

WSR 22-17-038

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed August 10, 2022, 11:30 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Washington alfalfa seed commission, chapter 16-529 WAC. Specifically, WAC 16-529-030 Board membership, 16-529-060 Nomination of elected or director-appointed board members, 16-529-070 Election or advisory vote of board members, and 16-529-140 Assessments.

Hearing Location(s): On September 29, 2022, at 9:00 a.m., at Benton PUD, 2721 West 10th Avenue, Kennewick, WA 99336.

Date of Intended Adoption: December 10, 2022.

Submit Written Comments to: Megan Finkenbinder, P.O. Box 42560, Olympia, WA 98504, email mfinkenbinder@agr.wa.gov, fax 360-902-2092, by September 29, 2022.

Assistance for Persons with Disabilities: Contact Washington state department of agriculture (WSDA) receptionist, phone 360-902-1976, fax 360-902-2092, TTY 800-833-6388, by September 16, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to remove districts within the alfalfa seed marketing order due to the decreasing numbers of alfalfa seed growers and handlers in the state, and to increase the assessment rate from 50 cents per hundredweight of cleaned seed to 75 cents per hundredweight of cleaned seed.

Reasons Supporting Proposal: These amendments will implement the petition received from the alfalfa seed commission in accordance with RCW 15.65.050. The board is proposing to remove districts to allow for a statewide representation for all positions on the commission. This is due in part to the reduction in alfalfa seed growers and handlers and the continued challenges to find representation within a specific district. The petition also included the proposal from the board to increase the assessment from 50 cents per hundredweight of cleaned seed to 75 cents per hundredweight of cleaned seed. The commission has had the same assessment rate since the commission began in 1979. In order to continue to fund research projects and operate as a commission, the commissioners saw the need to increase the assessment rate.

Statutory Authority for Adoption: RCW 15.65.047 and [15.65].050; chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed rules will not be adopted unless they are approved by referendum of affected producers pursuant to chapter 15.65 RCW.

Name of Proponent: Washington alfalfa seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, P.O. Box 42560, Olympia, WA 98504, 360-972-4216; Implementation and Enforcement: Shane Johnson, 6601 West Deschutes Avenue, Suite C-2, Kennewick, WA 99336, 509-585-5460.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA and the Washington alfalfa seed commission are not named agencies in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

August 10, 2022
Derek I. Sandison
Director

OTS-3926.1

AMENDATORY SECTION (Amending WSR 08-16-014, filed 7/25/08, effective 8/25/08)

WAC 16-529-030 Board membership. (~~((1))~~) The board shall consist of eight members. Six members shall be affected producers appointed or elected as provided in WAC 16-529-020 through 16-529-120. One member shall be an affected handler appointed as provided in WAC 16-529-020 through 16-529-120. 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.

~~((a))~~ (1) Director-appointed positions on the board shall be designated as position 2, position 4, position 6, and position 7. The affected handler member of the board shall be position 7.

~~((b))~~ (2) Elected affected producer positions on the board shall be designated as position 1, position 3, and position 5.

~~((c))~~ (3) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

~~((2) For the purpose of nomination, appointment, and election of affected 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 one board member, being Position 3, and shall include the counties of Benton, Kittitas, Klickitat, and Yakima.~~

~~(c) District III shall have three board members, being Positions 4, 5, and 6, and shall include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.~~

~~(d) If no nominations are received or there are fewer than three affected producers within a district, the position(s) shall be deemed "at large" and shall be filled by a producer from any district in the state. Nominations may be made by producers from any district in the state pursuant to the provisions of WAC 16-529-060.)~~

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 08-16-014, § 16-529-030, filed 7/25/08, effective 8/25/08. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-08-010, § 16-529-030, filed 3/25/05, effective 4/25/05. Statutory Authority: Chapter 15.65 RCW. WSR 85-10-015 (Order 1850), § 16-529-030, filed 4/22/85, effective 6/1/85; Order 1, Article II, § B, filed 3/13/75, effective 7/1/75.]

AMENDATORY SECTION (Amending WSR 08-16-014, filed 7/25/08, effective 8/25/08)

WAC 16-529-060 Nomination of elected or director-appointed board members. (1) For the purpose of nominating candidates for appointment or election to board membership, the director shall call a separate nomination meeting of affected producers and affected handlers.

(2) Each year the director shall call a nomination meeting for both elected and director-appointed affected producer and affected handler board members (~~(in those districts)~~) whose board members' terms are about to expire. The meeting(s) shall be held at least (~~(thirty)~~) 30 days in advance of the date set by the director for the election or advisory vote of board members.

(a) (~~(Notice of a nomination meeting shall be published in 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 board pursuant to RCW 15.65.295.

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

(c) Any qualified affected producer or affected handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the nomination meeting by written petition filed with the director, signed by not less than three affected producers or affected handlers.

(d) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 08-16-014, § 16-529-060, filed 7/25/08, effective 8/25/08. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-08-010, § 16-529-060, filed 3/25/05, effective 4/25/05; Order 1, Article II, § E, filed 3/13/75, effective 7/1/75.]

AMENDATORY SECTION (Amending WSR 08-16-014, filed 7/25/08, effective 8/25/08)

WAC 16-529-070 Election or advisory vote of board members. (1) An election or advisory vote shall be conducted by secret ballot under the supervision of the director. Each affected producer and affected handler shall be entitled to one vote.

(2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers (~~(within~~

~~the affected district or, in the case of an election for an "at large" position, by a majority of the votes cast by affected producers from any district)) statewide.~~

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler 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.

~~(4) ((Notice of every election or 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 election or advisory vote.))~~ Not less than ~~((ten))~~ 10 days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as 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/her qualifications.

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

[Statutory Authority: Chapters 15.65 and 34.05 RCW. WSR 08-16-014, § 16-529-070, filed 7/25/08, effective 8/25/08. Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 05-08-010, § 16-529-070, filed 3/25/05, effective 4/25/05; Order 1, Article II, § F, filed 3/13/75, effective 7/1/75.]

AMENDATORY SECTION (Amending WSR 79-07-061, filed 6/27/79, effective 8/1/79)

WAC 16-529-140 Assessments. (1) The fixed annual assessment on all varieties of alfalfa seed subject to this marketing order shall be ~~((fifty))~~ 75 cents per hundredweight 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.

[Statutory Authority: Chapter 15.65 RCW. WSR 79-07-061 (Order 1639), § 16-529-140, filed 6/27/79, effective 8/1/79; Order 1, Article IV, § A, filed 3/13/75, effective 7/1/75.]