



RULE-MAKING ORDER

R-103 (June 2004) (Implements RCW 34.05.360)

Agency: Washington Potato Commission

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The purpose of this rule making is to amend and repeal sections within the Rules of the Washington State Potato Commission. Proposed amendments will update "hosting" language and will remove language referring to prepayment of assessments through the purchase of stamps.

Citation of existing rules affected by this order:

Repealed: WAC 16-516-140
 Amended: WAC 16-516-100, 16-516-110, 16-516-150, 16-516-170
 Suspended:

Statutory authority for adoption: Chapter 15.66 RCW, specifically 15.66.140(2), and chapter 34.05 RCW

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-14-120 on July 1, 2005 (date).
 Describe any changes other than editing from proposed to adopted version: There are no changes from the proposed version filed on July 1, 2005.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: January 4, 2006

NAME (TYPE OR PRINT)

Chris Voigt

SIGNATURE

TITLE

Executive Director
Washington Potato Commission

CODE REVISER USE ONLY
 CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

JAN 4 2006

TIME 1:29 AM
 WSR 06-03-002 (PM)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>4</u>	Repealed	<u>1</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>4</u>	Repealed	<u>1</u>

AMENDATORY SECTION (Amending WSR 01-09-028, filed 4/10/01, effective 5/11/01)

WAC 16-516-100 Definitions. The following definitions apply to rules in this chapter adopted by the Washington Potato Commission unless otherwise provided:

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

"~~((Promotional)) Trade relations hosting~~" 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~~) for Washington state potatoes and potato products.

AMENDATORY SECTION (Amending Rule XII, filed 6/25/62)

WAC 16-516-110 Commission rules--Reporting and paying assessments. Effective with the growing season of 1962, the following procedure is established for the reporting and paying assessments levied pursuant to RCW 15.66.150 and WAC 16-516-040:

(1) The commission shall have the discretion to determine which one or more of the methods hereinafter set forth shall be respectively followed by each respective affected producer and or handler in reporting and paying assessments.

(2) Assessments shall be paid in accordance with one or more of the following methods as prescribed by the commission, in its discretion, for each respective affected producer and or handler:

~~((a) By means of the purchase of stamps, to be known as "Washington potato commission stamps," from the Washington state potato commission~~

~~(i) The said stamps shall be in denominations of 1¢, 2¢, 10¢, 50¢, \$1.00, \$2.00, \$4.00, \$6.00, and \$8.00 respectively and shall be in such form as may from time to time be determined by the commission.~~

~~(ii) The stamps shall be printed in serially numbered sheets of ten stamps of like denomination per sheet, the individual stamps on each sheet to bear the same number as the sheet of which they are a part.~~

~~(iii) Such stamps shall be purchased from the Washington state potato commission by handlers, including producers who handle their own potatoes, and shall be affixed, in an amount equal to 2¢ per~~

~~hundred weight of potatoes listed on the document, to such shipping or other document as the commission may from time to time designate, at or prior to the time the shipping permit for such potatoes is issued by the inspector of the horticultural division of the Washington state department of agriculture. Provided, however, That nothing herein contained shall prevent the handler from paying the amount of assessment due upon such potatoes in cash or by check at or prior to the issuance of the shipping permit in lieu of affixing such stamps to such document. Such document shall, however, in either event, be prepared by the inspector issuing the shipping permit and shall be forwarded by him, together with stamps affixed or accompanying payment in lieu of stamps, to the office of the commission at such intervals as the manager of the commission may from time to time designate for each respective handler. Stamps shall be deemed cancelled when affixed to such document.~~

~~(iv) In order to pay for such stamps, or to provide funds for the payment made in lieu thereof, handlers, including warehousemen and processors, receiving potatoes from a producer, shall collect the assessment of 2¢ per hundred weight of potatoes handled from the respective producer thereof at the time the potatoes are first handled. Producers handling their own potatoes shall pay the assessment either through the purchase of stamps directly from the commission or through payment in lieu of stamps as provided in subsection (b) below.~~

~~(v) In providing stamps, the commission may extend credit to the handler ordering them for a period not to exceed 30 days from date stamps are forwarded from the office of the commission to the handler, or may require payment for the stamps prior to forwarding. The commission shall provide no additional stamps to any handler until all stamps previously provided have been paid for. All stamps shall remain the property of the commission until paid for and the commission may at any time reclaim any stamps not paid for, from the handler in possession thereof.~~

~~(vi) If stamps are issued on credit, the handler to whom issued shall be invoiced for the amount thereof, at the time of issue, which invoice will be considered as a statement, and the handler's account charged with the amount of stamps issued. Payments for stamps will be credited as received. Unused stamps may be returned for credit or, if the account has been paid in full, for cash refund.~~

~~(vii) The party to whom stamps are issued shall be primarily liable for payment for them, if stamps are used by a party other than to whom issued, both parties shall be jointly and severally liable for payment therefor.~~

~~(viii) If stamps are issued on credit and not paid for within the period for which credit was extended by the commission, a penalty of 10% of the unpaid balance of the account for such stamps shall be added thereto.~~

~~(b)) (a) By means of collection from producers by handlers (including warehousemen and processors receiving potatoes from producers,) at the time the potatoes are first handled, and payment by said handlers to the commission of the assessments so~~

collected.

(i) The commission shall bill each handler at such intervals, not less frequently than monthly, as the commission may from time to time determine, for the assessments due upon potatoes handled in the preceding period for which billing has not previously been made, and upon which assessments have not been paid, computed on the basis of the quantity of potatoes so handled as recorded on potato shipping records pertaining to each handler prepared by the state of Washington department of agriculture in behalf of the commission, and filed with the commission, or, with respect to handlers who are packers or processors, on the basis of the quantity of potatoes so handled as recorded on potato shipping records pertaining to such packer or processor prepared by such packer or processor and filed with the commission.

~~(ii) ((As used in subsection (b)(i) immediately preceding, the term "handler" shall be deemed to be the person, firm, or corporation designated as "shipper" on the potato shipping record form.~~

~~(iii))~~ In the event potatoes subject to assessment are handled by processors or other handlers under circumstances in which no potato shipping record is filed with the commission with respect to the potatoes so handled the handler shall, at the time of submitting the report required by subsection ~~((b)(iv))~~ (a)(iii) immediately following, pay in full the assessment on the potatoes so reported.

~~((iv))~~ (iii) Each handler shall, in any event, file a monthly report, under oath, on forms provided by the commission, showing the name and address of the handler making the report, the quantity of potatoes handled during the preceding calendar month, the name, address, handler's lot number, and quantity of potatoes handled, for each respective producer, and the representative district as defined in WAC 16-516-020, within which the potatoes were grown. The report shall be filed with the commission not later than the 20th day of the month following that in which the potatoes were handled.

~~((c))~~ (b) By means of payment in cash by the producer, or handler, as determined by the commission in each respective instance, prior to the time the potatoes are shipped in either interstate or intrastate commerce.

AMENDATORY SECTION (Amending Order XII, filed 7/2/73)

WAC 16-516-150 Notice to director. The commission shall notify the director in writing of any handler who has not established a record of prompt payment ~~((as set forth in WAC 16-516-140))~~, and such handler shall be subject to the provisions of WAC 16-516-040 (2) ~~((c))~~ (e) which states as follows: No affected units of potatoes shall be transported, carried, shipped, sold,

stored or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued (~~or stamp cancelled~~), but no liability hereunder shall attach to common carriers in the regular course of their business. When any potatoes for which exemption as provided in subsection (1) of this section is claimed are shipped either by railroad or truck, there shall be plainly noted on the bill of lading, shipping document, container or invoice, the reasons for such exemptions.

AMENDATORY SECTION (Amending WSR 01-09-028, filed 4/10/01, effective 5/11/01)

WAC 16-516-170 Rules for implementation of ~~((promotional))~~ hosting by the Washington state potato commission. The laws of section 1, chapter 26, Laws of 1985 (RCW 15.04.200) provide that agricultural commodity commission shall adopt rules governing ~~((promotional))~~ hosting expenditures by agricultural commodity commission employees, agents, or commissioners. The rules governing ~~((promotional))~~ agricultural development or trade relations hosting expenditures for the Washington state potato commission shall be as follows:

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

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

~~Commissioner/Commission employees~~): Individual commissioners and commission staff shall make ~~((promotional))~~ agricultural development or trade relations hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

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

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosting shall be required;

(b) General purpose of the hosting;

(c) Date of hosting;

(d) To whom payment was or will be made;

(e) Signature of person seeking payment or reimbursement;

(4) The chairman of the commission and/or the executive director or assistant executive director are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations (~~and promote sales of~~) for the Washington state (~~potatoes and~~) potato (~~products~~) industry, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business and accompanying interpreter or interpreters;

(b) Foreign government officials and accompanying interpreter or interpreters;

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

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

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate (~~and promote sales of~~) trade relations for the Washington state (~~potatoes and~~) potato (~~products~~) industry.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-516-140

Conditions for prepayment of assessments and maximum payable.