

Chapter 16-536 WAC
WASHINGTON PULSE CROPS COMMISSION

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

16-536-030	Marketing order purposes. [Marketing Order Article III, § A, filed 3/26/65.] Repealed by WSR 04-17-021, filed 8/9/04, effective 9/9/04. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW.
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WAC 16-536-005 Marketing order for Washington pulse crops—Policy statement. (1) The marketing of pulse crops within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its pulse crops be properly promoted by:

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

(b) Working towards stabilizing the agricultural industry by increasing consumption of pulse crops within the state, the nation, and internationally.

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

(a) Enhance the reputation and image of Washington state's pulse crops.

(b) Increase the sale and use of Washington state's pulse crops in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's pulse crops.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's pulse crops and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of pulse crops produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state pulse crops commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is author-

ized to speak on behalf of Washington state government with regard to pulse crops under the provisions of this marketing order.

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-005, filed 7/7/16, effective 8/7/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-005, filed 8/9/04, effective 9/9/04.]

WAC 16-536-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of pulse crops in Washington state. The Washington state pulse crops commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(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 marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for pulse crops. Such programs shall be directed toward increasing the sale of pulse crops without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of pulse crops nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of pulse crops 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 by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for pulse crops or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of pulse crops and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

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

(i) Marketing information and services for producers of pulse crops for the verification of grades, standards, weights, tests, and

sampling of quality and quantity of pulse crops purchased by handlers from affected producers.

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

(iii) Pulse crops-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of pulse crops produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of pulse crops; and

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

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-006, filed 7/7/16, effective 8/7/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-006, filed 8/9/04, effective 9/9/04.]

WAC 16-536-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

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

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means one hundred pounds of pulse crops.

"Chickpeas (garbanzo beans)" means all kinds and varieties of dry chickpeas grown in the state of Washington: Provided, That it shall not include dry chickpeas used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

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

"Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until

approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba (fava) beans" means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lupine (lupin)" means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"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, 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 government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which he or she produces, and a handler with respect to the pulse crops which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chickpeas/garbanzo beans, lentils, faba beans, and lupine as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the Washington pulse crops commission.

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

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-010, filed 7/7/16, effective 8/7/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-010, filed 8/9/04, effective 9/9/04. Statutory Authority: Chapter 15.65 RCW. WSR 82-15-020 (Order 1768), § 16-536-010, filed 7/13/82; Marketing Order Article I § A, filed 3/26/65.]

WAC 16-536-020 The pulse crops 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 ten members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this

marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) Board membership qualifications.

(a) The producer members of the board must be practical producers of pulse crops in the district in and for which they are nominated and appointed and each shall be a citizen and resident of the state, over the age of eighteen years. Each producer board member must be and have been actually engaged in producing pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of pulse crops and shall be a citizen and resident of the state, over the age of eighteen years. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her 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 appointed each year.

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

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

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) **Nomination of director-appointed board members.**

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination 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 handlers according to the list maintained by the board pursuant to RCW 15.65.295.

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

(e) Any qualified affected producer or handler 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 or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) **Advisory vote of board members.**

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

(b) An advisory vote shall be conducted for 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.

(c) Notice of every advisory vote 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 the advisory vote. Not less than ten days prior to every advisory vote 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 board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated 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) **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, 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.

(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 money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "pulse crops 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, 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.

(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 or-

der during each fiscal year. The board, at least fifteen 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.

(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 of a technical or administrative nature for the operation of the board, 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, 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 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 work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

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

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

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To 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 pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle pulse crops within the affected area and data on the amount and value of the pulse crops handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce pulse crops and the amount, by unit, of pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle pulse crops and the amount of pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty 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 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.

(c) The board may call special meetings as provided under RCW 42.30.080.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-020, filed 7/21/21, effective 8/21/21. Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-020, filed 7/7/16, effective 8/7/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-020, filed 8/9/04, effective 9/9/04. Statutory Authority: RCW 15.65.050. WSR 95-17-117 (Order 5079), § 16-536-020, filed 8/23/95, effective 9/23/95. Statutory Authority: Chapter 15.65 RCW. WSR 82-15-020 (Order 1768), § 16-536-020, filed 7/13/82; Marketing Order Article II, §§ A through K, filed 3/26/65.]

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of pulse crops subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Assessments shall not be payable on any such pulse crops used by the producer thereof on his or her premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this 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 this marketing order, to all persons from whom 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 the 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 this 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 unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-040, filed 7/7/16, effective 8/7/16. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-040, filed 8/9/04, effective 9/9/04. Statutory Authority: Chapter 15.65 RCW. WSR 86-15-002 (Order 1895), § 16-536-040, filed 7/3/86, effective 8/4/86; WSR 82-15-020 (Order 1768), § 16-536-040, filed 7/13/82; Order 1533, § 16-536-040, filed 6/8/77; Marketing Order Article IV, §§ A through C, filed 3/26/65.]

WAC 16-536-050 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.

[Marketing Order Article V, § A, filed 3/26/65.]

WAC 16-536-060 Termination of the order. Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 04-17-021, § 16-536-060, filed 8/9/04, effective 9/9/04; Marketing Order Article VI, § A, filed 3/26/65.]

WAC 16-536-070 Effective time. This marketing order for pulse crops (formerly titled "dry peas and lentils") shall become effective on and after July 1, 1965, as amended by rule.

[Statutory Authority: RCW 15.65.047, 15.65.050, and chapter 34.05 RCW. WSR 16-15-004, § 16-536-070, filed 7/7/16, effective 8/7/16; Marketing Order Articles VII and VIII, filed 3/26/65.]

WAC 16-536-080 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.

[Marketing Order Article IX, filed 3/26/65.]

WAC 16-536-090 Description, address, and telephone number of the Washington pulse crops commission. Headquartered at 2780 W. Pullman Road, Moscow, Idaho 83843, the Washington pulse crops commission serves Washington pulse crops producers by supporting the pulse crops industry in the areas of marketing, education, and research. The telephone number is 208-882-3023.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-090, filed 7/21/21, effective 8/21/21.]

WAC 16-536-100 Public records officer. (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-100, filed 7/21/21, effective 8/21/21.]

WAC 16-536-110 Request for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington Pulse Crops Commission, 2780 W. Pullman Road, Moscow, Idaho 83843. The re-

quest may also be submitted by email to: eaune@usapulses.org. The written request must include:

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-110, filed 7/21/21, effective 8/21/21.]

WAC 16-536-115 Response to public records requests. (1) The public records officer shall respond to public records requests within five business days by:

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

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

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

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

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

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

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

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

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

(3) In acknowledging receipt of a public records request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is

not obligated to provide further response if the requestor fails to clarify the request.

(4) In the event the requested records name a specific person or pertain to a specific person and may be exempt from disclosure, the commission may, prior to providing the records, give notice to others whose rights may be affected by the disclosure. Sufficient notice will be given to allow affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-115, filed 7/21/21, effective 8/21/21.]

WAC 16-536-120 Fees—Inspection and copying. (1) No fee will be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington pulse crops commission. The commission may require that all charges be paid in advance of release of the copies of the records.

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

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-120, filed 7/21/21, effective 8/21/21.]

WAC 16-536-125 Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

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

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

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

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

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(8)).

(4) Records that are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general (reference RCW 5.60.060(2) and 42.56.290).

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-125, filed 7/21/21, effective 8/21/21.]

WAC 16-536-130 Review of denial of public records requests. (1)

Any person who objects to the initial denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to the statement which constituted or accompanied the denial.

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

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

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

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-130, filed 7/21/21, effective 8/21/21.]

WAC 16-536-135 Records index. The commission shall establish a records index, which shall be made available for public review. The index includes the following records:

- (1) Commission authorizing statute;
- (2) Commission marketing order;
- (3) Minutes of commission meetings;
- (4) Commission board roster; and
- (5) List of marketing, education, and research projects.

[Statutory Authority: RCW 15.65.047, 42.56.040 and chapter 34.05 RCW. WSR 21-15-117, § 16-536-135, filed 7/21/21, effective 8/21/21.]