



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Washington State Department of Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: May 21, 1992

(2) Purpose: To provide for at least two board members per district, based on acreage; add three more producers to the board to improve representation; change nomination and election schedule to later in the year; authorize board members to participate in proceedings concerning agricultural chemicals; give more flexibility to board meeting schedule.

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

Repealed:
Amended: WAC 16-561-020
Suspended:

(4) Authority for adoption:

Statute: RCW 15.65
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 92-05-070 on February 18, 1992 (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to 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

Emergency Rules

- 31 days after filing Immediately
 Other (specify) _____ * 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)
C. Alan Pettibone

SIGNATURE
C. Alan Pettibone

TITLE
Director

DATE
5-21-92

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 20 1992

TIME 2:21

WSR 92-12-003

AMENDATORY SECTION (Amending Order 1888, filed 6/6/86)

WAC 16-561-020 RED RASPBERRY COMMODITY BOARD. (1) ADMINISTRATION. The provisions of this 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.

(a) The board shall consist of ~~((eight))~~ eleven members. ~~((Seven))~~ Ten members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

There shall be a minimum of two producer board members per district, with additional producer board members added based on acreage; using two thousand acres as the baseline, every one thousand acres, or increment thereof, would entitle a district to another board member, so long as no single district had an over-all majority of representatives.

(b) For the purpose of nomination 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 four representative districts as follows:

(i) District I shall have ~~((three))~~ four board members, being positions 2, 3, 4, and ~~((6))~~ 8, and shall be Whatcom County.

(ii) District II shall have two board members, being positions 1, and 7, and shall include the counties of Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pierce, and Thurston.

(iii) District III shall have ~~((one))~~ two board members, being positions 5 and 9, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum.

(iv) District IV shall have ~~((one))~~ two members, being positions ~~((4))~~ 6 and 10, and shall include the counties of San Juan, Skagit, and Snohomish.

(3) BOARD MEMBERSHIP QUALIFICATIONS. The affected producer members of the board shall be practical producers of raspberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has 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 income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of 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. These terms shall expire on November 30.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((seven))~~ ten and the member appointed by the director, position ~~((eight))~~ eleven.

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

Positions one and two - one year;

Positions three, four, ~~((and))~~ five, and nine - two years;

Positions six, seven, ~~((and))~~ eight, ten, and eleven - three years.

(d) No elected member of the board may serve more than two full consecutive three-year terms.

(5) NOMINATION AND 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 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 director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board 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. At the inception of this order, nominations may be made at the issuance hearing.

(6) ELECTION OF BOARD MEMBERS.

(a) Members of the board shall be elected by secret mail ballot within the month of (~~June~~) October under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area. Each affected producer within the affected area 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 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 affected producer entitled to vote whose name appears on the list of such affected producers within the affected area maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) VACANCIES PRIOR TO ELECTION. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) 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.

(9) BOARD COMPENSATION. No member of the board shall receive any salary or other compensation, but each member shall receive \$35.00 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) 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 chairman and such other officers as the board deems advisable.

(c) To 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 the act.

(d) To pay only from monies 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.

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

(f) To 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.

(g) To 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.

(h) To 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.

(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 adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter ((34*04)) 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the 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 him by the act or the order.

(n) To 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.

(o) To 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 15.38.030(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.

(11) PROCEDURES FOR BOARD.

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

(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 of any special meeting may be waived by a waiver thereof by each member of the board.