

TRANSMITTAL OF RULES ADOPTED

FROM: 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. 1478
Emergency rules

relating to (Name of rules or description of subject matter)

Chapter 16-561 establishing a Marketing Order for Washington Raspberries and a Raspberry Commodity Board (Commission) as the designee of the Director.

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

pursuant to Notice No. 5882 ① filed with the code reviser on 4/28/76 ② were regularly adopted as permanent rules of this agency at Olympia, WA on 7/29/76 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 9/1/76 ③

(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 29th day of July 1976.

STATE OF WASHINGTON
FILED
JUL 29 1976
CODE REVISER'S OFFICE
DOCKET 4536 FILE # 29

DEPARTMENT OF AGRICULTURE
(AGENCY)
By Errett Deck
Deputy 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.
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE ORDER NO. 1478

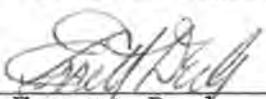
(1) I, Stewart Bledsoe, Director of Agriculture of the State of Washington, by virtue of the authority vested in me under Chapters 34.04 and 15.65 RCW, after due notice and in a meeting open to the public, held at the General Administration Building, Olympia, Washington, on May 21, 1976, as required by Chapters 34.04 and 42.30 RCW, and as approved by producer referendum as required by Chapter 15.65 RCW conducted between June 11 and July 3, 1976, do promulgate and adopt as permanent rules of this agency, the annexed rules and regulations to wit:

Chapter 16-561 establishing a Marketing Order for Washington Raspberries and a Raspberry Commodity Board (Commission) as my designee.

(2) This order, after being first recorded in the order register of this agency, shall be forwarded to the Code Reviser for filing pursuant to Chapter 34.04 RCW and Chapter 1-12 WAC.

APPROVED AND ADOPTED July 29, 1976.

Stewart Bledsoe
Director of Agriculture

By 
Errett Deck
Deputy Director

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE ORDER NO. 1478

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APPROVED AND ADOPTED July 29, 1976.

Stewart Bledsoe
Director of Agriculture

By 
Errett Deck
Deputy Director

Chapter 16-561

WASHINGTON RASPBERRY COMMISSION

WAC

- 16-561-010 Definition of terms.
- 16-561-020 Raspberry commodity board.
- 16-561-030 Marketing Order purposes.
- 16-561-040 Assessments and collections.
- 16-561-050 Obligations of the board.
- 16-561-060 Termination of the order.
- 16-561-070 Effective time.
- 16-561-080 Separability.

WAC 16-561-010 DEFINITION 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 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 raspberries in commercial quantities for fresh market, for processing, or for sale to processors in the State of Washington.

(6) "Commercial quantity" means any raspberries produces for a market in quantities of three tons (6,000 pounds) or more, by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing raspberries not produced by him.

(8) "Raspberry commodity board", hereinafter referred to as "board", means the commodity board formed under the provisions of WAC 16-561-020.

(9) "Raspberries" means and includes all kinds, varieties, and hybrids of "RUBUS IDAEUS" grown and marketed in the State of Washington.

(10) "Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June following, both dates being inclusive.

(11) "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 produces and a handler with respect to the raspberries which he handles, including those produced by himself.

(12) "Affected area" means that portion of the State of Washington located west 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, other than those sold retail by the producer.

(14) "Affected unit" means one pound net of raspberries.

WAC 16-561-020 RASPBERRY 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 eight members. Seven members shall be affected producers elected 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) 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 west of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have three board members, being positions 2, 3, and 6, and shall include the counties of Island, San Juan, Skagit, Snohomish, and Whatcom.

(ii) District II shall have three board members, being positions 1, 4, and 7, and shall include the counties of Clallam,

Grays Harbor, Jefferson, King, Kitsap, Mason, Pierce, and Thurston.

(iii) District III shall have one board member, being position 5, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum.

(3) Board membership qualifications. The affected producer members of the board shall be practical producers of raspberries 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 raspberries within the State of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of 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.

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

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

Positions one and two - one year;

Positions three, four, and five - two years;

Positions six, seven, and eight - three years.

(d) No elected member of the board may serve more than two full consecutive three-year terms.

(5) Nomination and election of board members. Each year the director shall call for a nomination meeting. Such meeting 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 a newspaper of general circulation within the production area 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 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 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. At the inception of this order, nominations may be made at the issuance hearing.

(6) Election of board members.

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

(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 production area 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 entitled to vote whose name appears on the list of such affected producers maintained

by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his 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 shall receive \$35.00 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 monies 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 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, 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.

(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 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.

(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 34.04 RCW (Administrative Procedures 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, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him 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.

(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 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 by written notice to each producer and by regular wire news services and radio-television press.

(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 of any special meeting may be waived by a waiver thereof by each member of the board.

WAC 16-561-030 MARKETING ORDER PURPOSES. The order is to promote the general welfare of the State, to enable producers of raspberries to help themselves establish orderly, fair, sound, efficient, unhampered marketing; facilitate cultural and harvesting improvements, and regulate unfair trade practices within the industry. To carry out the purposes of the order, the board may provide for a program in one or more of the following areas:

(1) 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 raspberries. Such programs shall be directed toward increasing the sale of raspberries without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of raspberries nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, processing, and/or marketing of raspberries and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by Experiment Stations of Washington State University, but if in the judgment of the board, said Experiment Stations do not have the facilities for a particular project or if

some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Provide for marketing information and services to affected producers, for the verification of grades, standards, weights, tests, and sampling of quality and quantity of raspberries purchased by handlers from affected producers.

WAC 16-561-040 ASSESSMENTS AND COLLECTIONS.

(1) Assessments.

(a) The annual assessment on all varieties of raspberries shall be 1/4 cent per affected unit (pound).

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the State.

(2) 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 prorata 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.

(3) 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.

WAC 16-561-050 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 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 of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

WAC 16-561-060. 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 and 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.

WAC 16-561-070. EFFECTIVE TIME. The marketing order for raspberries shall become effective on and after September 1, 1976.

WAC 16-561-080. 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.