

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture
(agency name)

Administrative Order No. 1894

(1) I, C. Alan Pettibone, director of the Department of Agriculture

do promulgate and adopt at Olympia, Washington (place) the annexed rules relating to: WAC 16-536-040. Assessments and Collections. Washington Dry Pea and Lentil Commission.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on These rules shall take effect: [ ] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [ ] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

The proposed action changes the assessment rate on the products when sold, and should be effective to apply to the first part of the crop season. If effective 30 days later, the assessment for the first part of the crop will be at a lower rate than the rest of the year.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 15.65 and is intended to administratively implement that statute. [ ] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of (name of act or RCW citation)

[ ] (c) This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED July 2 1986

JUL 3 1986

By C. Alan Pettibone

Director

Title

CODE REVISER'S OFFICE WSR 86-15001

AMENDATORY SECTION (Amending Order 1768, filed 7/13/32)

WAC 16-536-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

(a) The ~~((fixed-annual))~~ assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((as-follows: (i)-Austrian-and-all-other-winter-varieties-----six-cents-per-affected-unit-cleaned;~~

~~(ii)--All--other-dry-peas,-including-chick-peas---seven-cents-per-affected-unit-cleaned,-except--commercial--wrinkled--pea--seed,-which shall-be-five-cents-per-affected-unit-cleaned))~~ one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: PROVIDED, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

~~((iii)--All--varieties-of-dry-lentils---eight-cents-per-affected-unit-cleaned;))~~

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

~~((c)-Handlers-shall-collect-producer-assessments-from--producers whose--production--they--handle--and--remit--the--same-to-the-board-in accordance-with-procedures-adopted-by-the-board;))~~

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such 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 this act and the purposes of such marketing agreement or 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 such specified amount as may be determined by the board pursuant to the provisions of the act and the order, 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 such assessment or such 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 the same. 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 thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.