

TRANSMITTAL OF RULES ADOPTED

FROM: WASHINGTON STATE DEPARTMENT OF AGRICULTURE
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)
OLYMPIA 98504

The enclosed rules Permanent rules , being Order No. 1
Emergency rules

relating to (Name of rules or description of subject matter)
a marketing order to create a Washington Alfalfa Seed Commission:

1. To collect an assessment of 25 cents per hundredweight of alfalfa seed marketed for the purpose of resale, and to expend such funds for advertising, marketing promotion, production and marketing research, and the distribution of marketing information to producers as may concern only alfalfa seed.
2. To provide for the nomination and election of an alfalfa seed commodity board to act as the designee of the Director.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 4963 ① filed with the code reviser on 11/20/74 ② were regularly adopted as permanent rules of this agency at Olympia, Wash. on 3/13/75 and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be _____ ③. The assessment will be applicable to alfalfa seed produced and sold on or after July 1, 1975.

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order, that the immediate adoption of these rules is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, were regularly adopted as emergency rules of this agency at _____ on _____ and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW have been fulfilled.

Dated this 13th day of March 1975.

STATE OF WASHINGTON
FILED
MAR 13 1975
CODE REVISER'S OFFICE
DOCKET # B31 FILE # 22

WASHINGTON STATE DEPARTMENT OF
(AGENCY) AGRICULTURE
Stewart Bledsoe
By Stewart Bledsoe
Director
Title _____

① Notice number as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use no. of last notice)
② Stamped date as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use date of last notice)
③ Unless a later date is specified in this order or is prescribed in another statute, rules are effective 30 days after filing: RCW 34.04.040. Leave this space blank except in such special cases.
[FORM CR-2: Rev. 9/21/74]

ORDER AND FINDINGS OF THE DIRECTOR OF AGRICULTURE
MAKING EFFECTIVE THE MARKETING ORDER
FOR WASHINGTON ALFALFA SEED
AND PROVIDING FOR THE CREATION OF A
WASHINGTON ALFALFA SEED COMMISSION

WHEREAS, the Director of Agriculture of the State of Washington, acting pursuant to and by the authority vested in him by the provisions of Chapter 15.65 RCW, Washington Agricultural Enabling Act of 1961, and Chapter 34.04 RCW, Administrative Procedures Act, has issued a Marketing Order for Alfalfa Seed, establishing an Alfalfa Seed Commodity Board (Commission) as his designee, for the written assent of the affected producers, and

WHEREAS, the Director of Agriculture has found more than 30 percent of the affected producers have replied to the written referendum within the time specified by the Director and that said Marketing Order for Alfalfa Seed has been assented to in writing by more than 65 percent of the producers represented in the referendum who produced more than 59 percent by volume of said alfalfa seed in the State of Washington during 1974, the representative period;

NOW, THEREFORE, I, Stewart Bledsoe, Director of the Department of Agriculture of the State of Washington, acting pursuant to and by virtue of the authority vested in me pursuant to Chapter 15.65 RCW and Chapter 34.04 RCW do hereby establish the effective date for the Marketing Order for Alfalfa Seed as April 12, 1975, and that the assessments provided for in said Marketing Order shall be applicable to and payable on all alfalfa seed produced and sold on and after July 1, 1975.

In witness, wherefore, I have hereunto affixed my signature and caused the seal of the State of Washington Department of Agriculture to be affixed hereto, and further that said Marketing Order for Alfalfa Seed has on this 13th day of March, 1975, been filed with the office of the Code Reviser, State of Washington.

Stewart Bledsoe

Stewart Bledsoe
Director of Agriculture
for the State of Washington

MARKETING ORDER TO CREATE A
WASHINGTON ALFALFA SEED COMMISSION

ARTICLE I

Section A. DEFINITIONS OF TERMS. For the purpose of this marketing order:

1. "Director" means the Director of Agriculture of the State of Washington or his duly appointed representative.
2. "Department" means the Department of Agriculture of the State of Washington.
3. "Act" means the Washington State Agricultural Enabling Act of 1961 or Chapter 15.65 RCW.
4. "Person" means any person, firm, association, or corporation.
5. "Affected Producer" means any person who produces any variety of alfalfa seed in the State of Washington for market in commercial quantities: PROVIDED, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.
6. "Commercial Quantity" means all alfalfa seed produced in any calendar year by any producer.
7. "Affected Handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by him.
8. "Producer-handler" means any person who acts both as a producer and as a handler with respect to the alfalfa seed which he produces, and a handler with respect to the alfalfa seed which he handles, including that produced by himself.

9. "Alfalfa Seed" means the seed that is harvested from any variety of alfalfa plants.
10. "Alfalfa Seed Commodity Board" hereinafter referred to as "Board" means the Commodity Board or Commission formed under the provisions of Article II of this Order.
11. "Marketing Season" or "Fiscal Year" means the 12-month period beginning with July 1 of any year and ending with June 30 of the year following, both dates being inclusive.
12. "Affected Area" means that portion of the State of Washington located east of the summit of the Cascade Mountains.
13. "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
14. "Affected Unit" means one hundred weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

ARTICLE II

THE ALFALFA SEED COMMODITY BOARD

Section A. 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.

Section B. BOARD MEMBERSHIP

1. The Board shall consist of eight members. Six members shall be affected producers elected as provided in this Article. One member shall be an affected handler elected as provided in this Article. The Director shall appoint one member of the Board who is neither an affected producer nor an affected handler to represent the Department and the public.

2. For the purpose of nomination and election of producer members of the Board, the affected area of the State of Washington shall be divided into three representative districts as follows:
 - a. District I shall have two Board members, being Positions 1 and 2, and shall include the counties of Adams, Chelan, Douglas, Ferry, Franklin, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens.
 - b. District II shall have two Board members, being Positions 3 and 4, and shall include the counties of Benton, Kittitas, Klickitat, and Yakima.
 - c. District III shall have two Board members, being Positions 5 and 6, and shall include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.
3. The handler member of the Board shall be Position 7.
4. The member of the Board to be appointed by the Director shall be Position 8.

Section C. BOARD MEMBERSHIP QUALIFICATIONS

1. The affected producer members of the Board shall be practical producers of alfalfa seed and shall be citizens and residents of the State of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing alfalfa seed within the State of Washington for a period of five years and has during that time derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.
2. The affected handler member of the Board shall be a practical handler of alfalfa seed and shall be a citizen and resident of the State of Washington, over the age of twenty-five years, and 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 alfalfa seed within the State of Washington for a period of five years and has during that period derived a substantial portion of his income therefrom.

3. The qualifications of members of the Board must continue during their term of office.

Section D. TERM OF OFFICE

1. 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.
2. Membership positions on the Board shall be designated numerically; affected producers shall have positions one through six, the affected handler shall have position seven, and the member appointed by the Director, position eight.
3. The term of office for the initial Board members shall be as follows:
Positions one and four - one year
Positions three, five, and eight - two years
Positions two, six, and seven - three years.
No elected member of the Board may serve more than two full consecutive three-year terms.

Section E. NOMINATION AND ELECTION OF BOARD MEMBERS

1. For the purpose of nominating candidates for election to Board membership, the Director shall call separate meetings of affected producers and affected handlers.

2. Each year the Director shall call for nomination meetings in those districts whose Board members' terms are about to expire. Such meetings shall be held at least thirty 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 newspapers of general circulation within the affected district not less than ten 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 such affected district, and to all 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 handler may be nominated orally for membership on the Board at such nomination meetings. 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.

Section F. ELECTION OF BOARD MEMBERS. Members of the Board shall be elected by secret mail ballot within the month of June 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 shall be entitled to one vote. The affected handler member of the Board shall be elected by a majority of votes cast by the affected handlers. Each affected handler shall be entitled to one vote.

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.

Notice of every election for Board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of such election. Not less than ten days prior to every election for Board membership, the Director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers 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 qualifications. Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election of any Board member.

Section G. 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.

Section H. 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.

Section I. BOARD COMPENSATION. No member of the Board shall receive any salary or other compensation, but each member shall receive \$35.00 for each day in actual attendance on or travelling to and from meetings of the Board or on special assignment for the Board, together with subsistence and travelling expense at the rate allowed by law to state employees: PROVIDED, That the method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the Board in advance of the incurrence of such expenses by any Board member.

Section J. POWERS AND DUTIES OF THE BOARD. The Board shall have the following powers and duties:

1. To administer, enforce, and control the provisions of this Order as the designee of the Director.
2. To elect a chairman and such other officers as the Board deems advisable.
3. To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the Attorney General, as the Board determines are necessary and proper to carry out the purpose of the Order and effectuate the declared policies of the Act.
4. 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.
5. To reimburse any applicant who has deposited money with the Director in order to defray the costs of formulating the Order.
6. To establish an "Alfalfa Seed 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 as the amount of petty cash for each day's needs, not-to-exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.
7. To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this Order. Such records, books, and accounts shall be audited at least annually 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

of the State of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the Governor, the Director, the State Auditor, and the Board.

8. 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.
9. 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.
10. 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.
11. To adopt rules and regulations of a technical or administrative nature, subject to the provisions of Chapter 34.04 RCW (Administrative Procedures Act).
12. 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, along with the necessary authority and procedure for obtaining such information.
13. 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 by the Act or Order.
14. 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.

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

Section K. PROCEDURES FOR BOARD

1. The Board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the Board.
2. The Board shall hold an annual 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 ten days prior to the meeting through regular wire news services and radio-television press.
3. The Board shall establish by resolution, the time, place, and manner of calling special meetings 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.

ARTICLE III

Section A. MARKETING ORDER PURPOSES. The Order is to promote the general welfare of the State, to enable producers of alfalfa seed to help themselves establish orderly, fair, sound, efficient, and unhampered marketing of seed, and to develop improved production methods and/or programs for the control of disease, insects, and weeds associated with the culture and harvesting of alfalfa seed.

1. To carry out the purposes of the Order, the Board shall provide for a program in one or more of the following areas:

- a. Establish plans and conduct programs for advertising, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for alfalfa seed. Such programs shall be directed toward increasing the sale of alfalfa seed without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of alfalfa seed nor disparage the quality, value, sale, or use of any other agricultural commodity.
- b. Provide for research in the production, harvesting, processing, and/or distribution of alfalfa seed and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by Experiment Stations of Washington State University, but if in the judgment of the Board said Experiment Stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the Board.
- c. Provide for collection and dissemination of information pertaining to alfalfa seed.

ARTICLE IV

ASSESSMENTS AND COLLECTIONS

Section A. ASSESSMENTS.

1. The fixed annual assessment on all varieties of alfalfa seed subject to this marketing order shall be twenty-five cents (25¢) per hundred-weight of cleaned seed, which shall be paid by the producer thereof upon each and every unit sold, marketed, or delivered for sale by him.
2. First handlers or purchasers shall collect assessments at time of payment for seed from producers whose production they handle and remit the same to the Board in accordance with procedures adopted by the Board.

Producers and producer-handlers who ship their alfalfa seed direct to handlers outside of the State of Washington shall remit assessments to the Board at time of shipment.

Section B. COLLECTIONS. Any moneys collected or received by the Board pursuant to the provisions of the Order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the Board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year, or period whenever the Board finds that the same will tend to effectuate such policies and purposes. However, if at the end of any fiscal year, the unexpended moneys on deposit with the Board shall exceed the total assessments received during that fiscal year, no assessment shall be levied during the next succeeding fiscal year.

Section C. PENALTIES. Any due and payable assessment herein levied in such specified amount as may be determined by the Board pursuant to the provisions of the Act and the Order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the Board when payment is called for by it. In the event any person fails to pay the Board the full amount of such assessment or such other sum on or before the date due, the Board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the Board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified

ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

ARTICLE V

Section A. OBLIGATIONS OF THE BOARD. Obligations incurred by the Board or employee or agent thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required, or permitted by them by the Act or this Order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the Order were a corporation. No liability for the debts or actions of the Board, employee, or agent incurred in their official capacity under this Order shall exist either against the Board, officers, employees, and/or agents in their individual capacity, nor against the State of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator or board (or employee or agent thereof) established pursuant to this Act or the assets thereof. The Board, and its agents and employees, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either 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.

ARTICLE VI

Section A. BOARD IS COMMISSION. In order to conform with accepted usage and nomenclature of the Washington State agricultural community, the Board shall be referred to as the Washington Alfalfa Seed Commission.

ARTICLE VII

Section A. TERMINATION OF THE ORDER. The Order shall be terminated if the Director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent such dissolution. The Director may ascertain without compliance with RCW 15.65.050 through RCW 15.65.130 of the Act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

ARTICLE VIII

Section A. EFFECTIVE TIME. This marketing order for alfalfa seed shall become effective after having been approved in a referendum of affected producers, by at least 51% of the producers of alfalfa seed having at least 65% of the volume of alfalfa seed produced, or by at least 65% of the producers of alfalfa seed having at least 51% of the volume of alfalfa seed produced, and after having been filed with the Code Reviser for not less than thirty days.

ARTICLE IX

Section A. 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 any other person, circumstances, or thing shall not be affected thereby.

Signed this 14th day of January, 1975.

Stewart Bledsoe
Director of Agriculture

