Chapter 16-557 WAC
WASHINGTON ASPARAGUS COMMISSION

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WAC

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WAC 16-557-010 Definition of terms. For the purpose of this marketing order:

"Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

"Affected area" means the entire state of Washington.

"Affected handler" means both affected handler fresh and affected handler processor.

"Affected handler, fresh" means any person who acts as principal or agent or otherwise in selling, marketing, or distributing fresh asparagus not produced by them.

"Affected handler, processor" means any person who acts as principal or agent or otherwise in processing, freezing asparagus, and selling, marketing, or distributing said processed or frozen asparagus, not produced by them.

"Affected producer" means any person who produces in the state of Washington asparagus in commercial quantities for fresh market, for processing, or for sale to processors.

"Affected unit" means one pound net pay weight of asparagus.

"Asparagus" means and includes all kinds, varieties, and hybrids of *"officinalis" Linn.*

"Asparagus commodity board," hereinafter referred to as "board," means the commodity board formed under the provisions of WAC 16-557-020.

"Commercial quantity" means any asparagus produced for market in quantities of three tons (6,000 pounds) or more, 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 the director's duly appointed representative.

"Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

"Marketing season" or "fiscal year" means the 12-month period beginning with January 1st of any year and ending with the last day of December following, both dates being inclusive.

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

"Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gather-

ings for the purpose of cultivating trade relations and promoting sales of Washington grown asparagus.

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

[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 25-05-101, s 16-557-010, filed 2/19/25, effective 3/22/25. Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-010, filed 10/24/18, effective 11/24/18. Statutory Authority: RCW 15.04.200, 15.65.280 and WAC 16-557-020. WSR 98-16-081, § 16-557-010, filed 8/5/98, effective 9/5/98. Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-010, filed 4/4/91, effective 5/5/91.]

WAC 16-557-020 Asparagus commodity board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of nine members. Six members shall be affected producers elected as provided in this section, one member shall be an affected handler, fresh, elected as provided in this section, one member shall be an affected handler processor, as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) Effective January 1, 2002, for the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located east of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have two board members, being positions one and two, and shall be Benton, Kittitas, Klickitat, and Yakima counties and counties in western Washington.

(ii) District II shall have three board members, being positions three, four, and five, and shall include the counties of Adams, Columbia, Franklin, Grant, and Walla Walla counties and remaining counties in eastern Washington not in District I.

(iii) Position six will become an at large position in the state of Washington.

(3) **Board membership qualifications.**

(a) The affected producer members of the board shall be practical producers of asparagus and shall be citizens and residents of the state of Washington, must be at least 21 years of age, each of whom is and has been, either individually or as an officer or an employee of a corporation, firm, partnership, association, or cooperative, actually engaged in producing asparagus within the state of Washington for a period of five years and has, during that time, derived a substantial portion of their income therefrom.

(b) The affected handler member of the board shall be a practical handler of asparagus and shall be a citizen and resident of the state of Washington, who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership association or cooperative actually engaged in handling asparagus 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 qualifications of members of the board must continue during their term of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six, affected handler member fresh product, position seven, affected handler member, processor, position eight, and the member appointed by the director, position nine.

(5) **Nomination and election of board members.** For the purpose of nominating candidates for election to board membership, the director shall call separate meetings of affected producers, affected handlers, fresh and affected handler processors. Each year the director shall call for nomination meetings in those districts whose board members' term is about to expire. Such meetings shall be held at least 30 days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area not less than 10 days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area and all affected handlers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer or affected handler may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers or affected handlers. At the inception of this order, nominations may be made at the issuance hearing.

If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers or handlers. Nominating petitions for producers shall be signed by not less than five affected producers of the district from which such a candidate will be elected. Nomination petitions for handlers, fresh and processed shall be signed by not less than three affected handlers. The final date for filing nominations which shall not be less than 20 days after the notice was mailed.

(6) **Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer within the affected district shall be entitled to one vote.

Affected handler, fresh, shall be elected by a majority of the votes cast by the affected handlers, fresh. Affected handler, processor, shall be elected by a majority of the votes cast by the affected handlers, processor.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar

manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area not less than 10 days in advance of the date of such election. Not less than 10 days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer or affected handler entitled to vote whose name appears on the list of such affected producers and affected handler within the affected area maintained by the director in accordance with RCW 15.65.200. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing their qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may receive $35 or an amount as provided for in RCW 43.03.230 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

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

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

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

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

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

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

(f) To establish an "asparagus board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except for an amount of petty cash for each days' needs, not to exceed $50, shall be deposited daily.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered

within 30 days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

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

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

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

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

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

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

(p) To authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.

(11) **Procedures for board.**

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

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. In addition to such notice as may be required by chapter 42.30 RCW, notice of the annual meeting shall be given by the board at least 10 days prior to the meeting by written notice to each producer, and handler and by regular news service.

(c) In accordance with RCW 42.30.080, the board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: Provided, that the notice of any special meeting may be waived by a waiver thereof by each member of the board.

[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 25-05-101, s 16-557-020, filed 2/19/25,

effective 3/22/25. Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-020, filed 10/24/18, effective 11/24/18. Statutory Authority: Chapter 15.65 RCW. WSR 01-10-087, § 16-557-020, filed 5/1/01, effective 6/1/01. Statutory Authority: RCW 15.65.050 and Washington State Agricultural Enabling Act of 1961. WSR 95-17-116 (Order 5078), § 16-557-020, filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-020, filed 4/4/91, effective 5/5/91.]

WAC 16-557-025 Rules for implementation of promotional hosting by the Washington asparagus commission. The laws of section 1, chapter 26, Laws of 1985 (RCW 15.04.200) provide that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington asparagus commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules.

(a) Commissioners;

(b) Administrator;

(c) Communications coordinator.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position (if appropriate) of each person hosted;

(b) General purpose of the hosting;

(c) Date of hosting;

(d) Location of the hosting;

(e) To whom payment was or will be made:

(f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission, administrator, and/or treasurer are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of Washington grown asparagus:

(a) An individual from private business, associations, commissions;

(b) Foreign government officials;

(c) Federal and state officials: Provided, That lodging, meals, and transportation will not be provided when such officials may obtain full reimbursement for these expenses from their government employer;

(d) The general public, at meetings and gatherings open to the general public;

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons de-

scribed in (a) through (d) of this subsection are being hosted, will cultivate trade relations and promote sales of Washington grown asparagus;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse is customary and expected.

[Statutory Authority: RCW 15.04.200, 15.65.280 and WAC 16-557-020. WSR 98-16-081, § 16-557-025, filed 8/5/98, effective 9/5/98.]

WAC 16-557-030 Marketing order purposes. The order is to promote the general welfare of the state, to enable producers of asparagus to help themselves establish orderly, fair, sound, efficient, unhampered marketing; facilitate cultural and harvesting improvements, and regulate unfair trade practices within the industry. To carry out the purposes of the order, the board may provide for a program in one or more of the following areas:

(1) Establish plans and conduct programs for advertising, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for asparagus. Such programs shall be directed toward increasing the sale of asparagus without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of asparagus nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, processing, and/or marketing of asparagus and expend the necessary funds for such purposes.

(3) Investigate and take necessary action to prevent unfair trade practices as set forth in RCW 15.65.340 and to correct where possible, trade practices which hinder marketing of Washington asparagus.

(4) Prohibit making or publishing false or misleading advertising. Such regulation may authorize uniform trade practices applicable to all similarly situated handlers and/or other persons.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-030, filed 10/24/18, effective 11/24/18. Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-030, filed 4/4/91, effective 5/5/91.]

WAC 16-557-040 Assessments and collections. (1) **Assessments.**

(a) The annual assessment on all varieties of asparagus shall be one percent of the gross receipts at first point of sale.

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped, or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any

season or year, may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Remedies.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such 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 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-040, filed 4/4/91, effective 5/5/91.]

WAC 16-557-041 Time—Place—Method for payment and collection of assessments. Effective with the growing season of 1991, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-557-040:

(1) All first handlers of asparagus for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. All such assessments accumulated will be due and payable to the commission by the end of August. With the submission of the assessments, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer shall be submitted to the commission on forms provided by the commission.

(2) All growers selling asparagus other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall pay the assessment directly to the commission, within thirty days of sale of such product.

(3) Any assessments not paid by September 30th shall be accompanied by an administrative fee of 10% as provided in RCW 15.65.440 of the act.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-041, filed 10/24/18, effective 11/24/18. Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-041, filed 4/4/91, effective 5/5/91.]

WAC 16-557-050 Obligations of the board. Obligations incurred by the board or employee or agent thereof 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, and/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 thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatsoever 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 such 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 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-050, filed 4/4/91, effective 5/5/91.]

WAC 16-557-060 Termination of the order. The order shall be terminated if the director finds that 51 percent by numbers and 51 percent by volume of production of the affected producers favor or assent to such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever 20 percent by numbers and 20 percent by volume of production of the affected producers file written application with the director for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

[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 25-05-101, s 16-557-060, filed 2/19/25, effective 3/22/25. Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-060, filed 4/4/91, effective 5/5/91.]

WAC 16-557-070 Effective time. The marketing order for asparagus shall become effective on April 1, 1991.

[Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-070, filed 4/4/91, effective 5/5/91.]

WAC 16-557-080 Separability. If any provisions hereof are declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder here-

of or of the applicability thereof to any other person, circumstances, or thing shall not be affected thereby.

[Statutory Authority: RCW 15.65.050 and chapter 15.65 RCW. WSR 91-09-003, § 16-557-080, filed 4/4/91, effective 5/5/91.]

WAC 16-557-090 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.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-090, filed 10/24/18, effective 11/24/18.]

WAC 16-557-095 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 Washington Asparagus Commission, 2621 Ringold Road, Eltopia, WA 99330. The written request should include:

(a) The name of the person requesting the record and the person's 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 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.

(3) Public records may not be marked or altered in any manner during inspection.

(4) 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.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-095, filed 10/24/18, effective 11/24/18.]

WAC 16-557-100 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 records 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 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.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-100, filed 10/24/18, effective 11/24/18.]

WAC 16-557-105 Fees—Inspection and copying. (1) No fee shall 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 to the Washington asparagus commission within fifteen days of receipt. 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: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-105, filed 10/24/18, effective 11/24/18.]

WAC 16-557-110 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 follow-

ing 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 16.67 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).

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-110, filed 10/24/18, effective 11/24/18.]

WAC 16-557-115 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.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-115, filed 10/24/18, effective 11/24/18.]

WAC 16-557-120 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 18-21-182, § 16-557-120, filed 10/24/18, effective 11/24/18.]