



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule

(1) Date of adoption: October 21, 1992

(2) Purpose: Reduce the Seed Potato Commission's minimum assessment from three cents to one cent per hundredweight.

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

- Repealed:
- Amended: WAC 16-520-040
- Suspended:

(4) Authority for adoption:

Statute: RCW 15.66.050

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 92-15-107 on July 21, 1992 (date).

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

None

(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
- Other (specify) 12-1-92 *
- Immediately
- Later (specify) _____

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

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FRED

OCT 21 1992

TIME 3:42
WSR 92-22-007

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE

TITLE Director of Agriculture

DATE 10-21-92

AMENDATORY SECTION (Amending Order 1808, filed 10/25/83, effective 12/1/83)

WAC 16-520-040 Assessments and assessment funds. (1)

Assessments levied. Beginning December 1, 1983, there is hereby levied and there shall be collected by the commission, as provided in chapter 15.66 RCW, upon all seed potatoes grown in the state an annual assessment which shall be paid by the producer thereof upon each and every hundredweight of seed potatoes sold, processed, delivered for sale or processing by him or stored or delivered for storage when such storage or delivery for storage is outside the boundaries of this state. The assessment shall be three cents per hundredweight from December 1, 1983, until August 31, 1984. The assessment shall then be set by the seed potato commission at a regular meeting before July 15th of each year, to become effective from September 1st of the same year to August 31st of the following year. The assessment shall not be less than (~~three cents~~) one cent or more than five cents per hundredweight. No assessment may be collected on the following:

(a) Seed potatoes of a producer's own production used by him on his own premises for seed, feed or personal consumption;

(b) Seed potatoes donated or shipped for relief or charitable purposes; or

(c) Sales on a producer's premises by a producer direct to a consumer of five hundred pounds or less of seed potatoes from a producer's own production.

No assessment levied or made collectable by the act under this order shall exceed three percent of the total market value of all such seed potatoes sold, processed or delivered for sale or processing by all producers of seed potatoes for the fiscal year to which the assessment applies.

(2) Collection of assessment.

(a) All assessments made and levied pursuant to the provisions of the act under this marketing order shall apply to the respective producer who shall be primarily liable therefore. To collect such assessments, the commission may require:

(i) Stamps to be known as "Washington seed potato commission stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases or receiving receipts or tickets. Any such stamps shall be canceled immediately upon being attached or fixed and the date of such cancellation shall be placed thereon;

(ii) Handlers receiving seed potatoes from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and all monies so collected shall be paid to the commission on or before the twentieth day of the succeeding month for the previous month's collections. Each handler shall at such times as by rule and regulation required, file with the commission a return under oath on forms to be furnished by the commission, stating the quantity of seed potatoes handled, processed, delivered and/or shipped during the period prescribed by the commission.

(iii) Payment of producer assessments before the seed potatoes are shipped off the farm or payments of assessments at different or later times and in such event, any person subject to the assessment shall give such adequate assurance or security for its payment as the commission shall require.

(b) The commission is authorized to make reasonable rules and regulations in accordance and conformity with the act and with this section to effectuate the collection of assessment. On or before the beginning of each marketing season, the commission shall give reasonable notice to all producers, handlers and other affected persons of the method or methods of collection to be used for that marketing season.

(c) No affected units of seed potatoes shall be transported, carried, shipped, sold, stored or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued or stamp canceled, but no liability hereunder shall attach to common carriers in the regular course of their business. When any seed potatoes for which exemption as provided in subsection (1) of this section is claimed are shipped either by railroad or truck, there shall be plainly noted on the bill of lading, shipping document, container or invoice, the reasons for such exemptions.

(d) Any producer or handler who fails to comply with the provisions of this section as herein provided shall be guilty of a violation of this order.

(3) Funds.

(a) Monies collected by the seed potato commission pursuant to the act and this marketing order as assessments shall be used by the commission only for the purposes of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of the act and this marketing order.

(b) At the end of each fiscal year the commission shall credit each producer with any amount paid by such producer in excess of three percent of the total market value of all seed potatoes sold, processed, delivered for sale or processing or delivered for storage or stored when such storage or delivery for storage was outside the boundaries of this state during that period. Refund may be made only upon satisfactory proof given by the producer in accordance with reasonable rules and regulations prescribed by the director.