

Chapter 224-12 WAC

PRACTICE AND PROCEDURE—APPLICABILITY—ASSESSMENTS, ETC.

WAC

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WAC 224-12-001 Promulgation. Under and by virtue of chapter 15.28 RCW and chapter 11, Laws of 1961, as amended, the Washington state fruit commission does hereby adopt and prescribe the following amended regulations.

[Promulgation clause, filed 5/23/63.]

WAC 224-12-010 Applicability. These regulations apply to growers, dealers, handlers, and processors of soft tree fruits, which include all varieties, subvarieties and "sport" varieties of cherries, apricots, peaches, prunes, plums and Bartlett pears. (Assessments and reporting on tart cherries and plums are suspended at present.) As to such fruit grown in 1963 and subsequent years these regulations hereby repeal and supersede all previous regulations.

[Statutory Authority: Chapter 15.28 RCW. 00-19-007, § 224-12-010, filed 9/6/00, effective 10/7/00; Regulation 1, filed 5/23/63; Regulation 1, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-020 Legal interpretation. These regulations pertain to the Soft Fruit Act of 1947, as amended (chapter 15.28 RCW). The terminology used herein has the same meanings as in the act. Each part of these regulations is separable; except for any part declared by legal constituted authority to be invalid or in conflict with existing law these regulations have the same force and effect as Washington state law, as provided in the act.

[Regulation 2, filed 5/23/63; Regulation 2, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-030 Records. (1) Each dealer, handler, processor, or grower shall keep a complete and accurate record of the soft tree fruits handled, shipped, processed or produced by him. The dealer's or processor's record of fruit received shall include separate accounts for each grower or dealer who supplied fruit to him and shall show the supplier's name and mailing address, dates of purchase, kind of fruit and quantity of each delivery. There shall also be shown the amounts of any soft tree fruit assessments that were withheld from the supplier's account.

(9/6/00)

(2) There shall be kept a separate file on each fresh market shipment, with complete and accurate identification and description of the shipment.

(3) There shall be kept a separate account for each dealer, handler, or processor to whom fruit was sold for further handling or processing, and this record shall contain complete and accurate details of the transactions.

(4) The records described in subsections (1), (2), and (3), shall be maintained currently and kept as the principal place of business - subject to audit - for a period of not less than two years and shall be offered for examination at any reasonable time when official request is made by an authorized representative of the commission.

[Statutory Authority: Chapter 15.28 RCW. 00-19-007, § 224-12-030, filed 9/6/00, effective 10/7/00; Regulation 3-6, filed 5/23/63; Regulation 3-6, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-040 Responsibility for payment. The first handler is responsible for payment of soft tree fruit assessments, unless adequate evidence is furnished to him that payment has been made by the grower, but he shall charge the same against the grower, who is finally responsible for such payment. A grower who transports his own fruit to fresh market becomes a first handler under such circumstances.

[Regulation 7, filed 5/23/63; Regulation 7, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-050 Shipments—Growers and dealers—Payment of assessment invoices. Inspection or shipping permit by the Washington state department of agriculture is required on each shipment of soft tree fruits to a fresh market outlet, and this includes shipment to any custom processor outside the area of production. The proper Washington state fruit commission assessments and any applicable federal marketing committee assessments on such shipment shall be remitted to the Washington soft fruit fund (in care of the Washington state department of agriculture or the fruit commission) by the person or firm that applied for inspection or release. The amounts of the assessments shall be determined by current assessment rates and the information contained in the inspection certificates or shipping permits. Payment of assessments shall be made upon inspection or release, or as determined in the reasonable discretion of the department and the commission by prompt payment of invoices issued to some regular accounts. (Combined collection of fruit commission and marketing committee assessments reduces over-all expenses to the industry.)

[Regulation 8, filed 5/23/63; Rules (part), filed 6/1/61 and 2/23/60.]

WAC 224-12-060 Shipments—Shipper report—Alternate method of paying assessments. (1) By specific written agreement between the fruit commission and any regular shipper, the shipper may elect to supply assessment information and payments based on his own records rather than through payment of assessment invoices supplied by the commission. Shipper report forms for this purpose will be supplied by the commission, or the shipper may report on his own stationary.

(2) The shipper reports shall be prepared from suitable records kept on file by the shipper and shall be based on his total packouts, or on his total shipments if he does not keep packout records. Transmittal of shipper reports and assessments shall be as specified by the agreement. (Objectives are to provide for payment of assessments as soon as reasonably possible and yet reduce the amount of employee time in handling assessments.)

(3) The agreement to transmit assessments by means of shipper reports may be terminated at any time by the shipper upon his written notice to the commission, provided that his shipper reports are up to date; and the commission may terminate the agreement at any time upon written notice to the shipper.

[Regulation 8a, filed 5/23/63.]

WAC 224-12-070 Processing fruit assessments—Reporting and payment—Growers, dealers, processors.

(1) Each processor of Washington-grown soft tree fruits shall make an annual processor report to the commission on each soft tree fruit. This report shall show each first handler separately and also in total for individual growers the number of pounds delivered of commercial graded fruit, pounds of cull fruit, and amount of assessment payable on the commercial graded fruit. Processor reports shall also describe utilization of the fruit, showing poundage breakdowns of commercial graded fruit, and culls separately, for the quantities (a) canned, (b) brined, (c) frozen or otherwise processed, (d) resold to any other processor or dealer, and (e) dumped or destroyed.

(2) More than one commodity may be reported on a single processor report, providing time limits for reporting are observed and that the data for each commodity is kept separate and distinct. For each soft tree fruit which he did not process or handle during the current season, the processor shall report "none handled." Processor report forms will be supplied by the commission, laid out in a manner to provide convenient listing of the information desired. Each processor report shall be signed by the owner, executive officer or manager of the firm that is reporting. Washington soft tree fruit assessments shall be deducted by the processor from his growers' accounts, and this may include dealers who are primarily growers.

(3) Transmittal of the processor report and the payable assessments on each commodity shall be made by the processor to the Washington state fruit commission as soon as possible and within 21 days after each season's final delivery of raw fruit at the processor's packing or storing facilities.

(4) Each grower, broker, dealer, or handler of soft tree fruits who sells fruit to a broker, commercial processor or custom processor shall file, separately for each processor or broker to whom he sold, a processor report (or adequate letter

of transmittal in lieu thereof) completed in the same manner and time described above as for processors and accompanied by payment of any assessments due the commission on such report. In any case in which the processor or broker does not deduct the proper assessment from the grower's account, the grower shall remit the assessment to the commission at the time he forwards his own processor report.

[Statutory Authority: Chapter 15.28 RCW. 00-19-007, § 224-12-070, filed 9/6/00, effective 10/7/00; Regulation 9-10, filed 5/23/63; Regulation 9-10, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-080 General provisions. (1) The soft fruit act provides that the assessments shall be paid by growers and are due prior to shipment. This includes out-of-state growers whose soft tree fruit is shipped into Washington and packed as Washington soft tree fruit. Packed as Washington soft tree fruit means soft tree fruits packed or processed in the state.

(2) The manner in which assessments shall be transmitted from the growers to commission, however, is established by these regulations, it being understood that when a handler or processor remits assessments to the commission he will have deducted the proper assessments back through the line of purchase and from the growers' accounts.

(3) Soft tree fruit assessments are imposed on the net pounds of commercial graded fruit shipped fresh or delivered to the processors. Cull fruit, except cherries which are brined, is exempt from assessments and also exempted are all sales of five hundred pounds, or less, of commercial graded soft fruit sold by the grower direct to consumer: Provided, however, That any shipment in excess of five hundred pounds shall be subject to said assessments irrespective of the ultimate disposition.

(4) On December 31 of each year, every Washington state soft tree fruit dealer, handler or processor shall file with the commission a written statement that he has—to the best of his knowledge—paid in full to the commission all soft tree fruit assessments properly due from him for the past season on both fresh market fruit and processing fruit. Or in the event that any assessments remain unpaid, such written statement shall describe the unpaid assessments, the reason for nonpayment, and make a definite commitment as to the date or dates when the assessment will be paid.

(5) These revised regulations, as provided in said act, have the force and effect of law, and any person who violates or aids in the violation of any of these regulations is in violation of Washington state law and is guilty of a misdemeanor.

(6) Ten percent per annum interest as a delinquent penalty is payable on assessments which are more than thirty days past due (to help cover extra costs of accounting and correspondence).

(7) The seal of the commission shall be circular in form and contain the following inscription: "WASHINGTON STATE FRUIT COMMISSION" around the outside of the seal and the word "SEAL" in the center thereof.

[Statutory Authority: Chapter 15.28 RCW. 00-19-007, § 224-12-080, filed 9/6/00, effective 10/7/00; Regulations 11-15, filed 5/23/63; Regulations 11-14, filed 6/1/61; Regulations (part), filed 2/23/60.]

WAC 224-12-090 Bartlett pear assessment rate. As provided for by RCW 15.28.160 and 15.28.180, there is

hereby levied on Bartlett pears, an assessment of up to a maximum of eighteen dollars per two thousand pounds of Bartlett pears shipped fresh, and an assessment of six dollars for each two thousand pounds of Bartlett pears delivered to processors.

[Statutory Authority: Chapter 15.28 RCW, 1997 c 303, 98-14-108, § 224-12-090, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 15.28.160 and 15.28.180, 81-16-034 (Order 4, Resolution 4), § 224-12-090, filed 7/29/81; 80-06-058 (Order 3, Resolution 3), § 224-12-090, filed 5/20/80, effective 7/1/80; Order 2, § 224-12-090, filed 11/29/77, effective 1/1/78; Order 1, § 224-12-090, filed 5/13/74, effective 7/1/74.]