

**WSR 16-24-020**  
**EXPEDITED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed November 29, 2016, 12:13 p.m.]

Title of Rule and Other Identifying Information: Chapter 246-940 WAC, Certified animal massage practitioner, SHB 2425 (chapter 41, Laws of 2016), amended RCW 18.240.005, 18.240.010 and 18.240.020, changing the term animal massage "practitioner" to "therapist."

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lorelei Walker, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, lorelei.walker@doh.wa.gov, AND RECEIVED BY February 6, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 2425 (chapter 41, Laws of 2016), amended RCW 18.240.005, 18.240.010 and 18.240.020, changing the term animal massage "practitioner" to "therapist."

Reasons Supporting Proposal: The rule amendment, replacing the term animal massage "practitioner" with "therapist," is necessary to be consistent with the amended statute. Under RCW 34.05.353 (1)(b), expedited rule making is appropriate for rules that adopt without material change language from Washington state statutes.

Statutory Authority for Adoption: RCW 18.240.050.

Statute Being Implemented: RCW 18.240.005, 18.240.010, and 18.240.020, SHB 2425 (chapter 41, Laws of 2016).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

November 28, 2016  
 John Wiesman, DrPH, MPH  
 Secretary

**Chapter 246-940 WAC**

**CERTIFIED ANIMAL MASSAGE  
 ((PRACTITIONER)) THERAPIST**

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-005 Definitions.** The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

(1) "Client" means the owner of the animal or the owner's agent.

(2) "Department" means the department of health.

(3) "Didactic instruction" means instructor led classroom instruction.

(4) "Distance learning" includes instruction completed through written correspondence courses, video instruction, or provided electronically through web-based instruction.

(5) "Large animals" includes equine, food animals, camelids-ruminants, nonruminants, and large exotics.

(6) "Client information form" means a form provided to the large or small animal's client informing them of the ((practitioner's)) therapist's scope of practice and qualifications.

(7) "Practical or hands-on instruction" means in-person instruction, or demonstration under the direction of a qualified instructor.

(8) "Secretary" means the secretary of the department of health.

(9) "Small animals" includes cats, dogs, pocket pets, avian and small exotics.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-010 Scope of practice.** (1) A certified animal massage ((practitioner)) therapist is an individual who provides external manipulation or pressure of soft tissues by use of the hands, body, or device designed and limited to providing massage. Animal massage may include techniques such as stroking, percussions, compressions, friction, Swedish gymnastics or movements, gliding, kneading, range of motion or stretching, and fascial or connective tissue stretching, with or without the aid of superficial heat, cold, water, lubricants, or salts.

(2) A certified animal massage ((practitioner)) therapist may not diagnose, prognose, or treat diseases, deformities, defects, wounds, or injuries of animals; attempt to adjust or manipulate any articulations of the animal's body or spine or mobilization of these articulations by the use of a thrusting force; perform acupuncture involving the use of needles; or perform mechanical therapies that are restricted to the field of veterinary medicine.

(3) A certified animal massage ((practitioner)) therapist may provide animal massage solely for purposes of the animal's well-being.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-040 Application requirements.** An applicant for certification as an animal massage ((practitioner)) therapist shall submit or cause to be submitted to the department:

(1) A completed application and fee;

(2) Proof of successful completion of the training required in WAC 246-940-050 received directly from the program where the applicant completed the training;

(3) Proof of successful completion of a certification examination required in WAC 246-940-020;

(4) Proof of successful completion of the Washington state jurisprudence examination as required in WAC 246-940-020;

(5) Verification of four clock hours of AIDS education as required in WAC 246-940-020;

(6) Verification from all states in which the applicant holds or has held a credential to practice animal massage, indicating that the applicant has or has not been subject to charges or disciplinary action for unprofessional conduct or impairment; and

(7) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-050 Approval of animal massage ((practitioner)) therapist educational programs.** (1) The secretary recognizes as approved those animal massage programs that:

(a) Are accredited by a recognized regional or state accrediting body or vocational or technical accrediting body; and

(b) Meet the requirements of subsection (3)(a) through (f) of this section.

(2) Methods of instruction may include didactic instruction, distance learning, and practical or hands-on instruction.

(3) Approved animal massage programs must include a minimum of three hundred hours of instruction related to either large animals or small animals as follows:

(a) A minimum of seventy-five hours of instruction in general animal massage techniques. At least thirty-five of those hours must be practical or hands-on instruction. The instruction must include, but not be limited to, the following subjects:

(i) Technique:

(A) Stroking including effleurage, and gliding;

(B) Percussions, including tapotement;

(C) Compressions;

(D) Friction, including rubbing, and gliding with pressure;

(E) Swedish gymnastics or movements;

(F) Kneading;

(G) Range of motion or stretching;

(H) Fascial or connective tissue stretching((:)).

(ii) Contraindications in zoonotic diseases;

(iii) Documentation and recordkeeping;

(iv) Physiological benefits;

(v) Palpation; and

(vi) Body mechanics of the ((practitioner)) therapist.

(b) A minimum of sixty hours of instruction in kinesiology. At least twenty-one of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

(i) Biomechanics, including range of motion, gait analysis, and muscle actions;

(ii) Conformation analysis; and

(iii) Observation.

(c) A minimum of seventy-five hours of instruction in anatomy and physiology. At least twenty-one of those hours must be practical or hands-on instruction.

(i) The instruction in anatomy and physiology must include the function and structure of the following systems:

(A) Skeletal system;

(B) Muscular system;

(C) Nervous system;

(D) Digestive system; and

(E) Circulatory system.

(ii) The instruction in anatomy and physiology must include the relationship and effect of massage on the following systems:

(A) Endocrine system;

(B) Integumentary; and

(C) Fascial anatomy.

(d) A minimum of seventy-five hours of instruction in animal behavior and handling. At least twenty-one of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

(i) Breed characteristics;

(ii) Body language;

(iii) Social dynamics;

(iv) Signs of stress;

(v) Communication;

(vi) Methods of restraints;

(vii) Situations with specially trained animals; and

(viii) Environment.

(e) A minimum of ten hours of instruction in business practices. The instruction must include the following subjects:

(i) Ethics;

(ii) File management;

(iii) Documentation of care;

(iv) Liability; and

(v) Multicultural education as described in RCW 43.70.615.

(f) A minimum of five hours of instruction in first aid. At least two of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

(i) Vitals, including respiration, pulse, heart rate, temperature, and capillary refill;

(ii) Recognizing emergencies;

(iii) Emergency first-aid care;

(iv) Hydration test; and

(v) Ethics and responsibilities.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-060 Client information form.** The information form is to advise the client of the ((practitioner's)) therapist's qualifications and authorized scope of practice. The following information must be furnished to the client in writing prior to or at the time of the initial visit and signed by the client.

(1) ((Practitioner's)) Therapist's qualifications, including:

(a) Education; and

(b) State certification number and date of issue.

(2) A statement that the ((~~practitioner~~)) therapist is limited to providing massage solely for purposes of animal well-being.

(3) A statement that the ((~~practitioner~~)) therapist may not:

(a) Diagnose, prognose, or treat diseases, deformities, defects, wounds, or injuries;

(b) Adjust or manipulate any articulations of the animal's body or spine;

(c) Perform acupuncture; or

(d) Perform mechanical therapies that are restricted to the field of veterinary medicine.

(4) A copy of the signed information form must be maintained in the animal's record.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-070 Display of certification.** (1) Certified as animal massage ((~~practitioners~~)) therapists who practice in this state shall display their certification at all times, in a conspicuous place within their primary place of practice.

(2) ((~~Practitioners~~)) Therapists must keep a copy of their certification with them when practicing at locations other than their primary place of practice.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-080 Maintenance and retention of records.** (1) Every certified animal massage ((~~practitioner~~)) therapist shall maintain written records of all animal massage services he or she provides.

(2) A separate record shall be kept for each animal.

(3) All records shall be legible, readily retrievable and shall be kept for a period of three years following the last treatment.

(4) The records shall include, but not be limited to, the following:

(a) Name, address, and telephone number of the client;

(b) Name or other identification of the animal;

(c) Description of the animal's condition and the nature of the massage services provided;

(d) The client information form;

(e) If the certified animal massage ((~~practitioner~~)) therapist suspects that the animal has an injury or condition that may require veterinary care, he or she must advise the client and make a notation in the animal's record.

AMENDATORY SECTION (Amending WSR 11-14-026, filed 6/24/11, effective 7/25/11)

**WAC 246-940-090 Expired certification.** (1) If the certification has expired, the animal massage ((~~practitioner~~)) therapist must meet the requirements of WAC 246-12-040.

(2) If the certification has expired for more than five years, the animal massage ((~~practitioner~~)) therapist must also submit verification of active practice in any other state or jurisdiction, or retake and successfully pass the examinations required in WAC 246-940-020. For the purpose of this sec-

tion, active practice means at least two hundred hours of practice in each of the previous three years.

AMENDATORY SECTION (Amending WSR 16-15-013, filed 7/8/16, effective 10/1/16)

**WAC 246-940-990 Certified animal massage ((~~practitioner~~)) therapist—Fees and renewal cycle.** (1) Certification must be renewed every year on or before the animal massage ((~~practitioner's~~)) therapist's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for certification:

Title of Fee	Fee
Application for large animal certification	\$250.00
Application for small animal certification	250.00
Renewal of certification for large animal certification	190.00
Renewal of certification for small animal certification	190.00
Late renewal penalty fee per certification	95.00
Expired credential reissuance fee per certification	95.00
Duplicate credential per certification	30.00
Verification of credential per certification	30.00

**WSR 16-24-097**

**EXPEDITED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed December 7, 2016, 11:31 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-545 WAC, Turfgrass seed commission.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Washington turfgrass seed commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.65.047, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington turfgrass seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Shane Johnson, Kennewick, (509) 585-5460.

December 7, 2016  
Derek I. Sandison  
Director

AMENDATORY SECTION (Amending WSR 04-22-073, filed 11/1/04, effective 12/2/04)

**WAC 16-545-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions apply:

~~((1) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.~~

~~(2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agriculture Commodity Boards Act or chapter 15.65 RCW.~~

~~(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.~~

~~(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, turfgrass seed in the state of Washington.~~

~~(6) "Commercial quantity" means all the turfgrass seed produced for sale in any calendar year by any producer.~~

~~(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing turfgrass seed not produced by the handler and shall include any lending agencies for a commodity credit corporation loan to producers. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~(8) "Turfgrass seed commodity board" referred to as "board" or "commission" means the turfgrass seed commodity board formed under WAC 16-545-020.~~

~~(9) "Turfgrass seed" means Kentucky bluegrass, perennial ryegrass, tall fescue, hard fescue, slender fescue, and creeping red fescue. Forage fescue and reclamation grass seed are excluded from this order.~~

~~(10) "Turfgrass seed by products" means turfgrass seed straw and screenings.~~

~~(11) "Marketing season" or "fiscal year" means the twelve-month period beginning on June 1 of any year and ending with the last day of May, both dates being inclusive.~~

~~(12) "Producer-handler" is both a "producer" and a "handler" with respect to turfgrass seed and is covered by this order as a producer when engaged in the business of producing turfgrass seed or a handler when engaged in processing, selling, marketing or distributing turfgrass seed. "To produce" means to act as a producer. For the purposes of the turfgrass seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the turfgrass seed and its resulting agricultural product or the agricultural product delivered for further production or increase.~~

~~(13) "Affected area" or "production area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.~~

~~(14) "Sell" includes offer for sale, expose for sale, and have in possession for sale, exchange, barter or trade.~~

~~(15)) "Act" means the Washington State Agriculture Commodity Boards Act or chapter 15.65 RCW.~~

"Affected area" or "production area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing turfgrass seed not produced by the handler and shall include any lending agencies for a commodity credit corporation loan to producers. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, turfgrass seed in the state of Washington.

"Affected unit" means one pound net pay weight of turfgrass seed.

"Commercial quantity" means all the turfgrass seed produced for sale in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Marketing season" or "fiscal year" means the twelve-month period beginning on June 1st of any year and ending with the last day of May, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer-handler" is both a "producer" and a "handler" with respect to turfgrass seed and is covered by this order as a producer when engaged in the business of producing turfgrass seed or a handler when engaged in processing, selling, marketing or distributing turfgrass seed. "To produce" means to act as a producer. For the purposes of the turfgrass seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the turfgrass seed and its resulting

agricultural product or the agricultural product delivered for further production or increase.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the commission regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, and have in possession for sale, exchange, barter or trade.

"Turfgrass seed" means Kentucky bluegrass, perennial ryegrass, tall fescue, hard fescue, slender fescue, and creeping red fescue. Forage fescue and reclamation grass seed are excluded from this order.

"Turfgrass seed by-products" means turfgrass seed straw and screenings.

"Turfgrass seed commodity board" referred to as "board" or "commission" means the turfgrass seed commodity board formed under WAC 16-545-020.

#### NEW SECTION

**WAC 16-545-055 Description of commission, address and telephone number of the Washington turfgrass seed commission.** Headquartered in Kennewick at 100 North Fruitland, Suite B, Kennewick, WA 99336, the Washington turfgrass seed commission serves Washington turfgrass seed producers by supporting the turfgrass seed industry in the areas of research and marketing. The telephone number is 509-585-5460.

#### NEW SECTION

**WAC 16-545-056 Public records officer.** (1) 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.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-545-057 Request 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 to Washington Turfgrass Seed Commission, 100 North Fruitland, Suite B, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by e-mail to: shanej@agmgt.com. The written request must include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify 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 the 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's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-545-058 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

(a) Making the records available for inspection or copying;

(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;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

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

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

(3) In acknowledging receipt of a public records 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.

(4) In the event the requested records name a specific person or pertain to a specific person and may be exempt from disclosure, the commission may, prior to providing the records, give notice to others whose rights may be affected by the disclosure. Sufficient notice will be given to allow affected persons to seek an order from a court to prevent or

limit the disclosure. The notice to the affected persons will include a copy of the request.

#### NEW SECTION

**WAC 16-545-059 Fees—Inspection and copying.** (1) No fee will be charged for the inspection of public records.

(2) The commission charges a fee of fifteen cents per page of black and white photocopy plus postage for reimbursement of the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 the invoice and is payable to the Washington turfgrass seed 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.

#### NEW SECTION

**WAC 16-545-060 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 15.65 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 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(4) Records that 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 commission and the office of the attorney general (reference RCW 5.60.060(2) and 42.56.290).

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

#### NEW SECTION

**WAC 16-545-061 Review of denial of public records requests.** (1) Any person who objects to the initial 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 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 the denial within ten business days following the commission's 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.

#### NEW SECTION

**WAC 16-545-062 Records index.** The commission shall establish a records index, which shall be made available for public review. The index includes the following records:

- (1) Commission authorizing statute;
- (2) Commission marketing order;
- (3) Minutes of commission meetings;
- (4) Commission board roster; and
- (5) List of research projects.

### WSR 16-24-098

#### EXPEDITED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed December 7, 2016, 11:33 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-516 WAC, Washington potatoes.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the

Washington potato commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.66.055, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 42.56 and 15.66 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington potato commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Chris Voigt, Moses Lake, (509) 765-8845.

December 7, 2016  
Derek I. Sandison  
Director

AMENDATORY SECTION (Amending WSR 06-03-003, filed 1/4/06, effective 2/4/06)

**WAC 16-516-010 Definitions.** The following terms shall have the meanings given in RCW 15.66.010, supplemented by the following additional definitions:

((1)) "Act" means the Washington state agricultural commodity commissions statute, chapter 15.66 RCW;

((2)) "Affected area" or "area of production" are synonymous and mean all of the state of Washington;

((3)) "Affected commodity" means potatoes as defined in this section;

((4)) "Affected handler" means any handler of potatoes;

((5)) "Affected producer" means any producer who is subject to this marketing order;

((6)) "Agricultural development" means activities intended to increase the efficiency, productivity, or fair market access of Washington potatoes and potato products;

((7)) "Commercial quantities" shall mean and include five hundredweight or more per growing season;

((8)) "Disclosure" means inspection or copying;

"Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him or her concerning some matter under this chapter;

((9)) "District" means the geographical divisions of the area of potato production established pursuant to the provisions of WAC 16-516-020;

((10)) "Handler" means any person who acts, either as principal, agent, or otherwise, in the processing, packing, shipping, selling, marketing, or distributing of potatoes that are not produced by the handler. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler;

((11)) "Hundredweight" or "affected unit" are synonymous and mean and include each one hundred pound unit or any combination of packages making a one hundred pound unit of potatoes;

((12)) "Marketing season" or "fiscal year" are synonymous and mean the twelve-month period beginning July 1st of any year and ending upon the last day of June, both dates inclusive;

((13)) "Person" includes any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state government;

((14)) "Potato commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-516-020;

((15)) "Potatoes" means and includes all kinds and varieties of Irish potatoes grown in the state of Washington and marketed, sold or intended for use for human consumption;

((16)) "Producer" means any person engaged in the production of potatoes grown in Washington for market in commercial quantities, and it includes a landowner, landlord, tenant or other person that participates in the growing or producing of the affected commodity and who has a proprietary interest in the potatoes so produced. "To produce" means to act as a producer;

((17)) "Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics;

"Research" means scientific research conducted by a university or other accredited researcher on pest and disease surveys; pest and disease control tools or techniques; planting, harvesting, handling and other production or processing tools or techniques; health or nutritional qualities or benefits of potatoes or potato products; and environmental issues including, but not limited to, water use, water quality, water quantity, and erosion control related to production of potatoes or potato products. Results of agricultural research conducted under the provisions of this marketing order shall be public information;

((18)) "Sale" means a transaction wherein the property in or to potatoes is transferred from the producer to a purchaser for consideration. "Sale" shall also include an agreement to acquire such property for a consideration;

((19)) "Unfair trade practice" means any practice that is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16, and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the Federal Trade Commission Act of 1914, as amended (38 Stat. 719; 15 U.S.C. Sec. 41 et seq.) or the violation of or failure to accurately label as to grades and standards in accordance with any lawfully established grades or standards or labels.

#### NEW SECTION

**WAC 16-516-200 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.

#### NEW SECTION

**WAC 16-516-205 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 108 Interlake Road, Moses Lake, WA 98837, or by e-mail at publicrecords@potatoes.com. The written request should include:

(a) The name of the person requesting the record and his or her contact information;

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

(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 department'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.

#### NEW SECTION

**WAC 16-516-210 Response to public records request.** (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.

#### NEW SECTION

**WAC 16-516-215 Fees—Inspection and copying.** (1) No fee shall be charged for the inspection of public records.

(2) The commission shall charge thirty cents per black and white copy plus postage to reimburse itself for the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 potato 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.

#### NEW SECTION

**WAC 16-516-220 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 15.66 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 15.66 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(9)).

(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).



NEW SECTION

**WAC 16-516-225 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.

NEW SECTION

**WAC 16-516-230 Records index.** The commission shall establish a records index, which shall be made available for public review. The records index may be accessed on the commission's web site at [www.potatoes.com](http://www.potatoes.com).

**WSR 16-24-099****EXPEDITED RULES****DEPARTMENT OF AGRICULTURE**

[Filed December 7, 2016, 11:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-585 WAC, Puget Sound salmon commission.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Puget Sound salmon commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.65.047, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Puget Sound salmon commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: David Harsila, Seattle, (206) 595-8734.

December 7, 2016

Derek I. Sandison

Director

AMENDATORY SECTION (Amending WSR 05-13-008, filed 6/3/05, effective 7/4/05)

**WAC 16-585-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

~~((1))~~ "Act" means the Washington Agricultural Commodity Boards Act or chapter 15.65 RCW.

~~((2))~~ "Affected area" means Western Washington.

~~((3))~~ "Affected commodity" means commercial quantities of Puget Sound gillnet salmon.

~~((4))~~ "Affected producer" means any person who is a commercial harvester of commercial quantities of Puget Sound gillnet salmon.

~~((5))~~ "Affected unit" means one pound landed weight of salmon.

"Commercial quantity" means any Puget Sound gillnet salmon produced for market.

~~((6))~~ "Commission" means the Puget Sound salmon commission.

"Department" means the department of agriculture of the state of Washington.

~~((7))~~ "Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.

~~((8))~~ "Disclosure" means inspection or copying.

"Fiscal year" means the twelve-month period beginning with July 1<sup>st</sup> of any year and ending with June 30<sup>th</sup>, both dates being inclusive.

~~((9))~~ "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" include those who commercially harvest 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. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Order" means this marketing order.

~~((10))~~ "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership,

society or any other organization of individuals, or any unit or agency of local or state government.

~~((11))~~ "Process" means to prepare the affected commodity or product therefrom by filleting, heading, gutting, canning, cooking, smoking, fermenting, dehydrating, drying or packaging.

"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, or other lawful areas in which fishing is permitted pursuant to a Puget Sound commercial salmon gillnet license.

~~((12))~~ "Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Puget Sound gillnet salmon" means salmon and salmon products which have been harvested by affected producers in the production area pursuant to Puget Sound commercial salmon gillnet license or taken with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet license. "Puget Sound gillnet 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 non-tribal salmon.

~~((13))~~ "Puget Sound salmon commodity board" herein-after referred to as "board" or "commission" means the commodity board formed under the provisions of this marketing order.

~~((14))~~ "Purchase" means obtain through sale, exchange, barter, or trade.

~~((15))~~ "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade, whether directly or through agents.

~~((16))~~ "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 commercially harvest 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. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

~~(17)~~ "Process" means to prepare the affected commodity or product therefrom by filleting, heading, gutting, canning, cooking, smoking, fermenting, dehydrating, drying or packaging.

~~(18)~~ "Affected unit" means one pound landed weight of salmon.)

#### NEW SECTION

**WAC 16-585-105 Public records officer.** (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The commis-

sion 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.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-585-110 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 to Puget Sound Salmon Commission, 1900 W. Nickserson St., #116, PMB 210, Seattle, WA 98119. The request may also be submitted by fax to 206-542-3930 or by e-mail to: soundcatch@seanet.com. The written request should include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify 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 the inspection.
- (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's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-585-115 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

- (a) Making the records available for inspection or copying;
- (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;
- (d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

(e) Denying the public records request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing withholding of the record, or any part of the record, and a brief explanation of how the exemption applies to the record 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 persons or agencies affected by the request; or
- (d) Determine whether any of the information requested is exempt from disclosure and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public records 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.

#### NEW SECTION

**WAC 16-585-120 Fees—Inspection and copying.** (1) No fee will be charged for the inspection of public records.

(2) The commission charges a fee of fifteen cents per page of black and white photocopy plus postage for reimbursement of the costs of providing public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 the invoice and is payable to the Puget Sound salmon 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.

#### NEW SECTION

**WAC 16-585-125 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 15.65 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 15.65 RCW with respect to domestic or export marketing activities or individ-

ual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(4) Records that 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 commission and the office of the attorney general (reference RCW 5.60.060(2)).

#### NEW SECTION

**WAC 16-585-130 Review of denial of public records requests.** (1) Any person who objects to the initial 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 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 the denial within ten business days following the commission's 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.

#### NEW SECTION

**WAC 16-585-135 Records index.** The commission shall establish a records index, which shall be made available for public review. The records index may be accessed on the commission's web site at <http://soundcatch.org/>.

### WSR 16-24-100

#### EXPEDITED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed December 7, 2016, 11:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-540 WAC, Mint.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING

AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Washington mint commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.65.047, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington mint commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Shane Johnson, Kennewick, (509) 585-5460.

December 7, 2016

Derek I. Sandison

Director

AMENDATORY SECTION (Amending WSR 05-09-013, filed 4/8/05, effective 5/9/05)

**WAC 16-540-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

~~((1) "Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.~~

~~(2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agricultural Commodity Boards Act or chapter 15.65 RCW.~~

~~(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.~~

~~(5) "Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.~~

~~(6) "Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.~~

~~(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by him/her. "Affected handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~(8) "Producer handler" means any person who acts both as a producer and as a handler with respect to mint oil. A producer handler shall be deemed to be a producer with respect to the mint plants and/or oil which he/she produces, and a handler with respect to the mint oil which he/she handles, including those produced by himself/herself.~~

~~(9) "Mint oil" means essential oil that is distilled from any variety of mint plant.~~

~~(10) "Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under WAC 16-540-020.~~

~~(11) "Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.~~

~~(12) "Affected area" means the state of Washington.~~

~~(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.~~

~~(14)) "Act" means the Washington State Agricultural Commodity Boards Act or chapter 15.65 RCW.~~

~~"Affected area" means the state of Washington.~~

~~"Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by him/her. Affected handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~"Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.~~

~~"Affected unit" means one pound of mint oil as distilled from mint plants grown by an affected producer.~~

~~"Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.~~

~~"Department" means the department of agriculture of the state of Washington.~~

~~"Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.~~

~~"Disclosure" means inspection or copying.~~

~~"Marketing season" or "fiscal year" means the twelve-month period beginning with July 1st of any year and ending with the last day of June, both dates being inclusive.~~

~~"Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under WAC 16-540-020.~~

~~"Mint oil" means essential oil that is distilled from any variety of mint plant.~~

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a "producer" and as a "handler" with respect to mint oil. A producer-handler shall be deemed to be a producer with respect to the mint plants and/or oil which he/she produces, and a handler with respect to the mint oil which he/she handles, including those produced by himself/herself.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

#### NEW SECTION

**WAC 16-540-115 Description of commission, address and telephone number of the Washington mint commission.** Headquartered in Kennewick at 100 North Fruitland, Suite B, Kennewick, WA 99336, the Washington mint commission serves Washington mint producers by supporting the mint industry in the area of research. The telephone number is 509-585-5460.

#### NEW SECTION

**WAC 16-540-120 Public records officer.** (1) 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.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-540-125 Request 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 to Washington Mint Commission, 100 North Fruitland, Suite B, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by e-mail to: shanej@agmgt.com. The written request must include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify 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 the 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's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-540-130 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

(a) Making the records available for inspection or copying;

(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;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

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

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

(3) In acknowledging receipt of a public records 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.

(4) In the event the requested records name a specific person or pertain to a specific person and may be exempt from disclosure, the commission may, prior to providing the records, give notice to others whose rights may be affected by the disclosure. Sufficient notice will be given to allow affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

NEW SECTION**WAC 16-540-135 Fees—Inspection and copying.** (1)

No fee will be charged for the inspection of public records.

(2) The commission charges a fee of fifteen cents per page of black and white photocopy plus postage for reimbursement of the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 the invoice and is payable to the Washington mint 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.

NEW SECTION

**WAC 16-540-140 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 15.65 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 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(4) Records that 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 commission and the office of the attorney general (reference RCW 5.60.060(2) and 42.56.290).

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

NEW SECTION

**WAC 16-540-145 Review of denial of public records requests.** (1) Any person who objects to the initial 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 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 the denial within ten business days following the commission's 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.

NEW SECTION

**WAC 16-540-150 Records index.** The commission shall establish a records index, which shall be made available for public review. The index includes the following records:

- (1) Commission authorizing statute;
- (2) Commission marketing order;
- (3) Minutes of commission meetings;
- (4) Commission board roster; and
- (5) List of research projects.

**WSR 16-24-101****EXPEDITED RULES****DEPARTMENT OF AGRICULTURE**

[Filed December 7, 2016, 11:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-532 WAC, Hops.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Washington hop commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.65.047, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington hop commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Ann George, Moxee, (509) 453-4749.

December 7, 2016

Derek I. Sandison

Director

AMENDATORY SECTION (Amending WSR 14-06-044, filed 2/26/14, effective 3/29/14)

**WAC 16-532-010 Definitions.** For the purpose of this marketing order:

~~((1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.~~

~~(2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.~~

~~(4) "Person" means any person, firm, association or corporation.~~

~~(5) "Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.~~

~~(6) "Commercial quantity" means any hops produced for market by a producer in any calendar year.~~

~~(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.~~

~~(8) "Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.~~

~~(9) "Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.~~

~~(10) "Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.~~

~~(11) "Marketing season" means the twelve month period beginning with January 1 of any year and ending December 31, both dates being inclusive.~~

~~(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.~~

~~(13) "Affected area" means the state of Washington.~~

~~(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.~~

~~(15)) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.~~

~~"Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.~~

~~"Affected area" means the state of Washington.~~

~~"Affected unit" means one pound net of hops, or the amount of lupulin, extract or oil produced from pound net of hops.~~

~~"Commercial quantity" means any hops produced for market by a producer in any calendar year.~~

~~"Department" means the department of agriculture of the state of Washington.~~

~~"Director" means the director of agriculture of the state of Washington or his duly appointed representative.~~

~~"Disclosure" means inspection or copying.~~

~~"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.~~

~~"Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.~~

~~"Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.~~

~~"Marketing season" means the twelve-month period beginning with January 1st of any year and ending December 31st, both dates being inclusive.~~

~~"Person" means any person, firm, association or corporation.~~

~~"Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.~~

~~"Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.~~

~~"Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.~~

~~"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.~~

AMENDATORY SECTION (Amending WSR 06-15-105, filed 7/17/06, effective 8/17/06)

**WAC 16-532-035 Inspection required.** (1) Before marketing or processing, all varieties of hops produced in the state of Washington must be inspected and certified by the Federal/State Hop Inspection Service for quality and condition of seed, leaf and stem according to the standards established by the Federal Grain Inspection Service of the United States Department of Agriculture. Hops that are sold in fresh green (undried) form are exempted from this requirement. Experimental hop selections that are harvested and dried for

testing and evaluation, but are not sold, are exempted from this requirement.

(2) Any hops that are baled on a producer's farm must be officially sampled by a Washington state department of agriculture inspector. If a lot of hops totals less than one thousand two hundred pounds, the grower may utilize a submitted sample in lieu of official sampling for determination of seed, leaf, and stem. Submitted samples must be collected in a random fashion and provide a minimum of 0.5 kg for evaluation.

#### NEW SECTION

**WAC 16-532-130 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.

#### NEW SECTION

**WAC 16-532-135 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 P.O. Box 1207, Moxee, WA 98936 or by e-mail at [ageorge@wahops.org](mailto:ageorge@wahops.org). The written request should include:

(a) The name of the person requesting the record and his or her 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 department'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.

(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.

#### NEW SECTION

**WAC 16-532-140 Response to public records request.** (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.

#### NEW SECTION

**WAC 16-532-145 Fees—Inspection and copying.** (1) No fee shall be charged for the inspection of public records.

(2) The commission shall charge fifteen cents per black and white copy plus postage to reimburse itself for the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 hop 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.

#### NEW SECTION

**WAC 16-532-150 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 the commission under chapter 15.65 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 15.65 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(9)).

(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).

#### NEW SECTION

**WAC 16-532-155 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.

#### NEW SECTION

**WAC 16-532-160 Records index.** The commission shall establish a records index, which shall be made available for public review. The records index may be accessed on the commission's web site at [www.usahops.org](http://www.usahops.org).

#### WSR 16-24-102

#### EXPEDITED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed December 7, 2016, 11:35 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-529 WAC, Washington alfalfa seed commission.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD

PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Washington alfalfa seed commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040, 15.65.047, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington alfalfa seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Shane Johnson, Kennewick, (509) 585-5460.

December 7, 2016

Derek I. Sandison  
Director

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

**WAC 16-529-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

((+)) "Act" means the Washington state agricultural commodity boards or chapter 15.65 RCW.

"Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

"Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by him or her.

"Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quantities: Provided, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.

"Affected unit" means one hundred weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

"Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.

"Alfalfa seed commodity commission" hereinafter referred to as "commission" means the commodity commission formed under the provisions of WAC 16-529-020 through 16-529-120.

"Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

~~((2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agricultural Commodity Boards or chapter 15.65 RCW.~~

~~(4)) "Disclosure" means inspection or copying.~~

"Marketing season" or "fiscal year" means the twelve-month period beginning with July 1st of any year and ending with June 30th of the year following, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

~~((5) "Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quantities: Provided, That for the purpose of election and membership on the commodity board, a producer handler shall be considered as acting only as a producer.~~

~~(6) "Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.~~

~~(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by him/her.~~

~~(8)) "Producer-handler" means any person who acts both as a "producer" and as a "handler" with respect to the alfalfa seed which he/she produces, and a handler with respect to the alfalfa seed which he/she handles, including that produced by himself/herself. "To produce" means to act as a producer. For the purposes of the alfalfa seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.~~

~~((9) "Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.~~

~~(10) "Alfalfa seed commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of WAC 16-529-020 through 16-529-120.~~

~~(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with June 30 of the year following, both dates being inclusive.~~

~~(12) "Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.~~

~~(13)) "Public records" includes any writing containing information relating to the conduct of government or the per-~~

formance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

~~((14) "Affected unit" means one hundred weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.))~~

#### NEW SECTION

**WAC 16-529-305 Description of commission, address and telephone number of the Washington alfalfa seed commission.** Headquartered in Kennewick at 100 North Fruitland, Suite B, Kennewick, WA 99336, the Washington alfalfa seed commission serves Washington alfalfa seed producers by supporting the alfalfa seed industry in the areas of research and marketing. The telephone number is 509-585-5460.

#### NEW SECTION

**WAC 16-529-310 Public records officer.** (1) 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.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-539-315 Request 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 to Washington Alfalfa Seed Commission, 100 North Fruitland, Suite B, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by e-mail to: shanej@agmgt.com. The written request must include:

(a) The name, address and telephone number or other contact information of the person requesting the records;

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

(c) Sufficient information to readily identify 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 the 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's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-529-320 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

(a) Making the records available for inspection or copying;

(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;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

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

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

(3) In acknowledging receipt of a public records 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.

(4) In the event the requested records name a specific person or pertain to a specific person and may be exempt from disclosure, the commission may, prior to providing the records, give notice to others whose rights may be affected by the disclosure. Sufficient notice will be given to allow affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

#### NEW SECTION

**WAC 16-529-325 Fees—Inspection and copying.** (1) No fee will be charged for the inspection of public records.

(2) The commission charges a fee of fifteen cents per page of black and white photocopy plus postage for reimbursement of the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reim-

burse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 the invoice and is payable to the Washington alfalfa seed 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.

#### NEW SECTION

**WAC 16-529-330 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 15.65 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 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(4) Records that 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 commission and the office of the attorney general (reference RCW 5.60.060(2) and 42.56.290).

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

#### NEW SECTION

**WAC 16-529-335 Review of denial of public records requests.** (1) Any person who objects to the initial 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 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 the denial within ten business days following the

commission's 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.

#### NEW SECTION

**WAC 16-529-340 Records index.** The commission shall establish a records index, which shall be made available for public review. The index includes the following records:

- (1) Commission authorizing statute;
- (2) Commission marketing order;
- (3) Minutes of commission meetings;
- (4) Commission board roster; and
- (5) List of research projects.

#### **WSR 16-24-103**

#### **EXPEDITED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed December 7, 2016, 11:36 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-573 WAC, Oilseeds commission.

#### **NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 7, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited proposal adds public records disclosure procedures to the Washington oilseeds commission's marketing order, as required by RCW 42.56.040.

Reasons Supporting Proposal: Under RCW 42.56.040, each state agency has a duty to publish its procedures regarding public disclosure requests.

Statutory Authority for Adoption: RCW 42.56.040 and 15.65.047.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington alfalfa seed [oilseeds] commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, Olympia, (360) 902-2043; Implementation and Enforcement: Shane Johnson, Kennewick, (509) 585-5460.

December 7, 2016

Derek I. Sandison  
Director

AMENDATORY SECTION (Amending WSR 14-06-050, filed 2/27/14, effective 3/30/14)

**WAC 16-573-010 Definitions.** The following definitions for terms used in this chapter must be interpreted as consistent with the definitions in chapter 15.65 RCW, Washington state agricultural commodity boards.

~~((1) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.~~

~~(2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agriculture Enabling Act or chapter 15.65 RCW.~~

~~(4) "Person" means any individual, firm, association, corporation, limited liability company, trust, partnership, society, or any other organization of individuals or any unit or agency of local or state government.~~

~~(5) "Producer" means any person who produces, or causes to be produced, in commercial quantities, oilseeds in the state of Washington. "To produce" means to act as a producer. For the purposes of this order, a "producer" is the same as an "affected producer" under chapter 15.65 RCW.~~

~~(6) "Commercial quantity" means all oilseeds produced for market in any calendar year by any producer.~~

~~(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing oilseeds not produced by the handler and includes any lending agencies for a commodity credit corporation loan to producers. For the purposes of this chapter, a handler is the same as an "affected handler" under chapter 15.65 RCW. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~(8) "Board" means the oilseeds commodity board formed under WAC 16-573-020.~~

~~(9) "Oilseeds" means any of the *Brassica Sp.* oilseeds (canola and rapeseed) and all mustards, produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses.~~

~~(10) "Marketing season" or "fiscal year" means the twelve-month period beginning on June 1 of any year and ending with the last day of May, both dates being inclusive.~~

~~(11) "Affected area" means the state of Washington.~~

~~(12) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.~~

~~(13) "Affected unit" means one hundred pounds (hundredweight) of oilseeds as defined in subsection (9) of this section.) "Act" means the Washington State Agriculture Enabling Act or chapter 15.65 RCW.~~

"Affected area" means the state of Washington.

"Affected unit" means one hundred pounds (hundred-weight) of oilseeds as defined in this section.

"Board" means the oilseeds commodity board formed under WAC 16-573-020.

"Commercial quantity" means all oilseeds produced for market in any calendar year by any producer.

"Commission" means the Washington oilseeds commission.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing oilseeds not produced by the handler and includes any lending agencies for a commodity credit corporation loan to producers. For the purposes of this chapter, a handler is the same as an "affected handler" under chapter 15.65 RCW. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Marketing season" or "fiscal year" means the twelve-month period beginning on June 1st of any year and ending with the last day of May, both dates being inclusive.

"Oilseeds" means any of the *Brassica Sp.* oilseeds (canola and rapeseed) and all mustards, produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses.

"Person" means any individual, firm, association, corporation, limited liability company, trust, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer" means any person who produces, or causes to be produced, in commercial quantities, oilseeds in the state of Washington. "To produce" means to act as a producer. For the purposes of this order, a "producer" is the same as an "affected producer" under chapter 15.65 RCW.

"Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

#### NEW SECTION

**WAC 16-573-051 Description of commission, address, and telephone number of the Washington oilseeds commission.** Headquartered in Kennewick at 100 North Fruitland, Suite B, Kennewick, WA 99336, the Washington oilseeds commission serves Washington oilseed producers by supporting the oilseed industry in the areas of research and marketing. The telephone number is 509-585-5460.

#### NEW SECTION

**WAC 16-573-052 Public records officer.** (1) 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 insuring compliance by staff with public records disclosure requirements.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-573-053 Request 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 to Washington oilseeds commission, 100 North Fruitland, Suite B, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by e-mail to: shanej@agmgt.com. The written request must include:

- (a) The name, address, and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify 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 the inspection;
- (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's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-573-054 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

- (a) Making the records available for inspection or copying;
- (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;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

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

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

(3) In acknowledging receipt of a public records 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.

(4) In the event the requested records name a specific person or pertain to a specific person and may be exempt from disclosure, the commission may, prior to providing the records, give notice to others whose rights may be affected by the disclosure. Sufficient notice will be given to allow affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

#### NEW SECTION

##### **WAC 16-573-055 Fees—Inspection and copying.** (1)

No fee will be charged for the inspection of public records.

(2) The commission charges a fee of fifteen cents per page of black and white photocopy plus postage for reimbursement of the costs of providing copies of public records.

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. 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 the invoice and is payable to the Washington oilseeds 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.

#### NEW SECTION

**WAC 16-573-056 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 15.65 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 15.65 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(9)).

(4) Records that 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 commission and the office of the attorney general (reference RCW 5.60.060(2) and 42.56.290).

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

#### NEW SECTION

##### **WAC 16-573-057 Review of denial of public records requests.** (1) Any person who objects to the initial 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 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 the denial within ten business days following the commission's 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.

#### NEW SECTION

**WAC 16-573-058 Records index.** The commission shall establish a records index, which shall be made available for public review. The index includes the following records:

(1) Commission authorizing statute;

(2) Commission marketing order;

(3) Minutes of commission meetings;

(4) Commission board roster; and

(5) List of research projects.