Chapter 16-545 WAC
TURFGRASS SEED COMMISSION

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WAC

16-545-005 Marketing order for Washington turfgrass seed—Policy statement.
16-545-006 Marketing order purposes.
16-545-010 Definitions.
16-545-015 Turfgrass seed districts.
16-545-020 Turfgrass seed board.
16-545-040 Assessments and collections.
16-545-041 Time—Place—Method for payment and collection of assessments.
16-545-050 Obligations of the board.
16-545-055 Description of commission, address and telephone number of the Washington turfgrass seed commission.
16-545-056 Public records officer.
16-545-057 Request for public records.
16-545-058 Response to public records requests.
16-545-059 Fees—Inspection and copying.
16-545-060 Exemptions.
16-545-061 Review of denial of public records requests.
16-545-062 Records index.
16-545-080 Separability.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-545-030 Marketing order purposes. [Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-030, filed 1/6/99, effective 2/6/99.] Repealed by WSR 04-22-073, filed 11/1/04, effective 12/2/04. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.

WAC 16-545-005 Marketing order for Washington turfgrass seed—Policy statement. (1) The production of turfgrass seed within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its turfgrass seed be properly promoted by:

(a) Enabling producers of turfgrass seed to help themselves in establishing orderly, fair, sound, efficient, and unhampered grading and standardizing of the turfgrass seed they produce; and

(b) Working towards stabilizing the agricultural industry by sustaining production of turfgrass seed within the state, the nation, and internationally.

(2) It is in the overriding public interest that support for the turfgrass seed industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that turfgrass seed be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's turfgrass seed.

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's turfgrass seed.

(c) Support and engage in programs or activities that benefit the planting, production, and harvesting of turfgrass seed produced in Washington state.

(d) Support and engage in programs or activities that benefit the use of turfgrass seed by-products in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state turfgrass seed commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to turfgrass seed under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-22-073, § 16-545-005, filed 11/1/04, effective 12/2/04.]

WAC 16-545-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency of turfgrass seed in Washington state. The Washington state turfgrass seed commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

To execute the purposes of the order, the board shall provide for a program in one or more of the following areas:

(1) Provide for research in the production, processing, irrigation, transportation, handling, or distribution of turfgrass seed and expend the necessary funds for the purposes.

(2) Provide for collection and dissemination of information pertaining to turfgrass seed and turfgrass seed by-products, including programs to market and promote turfgrass seed produced in Washington.

(3) Establish and conduct programs to develop markets for turfgrass seed by-products.

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-19-046, § 16-545-006, filed 9/15/16, effective 10/16/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-22-073, § 16-545-006, 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:

"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.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-010, filed 2/8/17, effective 3/11/17. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-22-073, § 16-545-010, filed 11/1/04, effective 12/2/04. Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-010, filed 1/6/99, effective 2/6/99.]

WAC 16-545-015 Turfgrass seed districts. (1) District 1 consists of Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties.

(2) District 2 consists of Adams, Benton, Franklin, Grant, Kittitas, Klickitat, Lincoln, and Yakima counties.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 23-16-119, § 16-545-015, filed 8/1/23, effective 9/1/23. Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-19-046, § 16-545-015, filed 9/15/16, effective 10/16/16. Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-015, filed 1/6/99, effective 2/6/99.]

WAC 16-545-020 Turfgrass seed board. (1) **Administration.** The provisions of this order and the applicable provisions of the act is

administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board consists of seven voting members numbered positions one through seven.

(b) Except as otherwise provided by this chapter, each district has the following positions represented:

District 1 - Positions one and two.

District 2 - Positions three and four.

(c) Position five represents the district with the highest reported value of production of turfgrass seed the previous three years.

(d) Position six is a handler appointed by the appointed or elected producer members of the board.

(e) Position seven represents and is appointed by the director.

(3) **Board membership qualifications.**

(a) Positions one through five.

(i) Except as otherwise provided by this chapter, board members in positions one through five must be practical producers of turfgrass seed in the district in and for which they are nominated, appointed, or elected and each shall be a citizen and resident of the state, over the age of 18 years. Each producer board member must be and have been actually engaged in producing turfgrass seed within the state of Washington for a period of three years and has during that time derived a substantial portion of their income therefrom and who is not engaged in business as a handler or other dealer.

(ii) If any district has fewer than three practical producers of turfgrass seed or if no nominations are made for a district, that district's position is deemed "at large" for that term of office and may be filled by a producer of turfgrass seed in another district who meets all membership qualifications. This provision does not apply to position five.

(b) The board member in position six must be a practical handler of turfgrass seed and must be a citizen and resident of the state, over the age of 18 years. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling turfgrass seed within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom.

(c) The board member in position seven must be neither a producer nor a handler.

(d) The qualifications of members of the board must continue during their term of office.

(4) **Term of office.** The term of office for members of the board is three years. One-third of the membership as nearly as possible must be appointed or elected each year.

(5) **Nomination of elected or director-appointed board members.**

(a) Each year the director shall call a nomination meeting for elected and/or director-appointed producer board members in those districts whose board members term is about to expire. The meeting(s) must be held at least 30 days in advance of the date set by the director for the election or advisory vote of board members.

(b) Notice of a nomination meeting must be published in a newspaper of general circulation within the affected district at least 10 days in advance of the date of the meeting and in addition, written notice of every meeting must be given to all affected producers within

the affected district according to the list maintained by the board pursuant to RCW 15.65.295.

(c) Nonreceipt of notice by any interested person will not invalidate the proceedings at the nomination meeting.

(d) Any qualified affected producer may be nominated orally for membership on the board at the nomination meetings. Nominations may also be made within five days after the meeting by written petition filed with the director, signed by at least five affected producers.

(e) When only one nominee is nominated by the affected producers for an elected and/or director-appointed position, RCW 15.65.250 shall apply.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers. Nominating petitions for producers must be signed by at least five affected producers of the district from which the candidate will be appointed or elected. The final date for filing nominations must be at least 20 days after the notice was mailed.

(6) **Election or advisory vote of board members.**

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of January. Each affected producer shall be entitled to one vote.

(b) Elected members of the board must be elected by a majority of the votes cast by the affected producers within the affected district. If a nominee does not receive a majority of the votes on the first ballot a runoff election must be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

(c) An advisory vote shall be conducted for producer board members appointed by the director under the provision of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, and advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership must be published in a newspaper of general circulation within the affected district at least 10 days in advance of the date of the election or advisory vote. At least 10 days before every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of the affected producers maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing their qualifications.

(e) Nonreceipt of a ballot by an affected producer will not invalidate the election or advisory vote of any board member.

(7) **Vacancies.**

(a) In the event of a vacancy on the board in an elected or commission-appointed position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members is a quorum for the transaction of all business and to execute the duties of the board.

(9) **Board compensation.** No member of the board will receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and other officers as the board deems advisable.

(c) To employ and discharge at its discretion the personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to execute the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. The expenses and costs may be paid by check; draft or voucher in the form and the manner and upon the signature of the person as the board may prescribe.

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

(f) To establish a "turfgrass seed board marketing revolving fund" and to deposit the fund in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed $100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done under this order. The records, books and accounts must be audited at least once every five years subject to procedures and methods lawfully prescribed by the state auditor. The books and accounts must be closed as of the last day of each fiscal year of the commission. A copy of the audit shall be delivered within 30 days after completion to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board may deem necessary. The board must pay the premium for the bond or bonds from assessments collected. The bond may not be necessary if any blanket bond covering officials or employees of the state of Washington covers any board member or employee.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least 60 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution a headquarters, which shall continue unless, changed by the board. All records, books and minutes of board meetings must be kept at the headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, under chapter 34.05 RCW (Administrative Procedure Act).

(l) To execute RCW 15.65.510 covering the obtaining of information necessary to effectuate the order and the act, along with the necessary authority and procedure for obtaining the information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States to obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To execute any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To sue or be sued.

(q) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(r) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local.

(s) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(t) To enter into contracts or agreements for research in the production, irrigation, and transportation of turfgrass seed.

(u) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of attorney general.

(v) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(w) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, and transportation of turfgrass seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(x) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of persons who handle turfgrass seed within the affected area and data on the amount and value of the turfgrass seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(z) To maintain a list of names and addresses of all affected persons who produce turfgrass seed and the amount, by unit, of turfgrass seed produced during the past three years pursuant to RCW 15.65.295.

(aa) To maintain a list of all persons who handle turfgrass seed and the amount of turfgrass seed handled by each person during the past three years pursuant to RCW 15.65.295.

(bb) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) **Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date fixed by resolution of the board and held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget must be presented for discussion at the meeting. Notice of the annual meeting must be filed in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the annual meeting must be given at least 10 days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution the time, place, and manner of calling special meetings of the board with 24 hours written notice to the members. A board member may waive in writing their notice of any special meeting. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

[Statutory Authority: RCW 15.24.035, 15.26.060, 15.28.023, 15.44.021, 15.65.240, 15.66.113, 15.88.050, 15.89.050, 15.115.060, 16.67.060, 43.01.160, and 43.23.025. WSR 25-03-142, s 16-545-020, filed 1/22/25, effective 2/22/25. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 23-16-119, § 16-545-020, filed 8/1/23, effective 9/1/23; WSR 18-13-015, § 16-545-020, filed 6/7/18, effective 7/8/18. Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-19-046, § 16-545-020, filed 9/15/16, effective 10/16/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-22-073, § 16-545-020, filed 11/1/04, effective 12/2/04. Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-020, filed 1/6/99, effective 2/6/99.]

WAC 16-545-040 Assessments and collections. (1) **Assessments.** (a) The assessment on all varieties of turfgrass seed subject to this marketing order shall be 0.3 percent (three tenths of one percent) of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. The assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board.

(b) The assessments shall not be payable on any turfgrass seed used by the affected producer on their premises for feed, seed and personal consumption.

(2) **Collections.** Excess moneys collected by the board under the order during the fiscal year may be carried over and used during the next successive fiscal year. The board may also recommend that excess moneys at the close of a fiscal year be refunded on a pro rata basis to the affected producers from whom the moneys were collected.

(3) **Penalties.** Any due and payable assessment levied in the specified amount as may be determined by the board under the act and the order, is a personal debt of the person assessed or who owes the debt, and it is due and payable to the board when payment is called for by the board. If a person fails to pay the board the full amount

of the assessment by the date due, the board may add to the unpaid assessment or sum an amount not exceeding ten percent of the amount to defray the cost of enforcing the collecting the assessment. In the event of failure of the person or persons to pay the full amount due, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-040, filed 1/6/99, effective 2/6/99.]

WAC 16-545-041 Time—Place—Method for payment and collection of assessments. Effective with the growing season of 1999, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-545-040:

(1) All first handlers of turfgrass seed grown in the state of Washington, or the person acting on behalf of a first buyer, shall withhold the amount of assessment from their remittance to growers of turfgrass seed and transmit it to the commission.

(2) All assessments will be due and payable to the commission within thirty days of collection. With the submission of the assessments, a report listing the name, address, volume handled or purchased and amount deducted or collected for each producer must be submitted to the commission on forms provided by or approved by the commission.

(3) Any assessments paid after the above deadlines shall be accompanied by an administrative fee of 10% in accordance with RCW 15.65.440 of the act.

[Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-041, filed 1/6/99, effective 2/6/99.]

WAC 16-545-050 Obligations of the board. Obligations incurred by the board or employee or agent pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee or agent incurred in their official capacity under this order shall exist either against the board, officers, employees or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator or board (or employee or agent) established under this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

[Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-050, filed 1/6/99, effective 2/6/99.]

WAC 16-545-055 Description of commission, address and telephone number of the Washington turfgrass seed commission. Headquartered in Kennewick at 6601 W. Deschutes Ave., Suite C-2, 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.

[Statutory Authority: RCW 15.65.050 and chapter 34.05 RCW. WSR 19-02-061, § 16-545-055, filed 12/28/18, effective 1/28/19. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-055, filed 2/8/17, effective 3/11/17.]

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*.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-056, filed 2/8/17, effective 3/11/17.]

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, 6601 W. Deschutes Ave., Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email 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.

[Statutory Authority: RCW 15.65.050 and chapter 34.05 RCW. WSR 19-02-061, § 16-545-057, filed 12/28/18, effective 1/28/19. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-057, filed 2/8/17, effective 3/11/17.]

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.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-058, filed 2/8/17, effective 3/11/17.]

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

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120. 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 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.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 18-06-098, § 16-545-059, filed 3/7/18, effective 4/7/18. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-059, filed 2/8/17, effective 3/11/17.]

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)).

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-060, filed 2/8/17, effective 3/11/17.]

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.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-061, filed 2/8/17, effective 3/11/17.]

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.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-037, § 16-545-062, filed 2/8/17, effective 3/11/17.]

WAC 16-545-080 Separability. If any provisions of the order are declared invalid, or the applicability to any person, circumstances or thing is held invalid, the validity of the remainder provisions or of the applicability to any other person, circumstances or thing shall not be affected.

[Statutory Authority: RCW 15.65.050. WSR 99-02-064, § 16-545-080, filed 1/6/99, effective 2/6/99.]