

Chapter 60-12 WAC
WASHINGTON BEEF COMMISSION ACT RULES

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WAC

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WAC 60-12-005 Promulgation. This is a new order relating to RCW 16.67.120.

I, Gary F. Strohmaier, director of agriculture of the state of Washington, after public notice and hearing held at Olympia, Washington, on April 26, 1977, by virtue of authority vested in me under chapter 34.04 RCW and RCW 16.67.120, do hereby find and declare that the assessment of twenty cents per head on Washington cattle be continued beyond July 1, 1977.

[Order 1527, § 60-12-005, filed 5/11/77, effective 7/1/77.]

WAC 60-12-010 Levy of assessment. (1) Pursuant to the National Beef Promotion and Research Program, 7 U.S.C. S 2901, et seq., RCW 16.67.120 and 16.67.122, the Washington state beef commission levies an assessment of one dollar and fifty cents per head on all Washington cattle sold in this state or elsewhere, provided that no assessment shall be collected with reference to the following:

(a) Sales by a person who purchased cattle solely for resale when such resale occurs within ten days from such person's purchase of the cattle and when any assessment due in connection with that original purchase has been paid. In order to qualify for this exception, such persons additionally must present the designated collecting person with their certification of nonproducer status form, along with a brand inspection certificate, a bill of sale or other documentation establishing the date of their purchase of the cattle. Such documentation must be presented at the time of sale to the designated collection person.

(b) Sales of cattle where the cattle that have been transported into Washington from another state for the purpose of sale and the sale takes place within thirty days of the cattle entering the state unless the assessment has not been paid in the state of origin.

(2) Assessments shall be paid by and shall be collected from the seller of the cattle. The term seller shall not include an agent or representative who is compensated in connection with the sale solely on a commission, handling fee or other service fee basis.

(3)(a) A designated collecting person is defined as either a state department of agriculture brand inspector where a brand inspection is conducted in conjunction with a sale or the buyer of the cattle where no brand inspection is conducted in connection with the sale.

(b) Where a brand inspection is conducted in conjunction with a sale, brand inspectors employed by the state department of agriculture

may collect the assessment from the seller of the cattle. Where no brand inspection is conducted in connection with the sale, the buyer of the cattle shall collect the assessment from the cattle seller at the time of the sale. All assessments so collected shall be transmitted directly to the Washington state beef commission by the fifteenth of the month after the month of collection.

(4) That portion of each assessment remitted to the Washington state beef commission for purposes of providing funds for a National Beef Promotion and Research Program under 7 U.S.C. S 2901, et seq. shall be remitted to the cattlemen's beef promotion and research board by the Washington state beef commission.

[Statutory Authority: RCW 43.17.240, chapters 16.67 and 34.05 RCW. WSR 10-21-057, § 60-12-010, filed 10/15/10, effective 11/15/10. Statutory Authority: RCW 16.67.090(4) and 16.67.122. WSR 95-10-097, § 60-12-010, filed 5/3/95, effective 6/3/95. Statutory Authority: RCW 16.67.120 and 16.67.122. WSR 87-01-013 (Order 1912), § 60-12-010, filed 12/9/86; Order 1527, § 60-12-010, filed 5/11/77, effective 7/1/77.]

WAC 60-12-020 Collection of assessment. (1) Collection of the federal beef check-off assessment shall be accomplished as set forth in the Beef Promotion and Research Act of 1985, 7 U.S.C. §§ 2901-11 and the federal Beef Promotion and Research Order, 7 C.F.R. §§ 1260.301 - 1260.316 (Subpart B), referred to in chapter 16.67 RCW as "the federal order."

(2) Procedures for collecting state-authorized assessments are not covered by the federal order and shall be as set forth in RCW 16.67.120(2), 16.67.122, 16.67.130 and this rule.

(3) All state-authorized assessments levied under chapter 16.67 RCW shall be due and payable on the 15th day of the month following the month in which the assessed transaction occurred.

(4) Pursuant to RCW 16.67.130, in the event a person who owes a state-authorized assessment fails to pay the full amount within the time set forth in subsection (3) of this section, the commission is authorized to and shall add an amount of ten percent to the unpaid assessments to defray the cost of collecting the assessment.

(5) Interest at the rate of one percent per month shall accrue on past due assessments pursuant to RCW 43.17.240, starting on the date the assessment became past due.

(6) The commission may assign past due assessments to a state-contracted collection agency to pursue collection. Under RCW 19.16.500, at least thirty days prior to assigning a past due assessment to a collection agency, the commission shall attempt to advise the person who owes the assessment of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid.

(7) The commission may bring a civil action under RCW 16.67.130 against any person who owes a past due state-authorized assessment in a state court of competent jurisdiction for the collection thereof, together with ten percent late fee, interest from the date the debt became past due and any other necessary reasonable costs including attorney's fees.

(8) Any civil action for the collection of past due assessments may be combined with an action to collect any past due Washington state department of agriculture brand inspection fees imposed under

chapter 16.57 or 16.65 RCW or 16-610 WAC when owed from the same person.

[Statutory Authority: RCW 43.17.240, chapters 16.67 and 34.05 RCW. WSR 10-21-057, § 60-12-020, filed 10/15/10, effective 11/15/10.]

WAC 60-12-030 Rules for implementation of promotional hosting by the Washington beef commission. RCW 15.04.200 provides that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington beef commission shall be as follows:

(1) "Promotional hosting" means the hosting of individuals or groups of individuals at meetings, meals, events, or other gatherings for the purpose of agricultural development, trade promotion, cultivating trade relations, and in the aid of the marketing, advertising, promotion, or sales of beef and beef products. Such hosting may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment, and normal incidental expenses.

(2) Expenditures for promotional hosting shall be pursuant to specific budget items in the commission's annual budget as approved by the commission and the director.

(3) The commission staff members are authorized to make expenditures for promotional hosting in accordance with the provisions of these rules.

(4) Commissioners shall obtain prior authorization of the commission before making any expenditure for promotional hosting.

(5) All payments and reimbursements for promotional hosting expenses shall be identified and supported by a hosting expense report with receipts attached when available. Hosting expense report forms will be supplied by the commission and shall require the following information:

(a) Name of each person hosted, and company or affiliation name if appropriate;

(b) General purpose of the hosting;

(c) Date and location of hosting;

(d) Name and signature of person seeking payment or reimbursement; and

(e) Amount of payment or reimbursement.

(6) The executive director of the commission or chairman of the board are authorized to approve direct payment or reimbursements submitted in accordance with these rules, provided that they are not authorized to approve their own reimbursements.

(7) The following persons may be hosted by Washington beef commission staff or board members when it is reasonably believed such hosting will promote agricultural development, promote trade, cultivate trade relations, or aid in the marketing, advertising, or sale of beef or beef products, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private businesses, associations, commissions;

(b) Foreign government officials;

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

(d) Individuals who directly influence consumer perception and demand for beef and beef products, including media and health care professionals;

(e) Spouses of the persons listed in (d) of this subsection when it is customary and expected; and

(f) The general public, at meetings and gatherings open to the general public.

[Statutory Authority: RCW 15.04.200 and chapters 16.67, 34.05 RCW. WSR 14-14-019, § 60-12-030, filed 6/23/14, effective 7/24/14.]

WAC 60-12-040 Public records officer. 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.

[Statutory Authority: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-040, filed 11/22/17, effective 12/23/17.]

WAC 60-12-050 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 at Washington State Beef Commission, 14240 Interurban Avenue, S. #224, Seattle, WA 98168 or by email at wsbc@wabeef.org. The written request should include:

(a) The name of the person requesting the record and the person's contact information;

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

(c) Sufficient information to readily identify the 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 inspection; and

(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 office and the availability of authorized staff to operate that equipment.

[Statutory Authority: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-050, filed 11/22/17, effective 12/23/17.]

WAC 60-12-060 Response to public records requests. (1) The public records officer shall respond to public records requests within five business days by:

(a) Providing the record;

(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; or

(d) Denying the public record request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) 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 third persons or agencies affected by the request; or

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

(3) In acknowledging receipt of a public record 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: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-060, filed 11/22/17, effective 12/23/17.]

WAC 60-12-070 Fees—Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), as amended by section 3, chapter 304, Laws of 2017, 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, as amended by section 3, chapter 304, Laws of 2017. 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 state beef 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: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-070, filed 11/22/17, effective 12/23/17.]

WAC 60-12-080 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 16.67 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 16.67 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 which 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 department and the office of the attorney general privileged under RCW 5.60.060(2).

[Statutory Authority: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-080, filed 11/22/17, effective 12/23/17.]

WAC 60-12-090 Review of denials of public records requests. (1) Any person who objects to the 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 the 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 such denial. In any case, the request shall be returned with a final decision within ten business days following 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: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-090, filed 11/22/17, effective 12/23/17.]

WAC 60-12-100 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: Chapters 42.56, 34.05 RCW and RCW 16.67.090. WSR 17-23-183, § 60-12-100, filed 11/22/17, effective 12/23/17.]