Chapter 16-560 WAC
WASHINGTON TREE FRUIT RESEARCH COMMISSION

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WAC

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WAC 16-560-005 Authority and purpose. These rules are promulgated by the Washington tree fruit research commission pursuant to the authority granted by chapter 15.26 RCW and in accordance with procedures required under chapter 1-12 WAC. The purpose of administrative rules and regulations adopted under this chapter is to administer and carry out the provisions of chapter 15.26 RCW, tree fruit research act, and chapter 42.56 RCW, Public Records Act.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-005, filed 1/8/20, effective 2/8/20; Order 4, § 16-560-005, filed 4/30/70; Emergency Order 3, filed 3/11/70. Formerly WAC 16-560-010 (part).]

WAC 16-560-006 Definitions. "Commission" means the Washington tree fruit research commission.

"Disclosure" means inspection or copying.

"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.

"Writing" means handwriting, typewriting, printing, photostating, telefaxing, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-006, filed 1/8/20, effective 2/8/20.]

WAC 16-560-010 Withholding assessments by first handler. All dealers, handlers, or processors who purchase commercial tree fruit from a producer for sale, processing, or shipment anywhere, shall

withhold the assessment due and payable the Washington tree fruit research commission by producers of such commercial tree fruit unless adequate evidence is supplied by such producer that payment of the assessment has been or will have been made directly by themselves. The first handler is responsible for payment of the research assessment, but they shall charge the same against the producer, who is finally responsible for such assessment. A producer who transports their own fruit or fruit on consignment to fresh market is deemed to be a first handler.

[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 25-05-102, s 16-560-010, filed 2/19/25, effective 3/22/25; Order 4, § 16-560-010, filed 4/30/70; Emergency Order 3, filed 3/11/70; Order 2, § 16-560-010, Regulations 1, 2, 3, filed 9/26/69.]

WAC 16-560-020 Payment of assessment by first handler. All first handlers shall remit such assessment to the Washington state apple advertising commission, when such assessment has been withheld for apples, and such remittance shall be made in the same manner and time as assessments due the said Washington state apple advertising commission for apple advertising assessments; and to the Washington state fruit commission, when such assessment has been withheld for any other tree fruit, including winter pears, and such remittance shall be made in the same manner and time as assessments due the said Washington state fruit commission.

[Order 4, § 16-560-020, filed 4/30/70; Emergency Order 3, filed 3/11/70. Formerly WAC 16-560-010 (part).]

WAC 16-560-030 Collection and remittance of assessments on processing apples. The Washington state apple advertising commission is hereby designated to collect assessments due and payable to the Washington tree fruit research commission on processing apples as defined in RCW 15.24.010(6). The Washington tree fruit research commission will prescribe the official form to be used by the Washington apple advertising commission and all dealers, handlers and processors handling processing apples in the collection and payment of such assessments. The Washington state apple advertising commission shall determine the manner and time of payment of such assessments in conformance with its system of assessment collections. The remittance of such assessments collected on processing apples shall be made by the Washington apple advertising commission to the Washington tree fruit research commission, in conformance with WAC 16-560-050.

[Order 4, § 16-560-030, filed 4/30/70; Emergency Order 3, filed 3/11/70. Formerly WAC 16-560-010 (part).]

WAC 16-560-040 Collection of assessments by state department of agriculture. The Washington state department of agriculture may upon request of the Washington tree fruit research commission collect any or all assessments due and payable to the Washington tree fruit research commission.

[Order 4, § 16-560-040, filed 4/30/70; Emergency Order 3, filed 3/11/70. Formerly WAC 16-560-010 (part).]

WAC 16-560-050 Payments to tree fruit research commission. All assessments collected by the Washington state apple advertising commission, the Washington state fruit commission, and the Washington state department of agriculture shall be paid to the Washington tree fruit research commission within thirty days of such collection.

[Order 4, § 16-560-050, filed 4/30/70; Emergency Order 3, filed 3/11/70. Formerly WAC 16-560-010 (part).]

WAC 16-560-060 Reports of dealer, handler, and processor. Every dealer, handler, and processor shall annually, within 30 days following each August 31st, file with the Washington tree fruit research commission a report, under oath, on forms prescribed and furnished by said commission, stating the quantity of apples covered by the provisions of the Tree Fruit Research Act handled, shipped or processed by them during the 12-month period immediately preceding said August 31st. Said return shall in addition identify each person from whom said apples were received and the amount of apples furnished by each said person. All said returns shall be submitted directly to the Washington state apple advertising commission as the designated agent for audit and collection of assessments levied on apples pursuant to the provisions of the Tree Fruit Research Act. The above is to conform with RCW 15.26.190.

[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 25-05-102, s 16-560-060, filed 2/19/25, effective 3/22/25; Order 4, § 16-560-060, filed 7/17/72.]

WAC 16-560-06001 Assessment rates. (1) There is hereby levied on all commercial tree fruit produced in this state or held out as being produced in this state for fresh or processing use, an assessment of one dollar per ton on all such tree fruit: Provided, That such assessment for cherries shall be four dollars per ton.

(2) There is hereby established pursuant to RCW 15.26.155 an additional assessment for an industry services fund for programs related to sanitation, planting, production, harvesting, handling, processing and shipping. The assessment shall be set annually by the commission, upon approval of two-thirds of the voting members of the commission, to create and maintain this fund at or near one hundred thousand dollars. If this fund should inadvertently exceed one hundred thousand dollars due to larger crops than estimated or the addition of interest earned, the excess shall be credited to the following year's fund.

In consideration of maintaining this industry services fund, the commission shall annually consult with the affected industry and grower organizations.

(3) There is hereby established on all commercial tree fruit produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 of four dollars per ton on cherries and one dollar per ton

on all other such tree fruit as approved by referendum vote of affected producers, the results of which shall be retained on file in the board's administrative office. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment shall be imposed beginning in the 2012 crop year and be in effect until the total collection for all crops reaches thirty-two million dollars but in no case will be in effect for more than eight crop years. If thirty-two million dollars in additional assessment is collected in less than eight crop years, this additional assessment will expire at the end of the crop year and no further additional assessment will be collected in the subsequent crop years.

(4) The referendum for additional assessment under subsection (3) of this section having failed with regard to cherries and stone fruit, there is hereby established on all commercial stone fruit and cherries produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 to add to the fund established under subsection (3) of this section. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment for stone fruit and cherries shall be one dollar per ton on stone fruit and four dollars per ton on cherries as approved by referendum vote of affected producers. If approved, the cherry and stone fruit assessment shall begin in the 2013 crop year. The cherry assessment shall continue in effect until the 2021 crop year or until the total collection for cherries reaches five million dollars or until the total collection for all crops reaches its maximum amount as defined under subsection (3) of this section, whichever comes first. The stone fruit assessment shall continue in effect until the 2021 crop year or until the total collection for stone fruit reaches two hundred seventy-five thousand dollars or until the total collection for all crops reaches its maximum amount under subsection (3) of this section, whichever comes first. The board shall retain the results of the referendum on file in the board's administrative office.

[Statutory Authority: Chapters 15.26 and 34.05 RCW. WSR 13-05-059, § 16-560-06001, filed 2/15/13, effective 3/18/13; WSR 11-21-011, § 16-560-06001, filed 10/7/11, effective 11/7/11. Statutory Authority: RCW 15.26.110(2). WSR 96-07-054, § 16-560-06001, filed 3/19/96, effective 4/19/96. Statutory Authority: RCW 15.26.140 and 15.26.150. WSR 92-01-009, § 16-560-06001, filed 12/5/91, effective 1/5/92. Statutory Authority: RCW 15.26.155. WSR 86-14-066 (Order 8, Resolution No. 8), § 16-560-06001, filed 6/30/86, effective 8/1/86; WSR 85-10-005 (Order 7, Resolution No. 7), § 16-560-06001, filed 4/19/85. Statutory Authority: RCW 15.26.140. WSR 80-05-091 (Order 6, Resolution No. 6), § 16-560-06001, filed 5/1/80; Order 5, § 16-560-060 (codified as WAC 16-560-06001), filed 3/8/74.]

WAC 16-560-070 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: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-070, filed 1/8/20, effective 2/8/20.]

WAC 16-560-080 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 1719 Springwater Avenue, Wenatchee, WA 98801, or by email at kathy@treefruitresearch.com. The written request should include:

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

[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 25-05-102, s 16-560-080, filed 2/19/25, effective 3/22/25. Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-080, filed 1/8/20, effective 2/8/20.]

WAC 16-560-090 Response to public records requests. (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 records 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.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-090, filed 1/8/20, effective 2/8/20.]

WAC 16-560-100 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:

(a) 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;

(b) Staff resources are insufficient to perform a study and to calculate such actual costs; and

(c) 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.

(4) 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 tree fruit research commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(5) The commission or its designee may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-100, filed 1/8/20, effective 2/8/20.]

WAC 16-560-105 Processing of public records requests—Electronic records. (1) The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records:

(a) The commission has the discretion to determine whether to provide records electronically or in paper form.

(b) When a requestor requests records in an electronic format, the public records officer will endeavor to provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the commission and is generally com-

mercially available, or in a format that is reasonably translatable from the format in which the commission keeps the record.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-105, filed 1/8/20, effective 2/8/20.]

WAC 16-560-110 Protection of public records. In order to adequately protect the commission's public records, the following will apply:

(1) Public records made available for inspection may not be removed from the area the commission makes available for inspection. The commission has the discretion to designate the means and the location for the inspection of records.

(2) Inspection of any public record will be conducted in the presence of a designated commission employee.

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

(4) After inspection is complete, the public records officer or designee will make requested copies or arrange for copying.

(5) Public records that are maintained in a file or jacket, or in chronological order, may not be dismantled except by a designated commission employee for purposes of copying.

(6) Whenever a public records request involves an entire file, a group of records, or a large number of records, the commission is allowed a reasonable time to review the records to determine whether information is exempt from disclosure under chapter 42.56 RCW or other law.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-110, filed 1/8/20, effective 2/8/20.]

WAC 16-560-115 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 15.26 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 15.26 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(8)).

(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: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-115, filed 1/8/20, effective 2/8/20.]

WAC 16-560-120 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: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-120, filed 1/8/20, effective 2/8/20.]

WAC 16-560-125 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: Chapters 42.56 and 34.05 RCW. WSR 20-03-036, § 16-560-125, filed 1/8/20, effective 2/8/20.]