



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: July 1, 2002

(2) Purpose: To change the name of the Puget Sound Gillnet Salmon Commission (commodity board) to Puget Sound Salmon Commission under WAC 16-585.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 16-585-010 and 16-585-020

Suspended:

(4) Statutory authority for adoption: RCW 15.65.060 and RCW 15.65.180

Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 02-10-121 on May 1, 2002 (date).

Describe any changes other than editing from proposed to adopted version: No changes were made to the proposal.

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
  - No
- If Yes, explain:

(6) Effective date of rule:

**Permanent Rules**

- 31 days after filing
- Other (specify) \_\_\_\_\_\*

**Emergency Rules**

- Immediately
- Later (specify) \_\_\_\_\_

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

Name (Type or Print)  
Valoria H. Loveland

Signature  
*Valoria H. Loveland*

Title: Director Date: July 1, 2002

CODE REVISER USE ONLY

Stamp: JUL 1 2002  
Handwritten: 915  
Handwritten: 02-14-091  
Initials: FM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	2	Repealed	_____

**Chapter 16-585 WAC**  
**PUGET SOUND ((GILLNET)) SALMON COMMISSION**

**AMENDATORY SECTION** (Amending WSR 95-15-102, filed 7/19/95, effective 8/19/95)

**WAC 16-585-010 Definition of terms.** For the purpose of this marketing order:

(1) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(2) "Affected area" means Western Washington.

(3) "Affected commodity" means salmon harvested pursuant to Washington, Puget Sound commercial salmon gillnet license or with gear now or hereafter lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet licenses.

(4) "Affected producer" means any person who is a commercial harvester of commercial quantities of salmon taken pursuant to Washington state Puget Sound commercial salmon gillnet license or with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet licenses in the waters of the state of Washington in areas lawfully permitted for such licenses, including in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery.

(5) "Commercial quantity" means any Puget Sound salmon produced by an affected producer which producer produces an annual quantity greater than zero and sufficient for sale and entry into the stream of commerce for salmon.

(6) "Commission" means the Puget Sound ((gillnet)) salmon commission formed pursuant to this order.

(7) "Department" means the department of agriculture of the state of Washington.

(8) "Director" means the director of agriculture of the state of Washington or the duly appointed representative.

(9) "Fiscal year" means the twelve-month period beginning with January 1 of any year and ending with December 31st, both dates being inclusive.

(10) "Order" means this marketing order.

(11) "Person" means any person, firm, association, or corporation.

(12) "Production area" means the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery and in which fishing is lawfully permitted pursuant to a Puget Sound commercial salmon gillnet license.

(13) "Puget Sound gillnet salmon" means salmon taken in the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery, or other lawful area permitted pursuant to Puget Sound commercial salmon gillnet license and taken pursuant to Washington state Puget Sound commercial gillnet license or with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet license.

(14) "Puget Sound ((gillnet)) salmon commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of this marketing order.

(15) "Purchase" means obtain through sale, exchange, barter, or trade.

(16) "Salmon" means Puget Sound salmon and salmon products which have been harvested by affected producers as defined in this marketing order. "Salmon" does not include privately farmed or cultivated salmon or salmon products nor salmon harvested pursuant to license issued by the various Treaty Indian Tribes. Nothing herein shall prevent the board from engaging in cooperative marketing of tribal and nontribal salmon.

(17) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade, whether directly or through agents.

(18) "Handler" or "processor" shall mean those who purchase, process for market, or otherwise obtain from affected producers the affected commodity for further handling or sale in the course of commerce. "Handler" and "processor" includes those who catch and then obtain from themselves, process, or further handle for subsequent direct sale to the public the affected commodity after having themselves produced that commodity as affected producers.

(19) "Process" means to prepare the affected commodity or product therefrom by filleting, heading, gutting, canning, cooking, smoking, fermenting, dehydrating, drying or packaging.

(20) "Affected unit" means one pound landed weight of salmon.

**AMENDATORY SECTION (Amending WSR 95-15-102, filed 7/19/95, effective 8/19/95)**

**WAC 16-585-020 Puget Sound ((gillnet)) salmon commodity board.** (1) Administration. The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership. The board shall consist of seven members, six of whom shall be affected producers. The director shall appoint one additional member who is not an affected producer to represent the department and the general public.

(3) Qualifications for board membership. The producer members of the board shall be practical producers of the affected commodity and shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in producing such commodity within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom and who is not primarily engaged in business directly as a handler or other dealer. The qualification of members of the board as herein set forth must continue during their terms of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years unless the marketing order is terminated earlier. One-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically as follows: Affected producers shall have positions one through six and, the member appointed by the director shall have position seven.

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

Positions one and four shall be for one year from the date of first election or until the first subsequent annual election is held.

Positions two and five shall be for two years from the date of first election or until the second subsequent annual election is held.

Positions three and six shall be for three years from the date of first election or until the third subsequent annual election is held.

(5) Nominations for election of board members. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation in Western Washington 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 according to the list maintained by the director pursuant to RCW 15.65.200. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

Nominations may also be made within five days after any such meeting by written petition filed with the director signed by not less than five affected producers entitled to have participated in said meeting.

If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers. The notice shall call for nominations in accordance with this marketing order and shall give the final date for filing nominations which shall not be less than twenty days after the notice was mailed.

When only one nominee is nominated for any position on the board the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

(6) Election of board members.

(a) The members of the board shall be elected by secret mail ballot held during the month of February of each year under the supervision of the director. Producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee 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.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each producer entitled to vote whose name appears upon the list thereof compiled and maintained by the director in accordance with RCW 15.65.200. Any other producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications. Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election of a board member.

(7) Removal of board members. A board member may be removed by a vote of the board if that member fails to attend any three consecutive meetings of the board, duly noticed.

(8) Vacancies prior to election. In the event of a vacancy on the board, the board

shall appoint a qualified person to fill the unexpired term.

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

(10) Board compensation. No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. A board member may, in the discretion of the board, serve and be compensated as an employee of the commission.

(11) Powers and duties of the board. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director;

(b) To elect a chairperson and such other officers as it deems advisable;

(c) To employ and discharge at its discretion such assistance and personnel, including attorneys engaged in private practice of law, subject to the approval and supervision of the attorney general, as the board determines necessary and proper to carry out the purpose of the order and to effectuate the policies of the act;

(d) To pay 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 may be paid by check, draft, or voucher in such form and in such manner and upon the signature of such person as the board may prescribe;

(e) To reimburse any applicant who has deposited funds with the director in order to defray the costs of formulating the order;

(f) To establish a 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, except the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day;

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, disbursements, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited as provided in the act 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 each member of the board;

(h) To require bond of board members and employees of the board in positions of trust in an amount the board deems necessary. Premiums 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;

(i) To 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;

(j) To 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;

(k) To recommend to the director, administrative rules, orders and amendments thereto for the exercise of his or her power in connection with this order;

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this order and the act, along with the necessary authority and procedure for obtaining such information;

(m) To 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 the person by the act or this order;

(n) To confer with and cooperate with the legally constituted authorities of other states of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders;

(o) To authorize the members of the 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 in RCW 15.38.030(1) 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;

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section;

(q) To sue or be sued;

(r) To borrow money and incur indebtedness.

(12) Procedures for board.

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual membership meeting, at which time an annual report will be presented. The proposed 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 notifying the regular news media.

(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.