

WSR 25-01-037

EXPEDITED RULES

BELLEVUE COLLEGE

[Filed December 9, 2024, 8:06 p.m.]

Title of Rule and Other Identifying Information: Chapter 132H-400 WAC, Student athletic participation.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: College name change, officer title change, added definition of "Legend Drugs—Prescription Drugs," WAC title name change for clarity.

Reasons Supporting Proposal: Bellevue College changed its name, the reporting officer title changed, and the focus of the WAC is ineligibility, so we are changing the title to Student athletic participation ineligibility—Legend drugs—Prescription drugs.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140.

Statute Being Implemented: RCW 34.053.353 [34.05.353].

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Loreen McRea Keller, Bellevue College, 3000 Landerholm Circle S.E., A-201, Bellevue, WA 98007, 425-564-6155.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: College name change, change of WAC title to clarify purpose, added definition, and title of reporting officer.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Loreen McRea Keller, Bellevue College, 3000 Landerholm Circle S.E., A-201, phone 425-564-6155, email loreen.keller@bellevuecollege.edu, BEGINNING December 10, 2024, AND RECEIVED BY February 19, 2025.

November 10, 2024

Loreen M. Keller

Associate Director

Policy and Government Relations

OTS-5946.2

Chapter 132H-400 WAC

~~((STUDENT ATHLETIC PARTICIPATION))~~ GROUNDS FOR ATHLETIC INELIGIBILITY
—LEGEND DRUGS—PRESCRIPTION DRUGS

AMENDATORY SECTION (Amending WSR 90-09-067, filed 4/18/90, effective 5/19/90)

WAC 132H-400-005 Title. Chapter 132H-400 WAC will be known as ~~((student athletic participation))~~ Grounds for athletic ineligibility
—Legend drugs—Prescription drugs.

NEW SECTION

WAC 132H-400-007 Definitions. "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

AMENDATORY SECTION (Amending WSR 90-09-067, filed 4/18/90, effective 5/19/90)

WAC 132H-400-010 Grounds for ineligibility. Any student found by Bellevue ~~((Community))~~ College to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use or sale of legend drugs, including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

AMENDATORY SECTION (Amending WSR 90-09-067, filed 4/18/90, effective 5/19/90)

WAC 132H-400-020 Suspension procedure—Right to informal hearing. Any student notified of a claimed violation of WAC 132H-400-010 shall have the right to a brief adjudicative hearing if a written request for such a hearing is received by the ~~((dean of students))~~ vice president of student affairs or designee within three days of receipt of a declaration of further athletic ineligibility. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible from further participation in school-sponsored athletic events for the remainder of the school year.

AMENDATORY SECTION (Amending WSR 90-09-067, filed 4/18/90, effective 5/19/90)

WAC 132H-400-030 Hearing. If a timely written request for a hearing is made, the (~~dean of students~~) vice president of student affairs or designee shall designate a hearing officer who shall be a college officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482-494.

AMENDATORY SECTION (Amending WSR 90-09-067, filed 4/18/90, effective 5/19/90)

WAC 132H-400-040 Decision. The college official who acts as hearing officer shall issue a written decision which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered, or prepared by the hearing officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the brief adjudicative hearing and in no event later than (~~twenty~~) 20 days after the request for hearing is received by the (~~dean of students~~) vice president of student affairs.

WSR 25-01-122
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-17—Filed December 16, 2024, 3:19 p.m.]

Title of Rule and Other Identifying Information: The department of fish and wildlife (WDFW) seeks to amend WAC 220-356-160 Herring reporting, to update the current WDFW address that is listed for the submission of required commercial herring harvest logbooks and the herring baitfish report.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this expedited rule is to update the mailing address for the herring harvest logbook and the herring baitfish report.

Reasons Supporting Proposal: The WDFW La Conner office will be closing in 2025. The new address where the herring harvest logbooks and the herring baitfish report will need to be mailed to is Department of Fish and Wildlife, Marine Resources, P.O. Box 43150, Olympia, WA 98501.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.210.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Phill Dionne, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2641; and **Enforcement:** Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Based on the rationale of RCW 34.05.053 (1)(c), WDFW believes that an expedited rule-making process is appropriate because the proposed rules only seek to make an address change.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Scott Bird, Rules Coordinator, WDFW, P.O. Box 43200, Olympia, WA 98501, phone 360-902-2403, fax 360-902-2155, email rules.coordinator@dfw.wa.gov, AND RECEIVED BY February 19, 2025.

December 16, 2024
Scott Bird
Rules Coordinator

OTS-6052.1

AMENDATORY SECTION (Amending WSR 17-22-100, filed 10/30/17, effective 1/1/18)

WAC 220-356-160 Herring reporting. (1) Herring fishers:

(a) All commercial herring fishers are required to obtain a department-issued herring reporting monthly logbook, and, pursuant to this section, enter the required information and remit the department's copies of the monthly logs.

(b) It is unlawful for the operator of the harvest vessel to fail to keep the logbook aboard the vessel while the vessel is engaged in herring fishing or has herring onboard. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.280.

(c) It is unlawful for any vessel operator engaged in herring fishing to fail to submit the department's copy of each month's log in which fishing activity occurs within (~~ten~~) 10 days of the end of the month, as evidenced by the mailing date on the envelope or the fax date, except that the operator may submit all logs of monthly activity prior to the month in which fishing activity commences at one time, and, when fishing activity terminates for the year may submit the logs for the remainder of the year at one time. Harvest logs must be submitted in ascending consecutive order of log serial numbers. The logs are required to be mailed to: Department of Fish and Wildlife, Marine Resources, P.O. Box (~~1100, La Conner, WA 98257, or faxed to 360-466-0515~~) 43150, Olympia, WA 98501. Violation of this subsection is a misdemeanor, punishable under RCW 77.15.280.

(d) Herring vessel operators responsible for submitting logs to the department must maintain the fisher's copy of all logs for one year, and have them available for inspection. It is unlawful for the vessel operator to fail to submit harvest logs for inspection upon request by fish and wildlife officers or authorized department marine fish-shellfish program employee. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.360.

(e) It is unlawful for vessel operators engaged in commercial herring fishing or possessing herring, to fail to permanently and legibly record in ink the following information within the following time constraints:

(i) Before each vessel trip, record the operator name, operator phone number, license holder name, the department issued registration number, date of fishing trip.

(ii) Immediately after the completion of each set, and prior to making a new set, record the set number, set start time, Marine Fish-Shellfish Catch Area, nearest landmark type, gear type, and weight in pounds of herring retained.

(iii) Immediately after each landing of fish, record the fish receiving ticket serial number and the names of the receivers of fish landed or pen number delivered to if the vessel operator also holds a wholesale fish buyer endorsement and is acting in the capacity of an original receiver. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.280.

(2) Herring baitfish processors:

(a) It is unlawful for original receivers who sell herring as baitfish to fail to report by January 15th of each year the total number of dozens of herring sold the previous year. The report must be made on a department supplied herring baitfish report form, and must

report sales by size class. The form is required to be mailed to: Department of Fish and Wildlife, Marine Resources, P.O. Box ((1100, ~~La Conner, WA 98257, or faxed to 360-466-0515~~) 43150, Olympia, WA 98501). Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.280.

(b) Herring processors responsible for submitting herring baitfish report forms must maintain the processor's copy of the form for one year, and have it available for inspection. It is unlawful for the processor to fail to submit herring baitfish report forms for inspection upon request by fish and wildlife officers or authorized department marine fish-shellfish program employee. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.360.

WSR 25-01-160

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed December 18, 2024, 10:40 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-557 WAC, Washington asparagus commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington asparagus commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Alan Schreiber, 2621 Ringold Road, Eltopia, 509-266-4300.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING January 2, 8:00 a.m., AND RECEIVED BY February 18, 11:59 p.m.

December 18, 2024
Derek I. Sandison
Director

OTS-6046.1

AMENDATORY SECTION (Amending WSR 18-21-182, filed 10/24/18, effective 11/24/18)

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 ~~((him/her))~~ 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 ~~((him/her))~~ 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 ~~((his))~~ 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 ~~((twelve))~~ 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 gatherings 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.

AMENDATORY SECTION (Amending WSR 18-21-182, filed 10/24/18, effective 11/24/18)

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 (~~twenty-one~~) 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 (~~his~~) 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 (~~his~~) 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 (~~thir-~~

~~ty~~) 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 (~~ten~~) 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 (~~twenty~~) 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 (~~ten~~) 10 days in advance of the date of such election. Not less than (~~ten~~) 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 (~~his~~) 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 (~~thirty-five dollars~~) \$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 (~~fifty dollars~~) \$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 (~~thirty~~) 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 ~~((him))~~ 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 ~~((ten))~~ 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.

AMENDATORY SECTION (Amending WSR 91-09-003, 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 ~~((fifty-one))~~ 51 percent by numbers and ~~((fifty-one))~~ 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 ~~((twenty))~~ 20 percent by numbers and ~~((twenty))~~ 20 percent by volume of production of the affected producers file written application with ~~((him))~~ the director for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

WSR 25-01-161

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed December 18, 2024, 10:41 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-560 WAC, Washington tree fruit research commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.26 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington tree fruit research commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Ines Hanrahan, 1719 Springwater Avenue, Wenatchee, 509-665-8271.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

NOTICE

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December 18, 2024
Derek I. Sandison
Director

OTS-6047.1

AMENDATORY SECTION (Amending Order 4, filed 4/30/70)

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 ~~((himself))~~ themselves. The first handler is responsible for payment of the research assessment, but ~~((he))~~ they shall charge the same against the producer, who is finally responsible for such assessment. A producer who transports ~~((his))~~ their own fruit or fruit on consignment to fresh market is deemed to be a first handler.

AMENDATORY SECTION (Amending Order 4, filed 7/17/72)

WAC 16-560-060 Reports of dealer, handler, and processor. Every dealer, handler, and processor shall annually, within ~~((thirty))~~ 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 ~~((him))~~ them during the ~~((twelve))~~ 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.

AMENDATORY SECTION (Amending WSR 20-03-036, 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 ~~((his or her))~~ 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.

WSR 25-01-162

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed December 18, 2024, 10:43 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-561 WAC, Washington red raspberry commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington red raspberry commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Henry Bierlink, 204 Hawley Street, Lynden, 360-354-8767.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING January 2, 8:00 a.m., AND RECEIVED BY February 18, 11:59 p.m.

December 18, 2024
Derek I. Sandison
Director

OTS-6048.1

AMENDATORY SECTION (Amending WSR 18-15-009, filed 7/6/18, effective 8/6/18)

WAC 16-561-010 Definitions. Definitions for terms used in this chapter must be interpreted as consistent with the definitions in chapter 15.65 RCW, Washington state agricultural commodity boards.

"Affected area" means that portion of the state of Washington located west of the summit of the Cascade Mountains.

"Affected producer" means any person who produces or stores in the state of Washington raspberries in commercial quantities for fresh market, for processing, or for sale to processors. "To produce" means to act as a producer.

"Affected unit" means one pound net of raspberries.

"Commercial quantity" means any raspberries produced or stored 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.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing raspberries not produced by (~~him or her~~) them. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Harvest season" means that period from May 1st to September 15th of each year.

"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 (~~twelve~~) 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 individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state or federal government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to raspberries. A producer-handler shall be deemed to be a producer with respect to the raspberries which (~~he or she~~) they produce(~~s~~) and a handler with respect to the raspberries which (~~he or she~~) they handle(~~s~~), including those produced by (~~himself or herself~~) themselves.

"Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations, promoting sales of red raspberries, developing industry unity, and furthering the objectives of the commission.

"Raspberries" means and includes all kinds, varieties, and hybrids of "*rubus idaeus*" of red color.

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

"Washington red raspberry commission," hereinafter referred to as "board," "commission," or "WRRC" means the commodity board formed under the provisions of WAC 16-561-020.

AMENDATORY SECTION (Amending WSR 18-15-009, filed 7/6/18, effective 8/6/18)

WAC 16-561-020 Red raspberry commodity board. (1) **Administration.** The provisions of this order and the applicable provisions of chapter 15.65 RCW shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of seven voting members. Six members shall be affected producers appointed or elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the director. The position representing the director shall be a voting member.

(b) Director-appointed producer positions on the board shall be designated as position 1, position 5, and position 6.

(c) Elected producer positions on the board shall be designated as position 2, position 3, and position 4.

(d) The position representing the director who is neither an affected producer nor a handler shall be designated as position 7.

(e) For the purpose of nomination, appointment, and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into two representative districts as follows:

(i) District I shall have three board members, being positions 1, 2, and 3, and shall include the counties of Whatcom, Skagit, Snohomish, and King.

(ii) District II shall have one board member, being position 4, and shall include all western Washington counties not included in District I.

(iii) Positions 5 and 6 are designated as at-large position and may be filled from any western Washington county. The positions are filled in accordance with RCW 15.65.250.

(f) The voting board may also appoint up to two additional non-voting members to serve in an advisory capacity from among the crop advisors, handlers or others with expertise in the red raspberry industry. The voting members of the board will make these appointments at the first meeting of the calendar year. Advisory board member appointments are for a one-year period. Nonvoting advisory members may serve additional consecutive terms of office if reappointed by the board.

(3) **Board membership qualifications.** The producer members of the board must be practical producers of raspberries and each shall be a resident of this state, and over the age of (~~eighteen~~) 18 years. Each producer board member must be and have been actually engaged in producing raspberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of (~~his or her~~) their income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of appointment or election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms 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. Terms shall expire on November 30th.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member representing the director, position seven.

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

Positions one and two - One year;
 Positions three, four, five, and nine - Two years;
 Positions six, seven, eight, ten, and eleven - Three years.

(d) To accomplish the transition to the newly defined districts and areas and to a commodity board structure where the director appoints a majority of the voting board members, the initial producer appointments are as follows:

(i) The current incumbent representing position 6 will be appointed to the new position 1 with an expiration date of November 30, 2015;

(ii) The current incumbent representing position 8 will be appointed to the new position 2 with an expiration date of November 30, 2016;

(iii) The current incumbent representing position 3 will be appointed to the new position 3 with an expiration date of November 30, 2014;

(iv) The current incumbent representing position 5 will be appointed to the new position 4 with an expiration date of November 30, 2014;

(v) The current incumbent representing position 9 will be appointed to the new position 5 with an expiration date of November 30, 2015;

(vi) The current incumbent representing position 10 will be appointed to the new position 6 with an expiration date of November 30, 2016.

Any remaining board members not appointed to a new position will serve out the remainder of their existing term.

(e) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms. Any previous board member may be reelected to a qualified position after such term limits if at least one full three-year period has passed since the last date of the second consecutive term in office.

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

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

(a) Notice of a nomination meeting shall be published in a newspaper of general circulation within the affected area not less than (~~ten~~) 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 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.

(6) Election or advisory vote of board members.

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

(b) Elected members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area.

(c) If a nominee for an elected position 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.

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

(e) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected area not less than (~~ten~~) 10 days in advance of the date of the election. Not less than (~~ten~~) 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 on the list of affected producers within the affected area maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing (~~his or her~~) their qualifications.

(f) Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) **Vacancies.**

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

(b) In the event of a vacancy in a director-appointed position, the remaining board members shall recommend to the director a qualified person for appointment to the vacant position. The director shall appoint the person recommended by the board unless the person fails to meet the qualifications of board members under chapter 15.65 RCW and this order.

(8) **Quorum.** A majority of the voting 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 voting and advisory board member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Procedures for board.**

(a) The board shall hold regular meetings, at least four times annually, 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 of the regular

meeting schedule shall be published in the *Washington State Register* at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting by written notice to each producer and by regular news service.

(c) 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 to a member of any special meeting may be waived by a waiver from that member of the board. Notice of special meetings will be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending WSR 18-15-009, filed 7/6/18, effective 8/6/18)

WAC 16-561-035 Powers and duties of the board. The board shall have the following powers and duties to:

(1) Administer, enforce, and control the provisions of this order as the designee of the director.

(2) Elect a chairman and such other officers as the board deems advisable.

(3) 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 chapter 15.65 RCW.

(4) 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.

(5) Reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(6) Establish a "raspberry 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 shall be deposited as often as advisable.

(7) 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 (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) 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.

(9) Prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least (~~fifteen~~) 15 days prior

to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) 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.

(11) Adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(12) Carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of chapters 16-561 WAC and 15.65 RCW, along with the necessary authority and procedure for obtaining such information.

(13) 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 (~~him~~) them by chapter 15.65 RCW or 16-561 WAC.

(14) 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.

(15) 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 15.58.030 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.

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

(17) Enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.26 RCW.

(18) Accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(19) Enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of red raspberries.

(20) 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.

(21) Engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(22) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of red raspberries, including activities authorized under RCW 42.17A.635, including the reporting of those activities to the public disclosure commission.

(23) 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 units of each producer's production pursuant to RCW 15.65.295. This

list may be compiled from information used to collect producer assessments for a three-year period.

(24) Maintain a list of the names and addresses of persons who handle red raspberries within the affected area and data on the amount of the red raspberries handled by each person pursuant to RCW 15.65.295 for a minimum three-year period.

(25) Establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(26) Acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to red raspberries.

(27) Submit for review and approval by the director of any new or amended marketing, including for the purposes required under RCW 15.65.287.

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

AMENDATORY SECTION (Amending WSR 18-15-009, filed 7/6/18, effective 8/6/18)

WAC 16-561-041 Time—Place—Method for payment and collection of assessments. Effective with the growing season of 1977, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-561-040:

(1) All first handlers of raspberries for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. Where the first handler does not remit proceeds to the producer, the first handler shall include in (~~his~~) their bill for services the assessment due and upon payment by the producer shall remit same to the commission. All such assessments accumulated will be due and payable to the commission in four installments payable December 1st of the current calendar year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year. First handlers shall submit to the commission on or before October 1st of each year, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer on forms provided by the commission.

(2) All growers selling raspberries other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall submit to the commission on or before October 1st of each year, a report listing the pounds produced in the current harvest season on forms provided by the commission, and shall pay the assessment directly to the commission in four installments payable December 1st of the current year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year.

(3) All growers having raspberries in cold storage that are not sold on September 15th of each year, shall compute the assessment due on such berries and pay same to the commission by September 30th of each year.

(4) Any assessments paid after the above deadlines shall be accompanied by a penalty fee of (~~ten~~) 10 percent as provided in RCW 15.65.440.

WSR 25-01-167
EXPEDITED RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed December 18, 2024, 11:55 a.m.]

Title of Rule and Other Identifying Information: Amendment to lease procedure—Rental adjustments, in WAC 332-22-060.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of natural resources' (DNR) commercial real estate program is proposing to update/amend WAC 332-22-060 to be consistent with RCW 79.13.060 (1)(b), which was modified in the 2022 legislative session. WAC 332-22-060 language is currently inconsistent with the statute requiring all leases, regardless of type and term, to have periodic rental reevaluation and adjustment. In addition, DNR is proposing to add language to the WAC clarifying the definition for "periodic rental reevaluation and adjustment." This proposal will create consistency for DNR between state statutory requirements and its administrative rules. The following language changes are proposed:

Existing language: All leases shall provide for periodic rental reevaluation and adjustment, except leases with rentals based upon a percentage of crop or income. The lessee may request rental adjustments as provided in RCW 79.01.096.

Proposed language: All leases shall provide for periodic rental reevaluation and adjustment, except

(a) Leases with rentals based upon a percentage of crop or income;

(b) Leases for commercial, industrial, or business purposes must only provide for periodic rental reevaluation and adjustment if the lease extends beyond 55 years.

(i) Periodic rental reevaluation and adjustment is defined as a reappraisal or corresponding readjustment of rent based on the current market rental rate of the leased space or ground.

The lessee may request rental adjustments as provided in RCW 79.13.060.

Excerpt from updated RCW 79.13.060 Lease terms.

(b) The lands may be leased for commercial, industrial, business, or recreational purposes not to exceed fifty-five years, except:

(i) Leases for commercial, industrial, or business purposes may extend to 99 years;

(ii) All leases for commercial, industrial, or business purposes that extend beyond 55 years must provide for periodic rental reevaluation and adjustment, except leases with rentals based on a percentage of income;

Reasons Supporting Proposal: This proposal will create consistency between state statute and DNR's administrative rules. The 2022 statutory change gave DNR the flexibility needed to negotiate fair market rent up to the 55-year term consistent with commercial real estate practices. In addition, it allowed DNR the option to increase the term length, which is particularly important for commercial leasing given that most projects require financing and/or significant monetary investments. The legislature recognized this when it modified the statute in 2022.

Statutory Authority for Adoption: RCW 79.13.060 (1)(b).

Statute Being Implemented: RCW 79.13.060 (1)(b).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DNR, commercial real estate program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kari Fagerness, 1111 Washington Street S.E., Olympia, WA, 360-915-4664.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rochelle M. Goss, DNR, 1111 Washington Street S.E., P.O. Box 47015, Olympia, WA 98504-7015, phone 360-902-2117, fax 360-902-1789, email Rochelle.goss@dnr.wa.gov, BEGINNING January 2, 2025, 8:00 a.m., AND RECEIVED BY February 18, 2025, 5:00 p.m.

December 17, 2024

Michael Kearney, Manager
Product Sales and Leasing Division

OTS-6065.1

AMENDATORY SECTION (Amending WSR 84-19-007, filed 9/10/84)

WAC 332-22-060 Lease procedure—Rental adjustments. All leases shall provide for periodic rental reevaluation and adjustment, except:

(1) Leases with rentals based upon a percentage of crop or income;

(2) Leases for commercial, industrial, or business purposes must only provide for periodic rental reevaluation and adjustment if the lease extends beyond 55 years.

Periodic rental reevaluation and adjustment is defined as a reappraisal or corresponding readjustment of rent based on the current market rental rate of the leased space or ground.

The lessee may request rental adjustments as provided in RCW ((79.01.096)) 79.13.060.