Chapter 16-585 WAC
PUGET SOUND SALMON COMMISSION

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-585-030 Marketing order purposes. [Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-030, filed 7/19/95, effective 8/19/95.] Repealed by WSR 05-13-008, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.

WAC 16-585-005 Marketing order for Puget Sound gillnet salmon—Policy statement. (1) The marketing of Puget Sound gillnet salmon 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 Puget Sound gillnet salmon be properly promoted by:

(a) Enabling producers of Puget Sound gillnet salmon to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the Puget Sound gillnet salmon they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of Puget Sound gillnet salmon within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the Puget Sound gillnet salmon industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that Puget Sound gillnet salmon be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Puget Sound gillnet salmon.

(b) Increase the sale and use of Puget Sound gillnet salmon in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Puget Sound gillnet salmon.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Puget Sound gillnet salmon and products.

(e) Support and engage in programs or activities that benefit the production, harvesting, handling, processing, marketing, and uses of Puget Sound gillnet salmon produced 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 Puget Sound salmon commodity board exists primarily for the benefit of the people of the state of Washing-

ton and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to Puget Sound gillnet salmon under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-005, filed 6/3/05, effective 7/4/05.]

WAC 16-585-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purposes of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of Puget Sound gillnet salmon produced in Washington state. The Washington state Puget Sound salmon commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) Establish plans and conduct programs for marketing, labeling, sales, promotion, public relations, and consumer education, or other programs for maintaining present markets or creating new or larger markets for commercially harvested Puget Sound gillnet salmon and salmon products. Such programs shall be directed toward increasing the sale, improving the markets, or promoting Puget Sound gillnet salmon and salmon products without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of commercial Puget Sound gillnet salmon products nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of Puget Sound gillnet salmon.

(2) Provide for research in the production, transportation, handling, management, harvest, harvest management, harvest selectivity, harvest regulation or proposed regulation, protection against harvest impact on habitat or other species, processing or marketing of commercial Puget Sound gillnet salmon products and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University or the University of Washington, but if in the judgment of the board, said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefore, the project may be carried out by other research agencies selected by the board.

(3) Conduct programs for the purpose of providing information and education including:

(a) Marketing information and services for affected producers of Puget Sound gillnet salmon for the verification of grades, standards, weights, tests, and sampling of quality and quantity of Puget Sound gillnet salmon purchased by handlers from affected producers.

(b) Information and services enabling affected producers to meet their resource conservation objectives.

(c) Puget Sound gillnet salmon-related education and training.

(4) Investigate and take necessary action to prevent unfair trade practices and to correct where possible, trade practices which hinder marketing of Puget Sound gillnet salmon products.

(5) Allocation of assessments collected from affected producers shall be made by the board using the following formula:

(a) All operating costs will be borne by all affected producers.

(b) All programs, plans, research, and marketing deemed by the board to be in the collective best interest of all affected producers, regardless of Puget Sound gillnet salmon or salmon product produced, will be borne by all affected producers.

(6) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, processing, transportation, marketing, or uses of Puget Sound gillnet salmon produced in Washington state to any elected official or officer or employee of any agency.

(7) The director shall approve any plan, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for marketing and promotion of Puget Sound gillnet salmon.

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of the affected commodity may be encouraged, expanded, or made more efficient.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-006, filed 6/3/05, effective 7/4/05.]

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

"Act" means the Washington Agricultural Commodity Boards Act or chapter 15.65 RCW.

"Affected area" means Western Washington.

"Affected commodity" means commercial quantities of Puget Sound gillnet salmon.

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

"Affected unit" means one pound landed weight of salmon.

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

"Commission" means the Puget Sound salmon commission.

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

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

"Disclosure" means inspection or copying.

"Fiscal year" means the 12-month period beginning with July 1st of any year and ending with June 30th, both dates being inclusive.

"Handler" or "processor" shall mean those who purchase, process for market, or otherwise obtain from affected producers the affected commodity for further handling or sale in the course of commerce. "Handler" and "processor" include those who commercially harvest and then obtain from themselves, process, or further handle for subsequent direct sale to the public the affected commodity after having themselves produced that commodity as affected producers. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Order" means this marketing order.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other or-

ganization of individuals, or any unit or agency of local or state government.

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

"Production area" means the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery, or other lawful areas in which fishing is permitted pursuant to a Puget Sound commercial salmon gillnet license.

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

"Puget Sound gillnet salmon" means salmon and salmon products which have been harvested by affected producers in the production area pursuant to Puget Sound commercial salmon gillnet license or taken with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet license. "Puget Sound gillnet salmon" does not include privately farmed or cultivated salmon or salmon products nor salmon harvested pursuant to license issued by the various treaty Indian tribes. Nothing herein shall prevent the board from engaging in cooperative marketing of tribal and nontribal salmon.

"Puget Sound salmon commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of this marketing order.

"Purchase" means obtain through sale, exchange, barter, or trade.

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

[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 25-09-012, s 16-585-010, filed 4/3/25, effective 5/4/25. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-010, filed 2/8/17, effective 3/11/17. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-010, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.060 and 15.65.180. WSR 02-14-091, § 16-585-010, filed 7/1/02, effective 8/1/02. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-010, filed 7/19/95, effective 8/19/95.]

WAC 16-585-020 Puget Sound salmon commodity board. (1) Administration. The provisions of this marketing 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. The board shall consist of seven members, six of whom shall be affected producers appointed or elected as provided in this section. The director shall appoint one additional member to the board who is not an affected producer to represent the director. The position representing the director shall be a voting member.

(a) Director-appointed affected producer positions on the board shall be designated as position one, position two, and position three.

(b) Elected affected producer positions on the board shall be designated as position four, position five, and position six.

(c) The position representing the director who is not an affected producer shall be designated as position seven.

(3) Qualifications for board membership. The producer members of the board must be practical producers of the affected commodity and must be a citizen and resident of this state, over the age of 18 years. Each affected producer board member must be and have been actually engaged in producing such commodity within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom and who is not primarily engaged in business, directly or indirectly, as a handler or other dealer. The qualification of members of the board as herein set forth must continue during their terms of office.

(4) Term of office.

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

(b) The term of office for the initial board members shall be as follows:

Positions one and four shall be for one year from the date of first election or until the first subsequent annual election is held.

Positions two and five shall be for two years from the date of first election or until the second subsequent annual election is held.

Positions three and six shall be for three years from the date of first election or until the third subsequent annual election is held.

(c) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, and three shall be forwarded to the director for appointment within 30 days of the effective date of this amended marketing order.

(5) Nominations of elected or director-appointed board members. Each year the director shall call a nomination meeting for elected or director-appointed affected producer board members. The meeting(s) shall be held at least 30 days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of every nomination meeting shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than 10 days in advance of the date of the meeting; and, in addition, written notice of every meeting shall be given to all affected producers according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers.

(d) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open commission position(s) by mail to all affected producers. The notice shall call for nominations in accordance with this marketing order and shall give the final date for filing nominations which shall not be less than 20 days after the notice was mailed.

(e) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

(f) As authorized under RCW 15.65.680, the voting board may appoint up to two additional nonvoting members to serve in an advisory capacity from among producers, handlers or others with expertise in

the Puget Sound salmon industry including, but not limited to, state and tribal fisheries partners. Advisory board member appointments are for a three-year period. A nonvoting advisory member may serve additional consecutive terms of office if reappointed by the board.

(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. Each affected producer shall be entitled to one vote.

(b) Elected affected producer members of the board shall be elected during the month of February of each year by a majority of the votes cast by the affected producers. 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) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243 during the month of January of each year. 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, an 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 shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than 10 days in advance of the date of the election or advisory vote. Not less than 10 days prior to 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 such affected producers maintained by the board pursuant to RCW 15.65.295. Any other producer entitled to vote may obtain a ballot by application to the director upon establishing their qualifications.

(e) Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election or advisory vote of a board member.

(7) Vacancies.

(a) In the event of a vacancy on the board in an elected position, the board shall appoint 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 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 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 of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270. A board member may, in the discretion of the board, serve and be compensated as an employee of the commission.

(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 chairperson and other officers as it deems advisable;

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

(d) To pay from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order and rules adopted under the order. Expenses 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 funds with the director in order to defray the costs of formulating the order;

(f) To establish a 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 the amount of petty cash for each day's needs, not to exceed $100, shall be deposited each day;

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, disbursements, moneys, and other financial transactions made and done pursuant to this order. Records, books, and accounts shall be audited as provided in the act subject to procedures and methods lawfully prescribed by the state auditor. Books and accounts shall be closed as of the last day of each fiscal year. A copy of the audit shall be delivered within 30 days after the completion thereof to the governor, the director, the state auditor, and each member of the board;

(h) To require bond of board members and employees of the board in positions of trust in an amount the board deems necessary. Premiums for a bond or bonds shall be paid by the board from assessments collected. A bond shall not be necessary if any 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. At least 60 days prior to the beginning of its fiscal year, the board 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 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 recommend to the director, administrative rules, orders and amendments thereto for the exercise of the director's power in connection with this marketing order;

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this marketing order and the act, along with the necessary authority and procedure for obtaining such 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 upon the person by the act or this order;

(n) To confer with and cooperate with the legally constituted authorities of other states 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 sue or be sued;

(q) To borrow money and incur indebtedness;

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

(s) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW;

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

(u) To enter into contracts or agreements for research in the production, processing, transportation, marketing, use, or distribution of Puget Sound gillnet salmon;

(v) 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 the attorney general;

(w) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this marketing order;

(x) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, manufacture, regulation, transportation, distribution, sale, or use of Puget Sound gillnet salmon including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(y) 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 affected producer's production for a minimum three-year period pursuant to RCW 15.65.280;

(z) To maintain a list of the names and addresses of persons who handle Puget Sound gillnet salmon within the affected area and data on the amount and value of the Puget Sound gillnet salmon handled for a minimum three-year period by each person pursuant to RCW 15.65.280;

(aa) To maintain a list of names and addresses of all affected persons who produce Puget Sound gillnet salmon and the amount, by unit, of Puget Sound gillnet salmon produced during the past three years pursuant to RCW 15.65.295;

(bb) To maintain a list of all persons who handle Puget Sound gillnet salmon and the amount of Puget Sound gillnet salmon handled by each person during the past three years pursuant to RCW 15.65.295;

(cc) To establish a foundation using commission funds as grant money for the purposes established in this marketing order pursuant to RCW 15.65.043.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be 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 membership meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. 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 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 reasonable notice to the board members and affected producers. 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 25-09-012, s 16-585-020, filed 4/3/25, effective 5/4/25. Statutory Authority: RCW 15.65.047, 15.65.680, 42.56.040 and chapter 34.05 RCW. WSR 21-18-047, § 16-585-020, filed 8/25/21, effective 9/25/21. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-020, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.060 and 15.65.180. WSR 02-14-091, § 16-585-020, filed 7/1/02, effective 8/1/02. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-020, filed 7/19/95, effective 8/19/95.]

WAC 16-585-040 Assessments and collections. (1) The assessment on the affected commodity harvested in the production area shall be as follows: Two percent of the landed value of Puget Sound gillnet salmon shall be assessed to the producer.

(2) For the purpose of collecting assessments, the board may require the person subject to the assessment or the person responsible for collection of producer assessments to give adequate assurance or security for its collection or payment.

(3) All persons subject to the provisions of this marketing order shall make and render reports and furnish information to the director or the board as required under the act or this marketing order. Any financial and commercial information and records obtained by the director or commission are exempt from public disclosure under the provisions of RCW 15.65.203 and 42.17.31907, but shall not be disclosed to any other person save to a person with like right to obtain the same or any attorney employed by the director or the commission to give legal advice thereon or by court order.

(4) For the purpose of assuring and verifying compliance with the recordkeeping and reporting requirements of this order and the act, the director and the board through its duly authorized employees, shall have access to and the authority to audit and examine such reports or information.

(5) Any moneys collected or received by the board pursuant to the provisions of this marketing order during or with respect to any year, may be refunded on a pro rata basis at the close of each year or at the close of a period as the board determines to be reasonably adapted to effectuate the declared policies of the act and the purposes of this marketing 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 year.

(6) Any due and payable assessment herein levied in a specified amount as provided under the act and this marketing order and any assessment which is required hereunder to be collected, shall constitute a personal debt of every person so assessed, responsible for collection, 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 assessment or other sum on or before the date due, the board may, and is hereby authorized to, add to the unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the unpaid assessment. In the event of failure of a person or persons to pay any due and payable assessment or other sum, the board may bring a civil action against a person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent plus the costs and expenses of suit and a reasonable attorney's fee therein, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

(7) Assessments may, with the consent of the affected producer, be collected prospectively.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-040, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-040, filed 7/19/95, effective 8/19/95.]

WAC 16-585-050 Time—Place—Method for payment and collection of assessments—Landing reports. The following procedure is established for the reporting and paying of assessments:

(1) At the time of Puget Sound gillnet salmon landing, first sale or completion of a Washington department of fish and wildlife landing receipt (fish ticket), the producer shall pay and the handler shall collect and deduct from the price paid to the producer the producer's two percent assessment on the landed value of the Puget Sound gillnet salmon. This collection and deduction shall be accurately reported on the fish ticket.

(2) No later than thirty days from the last day of any month in which any Puget Sound gillnet salmon has been obtained by a handler, each such handler shall:

(a) Remit to the board all sums required to be collected and deducted from affected producers upon their landings during that month for a total of two percent of the landed value of Puget Sound gillnet salmon obtained by that handler during that month.

(b) Provide to the board with such remittance a report indicating the full name, address, and commercial salmon fishing license number of each affected producer from whom the said handler has purchased or obtained affected commodity during the said month and for each such affected producer, indicate the landed value of the Puget Sound gillnet salmon purchased or obtained, and the amount of the producer's two percent assessment which has been collected from that producer.

(3) The board may require cold storage facilities storing Puget Sound gillnet salmon to file with the board information and reports regarding the amount of the affected commodity in storage, the date of receipt, and the name, address, and commercial salmon fishing license number of each such owner, and may require that such Puget Sound gill-

net salmon not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by this marketing order.

(4) All assessments due from affected producers under this order shall be payable at the time of completion of a Washington department of fish and wildlife landing receipt (fish ticket) and shall be paid by the producer and collected by the handler at that time and shall be remitted to the board as provided in this order.

(5) Producer-handlers shall pay the producer assessments and shall fulfill all the responsibilities of handlers and producers under this order including the collection, recordkeeping, reporting, and remittance of assessments.

(6) When, in the judgment of the board, a particular handler or producer-handler has demonstrated its unreliability to make the collection or remittance of the producer assessments called for in this order, the board may require that said handler or producer-handler not transport, carry, ship, sell, market or otherwise handle or dispose of any of the affected commodity until every due and payable assessment provided for under this order has been paid to the board and the receipt issued.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-050, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-050, filed 7/19/95, effective 8/19/95.]

WAC 16-585-060 Obligations of the board. Obligations incurred by the board or employees or agents 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 this order were a corporation. No liability for the debts or actions of the board, employees, or agents 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 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 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-060, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-060, filed 7/19/95, effective 8/19/95.]

WAC 16-585-070 Termination of this order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-13-008, § 16-585-070, filed 6/3/05, effective 7/4/05. Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-070, filed 7/19/95, effective 8/19/95.]

WAC 16-585-080 Effective time. This marketing order for Puget Sound salmon shall become effective on or after April 1, 1995, and shall remain in full force and effect until terminated under the provisions of the act.

[Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-080, filed 7/19/95, effective 8/19/95.]

WAC 16-585-090 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 hereof or of the applicability thereof to other person, circumstances, or thing shall not be affected thereby.

[Statutory Authority: RCW 15.65.050 and chapter 16.65 WAC [15.65 RCW]. WSR 95-15-102, § 16-585-090, filed 7/19/95, effective 8/19/95.]

WAC 16-585-105 Public records officer. (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The 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 17-05-036, § 16-585-105, filed 2/8/17, effective 3/11/17.]

WAC 16-585-110 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Puget Sound Salmon Commission, 6601 W. Deschutes Avenue, Suite C-2, Kennewick, WA 99336. The request may also be submitted by fax to 509-585-2671 or by email to: mjohnson@agmgt.com. The written request should include:

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

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

(c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

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

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

[Statutory Authority: RCW 15.65.047, 15.65.680, 42.56.040 and chapter 34.05 RCW. WSR 21-18-047, § 16-585-110, filed 8/25/21, effective 9/25/21. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-110, filed 2/8/17, effective 3/11/17.]

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

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

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request;

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

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

(2) Additional time to respond to the request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify persons or agencies affected by the request; or

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

(3) In acknowledging receipt of a public records request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-115, filed 2/8/17, effective 3/11/17.]

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

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

(3) Requests for records in special formatting, including color copies, will be charged at the amount necessary to reimburse the commission for its actual production costs. If the public records officer deems it more efficient to have copying or duplicating done outside the commission, the charges will be based on the actual cost of such outside copying or duplicating service. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of the invoice and is payable to the Puget Sound salmon commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(4) The commission or its designee may waive any of the foregoing copying costs.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-120, filed 2/8/17, effective 3/11/17.]

WAC 16-585-125 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.65 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

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

(4) Records that are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general (reference RCW 5.60.060(2)).

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-125, filed 2/8/17, effective 3/11/17.]

WAC 16-585-130 Review of denial of public records requests. (1) Any person who objects to the initial denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse the denial within ten business days following the commission's receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

[Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-130, filed 2/8/17, effective 3/11/17.]

WAC 16-585-135 Records index. The commission shall establish a records index, which shall be made available for public review.

[Statutory Authority: RCW 15.65.047, 15.65.680, 42.56.040 and chapter 34.05 RCW. WSR 21-18-047, § 16-585-135, filed 8/25/21, effective 9/25/21. Statutory Authority: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW. WSR 17-05-036, § 16-585-135, filed 2/8/17, effective 3/11/17.]