acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to red raspberries.

(27) Submit for review and approval by the director of any new or amended marketing, including for the purposes required under RCW 15.65.287.

(28) Carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-035, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-035, filed 1/6/14, effective 2/6/14.]

WAC 16-561-040 Assessments and collections. (1) Assessments.

(a) The annual assessment on all varieties of raspberries for the crop year just concluded shall be set by the board prior to October 31st. The board has the authority to set the rate within a range of zero to two cents 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; or

(iii) Require in the case of assessments against affected units stored in frozen condition:

(A) Cold storage facilities storing the commodity to file information and reports with the commission regarding the amount of commodity in storage, the date of receipt, and the name and address of each such owner; and

(B) That the commodity not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by the marketing order.

(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, stored, or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year, may be refunded on a pro rata basis at the close of the 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 chapter 15.65 RCW and the purposes of this marketing 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 a specified amount as may be determined by the board pursuant to the provisions of chapters 15.65 RCW and 16-561 WAC, 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 the assessment or 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 it. 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, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-040, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-040, filed 1/6/14, effective 2/6/14. Statutory Authority: Chapter 15.65 RCW. WSR 86-13-012 (Order 1888), § 16-561-040, filed 6/6/86; WSR 81-09-003 (Order 1728), § 16-561-040, filed 4/6/81; Order 1478, § 16-561-040, filed 7/29/76.]

WAC 16-561-041 Time—Place—Method for payment and collection of assessments. Effective with the growing season of 1977, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-561-040:

(1) All first handlers of raspberries for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. Where the first handler does not remit proceeds to the producer, the first handler shall include in his bill for services the assessment due and upon payment by the producer shall remit same to the commission. All such assessments accumulated will be due and payable to the commission in four installments payable December 1st of the current calendar year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year. First handlers shall submit to the commission on or before October 1st of each year, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer on forms provided by the commission.

(2) All growers selling raspberries other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall submit to the commission on or before October 1st of each year, a report listing the pounds produced in the current harvest season on forms provided by the commission, and shall pay the assessment directly to the commission in four installments payable December 1st of the current year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year.

(3) All growers having raspberries in cold storage that are not sold on September 15th of each year, shall compute the assessment due on such berries and pay same to the commission by September 30th of each year.

(4) Any assessments paid after the above deadlines shall be accompanied by a penalty fee of ten percent as provided in RCW 15.65.440.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-041, filed 7/6/18, effective 8/6/18. Statutory Authority: Chapter 15.65 RCW. WSR 86-13-012 (Order 1888), § 16-561-041, filed 6/6/86. Statutory Authority: RCW 15.65.180. WSR 83-24-028 (Order 1809), § 16-561-041, filed 12/1/83; Order 1, § 16-561-041, filed 6/3/77.]

WAC 16-561-050 Obligations of the board. Obligations incurred by the board or employee or agent thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required, or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee, or agent incurred in their official capacity under this order shall exist either against the board, officers, employees, and/or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator, or board (or employee or agent thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, 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 board,

member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

[Order 1478, § 16-561-050, filed 7/29/76.]

WAC 16-561-060 Termination of the order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-060, filed 1/6/14, effective 2/6/14; Order 1478, § 16-561-060, filed 7/29/76.]

WAC 16-561-070 Effective time. The marketing order for raspberries shall become effective on and after September 1, 1976.

[Order 1478, § 16-561-070, filed 7/29/76.]

WAC 16-561-080 Severability. 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, circumstances, or thing shall not be affected thereby.

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 14-03-007, § 16-561-080, filed 1/6/14, effective 2/6/14; Order 1478, § 16-561-080, filed 7/29/76.]

WAC 16-561-120 Promotional hosting. The implementation of the rules governing promotional hosting expenditures for the Washington red raspberry commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at regular meetings held to review such matters.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

- (a) Commissioners;
- (b) Administrator;
- (c) Marketing director;
- (d) Contractors, as specifically authorized by the commission.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms may be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required;

- (b) General purpose of the hosting;
- (c) Date of hosting;
- (d) Location of the hosting;
- (e) To whom payment was or will be made;
- (f) Signature of person seeking payment or reimbursement.

(4) The chairman and vice chairman-treasurer of the commission and the administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations, promote sales of red raspberries, or develop industry unity, provided that such hosting shall not violate federal or state conflict of interest laws:

- (a) Individuals from private business;
- (b) Foreign government officials;

(c) Federal and state officials, provided lodging, meals and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer;

(d) The general public, at meetings and gatherings open to the general public;

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate trade relations, promote sales of red raspberries, or further the objectives of the commission;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse will serve to cultivate trade relations, promote the sale of red raspberries or develop industry unity.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-120, filed 7/6/18, effective 8/6/18. Statutory Authority: RCW 15.04.200 and 15.65.380. WSR 93-20-088 (Order 5016), § 16-561-120, filed 10/5/93, effective 11/5/93.]

WAC 16-561-125 Description of commission, address and telephone number of the Washington red raspberry commission. Headquartered at 204 Hawley Street, Lynden, Washington 98264, the Washington red raspberry commission serves Washington red raspberry producers by supporting the red raspberry industry in the areas of research and marketing. The telephone number is 360-354-8767.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-125, filed 7/6/18, effective 8/6/18.]

WAC 16-561-130 Public records officer. (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-130, filed 7/6/18, effective 8/6/18.]

WAC 16-561-135 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to:

Washington Red Raspberry Commission
204 Hawley Street
Lynden, WA 98264

The request may also be submitted by fax to 360-354-0948 or by email to info@red-raspberry.org. The written request should include:

(a) The name, address and telephone number or other contact information of the person requesting the records;

(b) The calendar date on which the request is made; and

(c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee;

(c) Public records may not be marked or altered in any manner during the inspection;

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-135, filed 7/6/18, effective 8/6/18.]

WAC 16-561-140 Response to public records requests. (1) The public records officer shall respond to public records requests within five business days by:

(a) Making the records available for inspection or copying;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

(e) Denying the public records request. Responses refusing in whole or in part the inspection of a public record shall include a

statement of the specific exemption authorizing withholding of the record, or any part of the record, and a brief explanation of how the exemption applies to the record withheld or to any redactions in records produced.

(2) Additional time to respond to the request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt from disclosure and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public records request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-140, filed 7/6/18, effective 8/6/18.]

WAC 16-561-145 Fees—Inspection and copying. (1) No fee will be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington red raspberry commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(4) The commission or its designee may waive any of the foregoing copying costs.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-145, filed 7/6/18, effective 8/6/18.]

WAC 16-561-150 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.65 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(8)).

(4) Records that are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general (reference RCW 5.60.060(2)).

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-150, filed 7/6/18, effective 8/6/18.]

WAC 16-561-155 Review of denial of public records requests. (1)

Any person who objects to the initial denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse the denial within ten business days following the commission's receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-155, filed 7/6/18, effective 8/6/18.]

WAC 16-561-160 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 18-15-009, § 16-561-160, filed 7/6/18, effective 8/6/18.]