

NEW CHAPTER

CHAPTER 16-504 WAC

WASHINGTON STATE CANNABIS COMMISSION

NEW SECTION

WAC 16-504-010 Definitions. The definitions in RCW 15.66.010 and the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Cannabis" means Washington-grown cannabis and is synonymous with the term "marijuana" as defined by RCW 69.50.101.

"Cannabis" does not include "industrial hemp" as defined by RCW 15.120.010.

"Cannabis product" means the commodity subject to assessment, which includes two categories: unprocessed product and processed product.

"Commission" and "Washington state cannabis commission" are synonymous and mean the commission established by this marketing order.

"Cooperative" means a cooperative as defined in WAC 314-55-410.

"Director" means the director of agriculture of the state of Washington or the director's appointed representative.

"District" means each of the geographical divisions of the state of Washington established pursuant to the provisions of this marketing order;

"First sale" means the initial sale and transfer of cannabis product by its producer:

(a) As unprocessed product to another producer, a processor, a cooperative, or any other purchaser; or,

(b) In the case of a producer/processor processing self-grown cannabis product, as processed product to any of the above or to a retailer.

"Fiscal year" means the twelve-month period beginning July 1 of any year and ending upon the last day of June, both dates inclusive.

"Manifest" means the transportation manifest generated for each cannabis product sales transaction and recorded by the traceability system.

"Net unit price" means the amount of money paid to a producer by a buyer upon the sale of any cannabis product and reflected on two corroborating documents including the transportation manifest and either an invoice, a sales order, a purchase order, or any other transactional document accepted by the commission.

"Other interested parties" means governmental departments, agencies, and bodies at the federal, state, or local levels, as well as universities, national and international associations, and other public and private sector organizations with an interest in cannabis-related matters.

"Pre-harvest material" means cannabis in the form of clones, live plants, cuttings, seeds, or other genetic material used and intended for the propagation of the cannabis plant. Pre-harvest material is not subject to assessment.

"Processed product" means harvested cannabis and any manufactured good containing harvested cannabis that (a) is not unprocessed product; and (b) is produced, packaged, and labeled by a producer/processor in a manner suitable for direct retail sale, including without limitation dry flower and leaf, pre-rolled cones, foods, beverages, oils, lotions, tinctures, infused products, concentrates, and intermediate products as those terms are used in chapter 314-55 WAC.

"Processor" means any person or legal entity holding in its name a cannabis processor license issued by WSLCB.

"Processor-only" means a processor who does not hold a cannabis producer license issued by WSLCB.

"Producer" means any person or legal entity holding in its name a cannabis producer license issued by WSLCB, regardless of whether the same holder has been issued a cannabis processor

license by WSLCB. All producers are "affected producers" under chapter 15.66 RCW.

"Producer/processor" means any producer who also holds in its name a cannabis processor license issued by WSLCB.

"Producer/processor" is not a separate category of affected producer. This marketing order uses the term "producer/processor" only where needed for clarity related to the sale of processor product as a first sale.

"Public records" has the same meaning as a "public record" in RCW 42.56.010.

"Research" means scientific and/or academic investigation, inquiry, and study of all matters relating to cannabis as the commission may deem appropriate, including without limitation: genetics, cultivation, harvesting, curing, transporting, processing, grading, and related technical and scientific developments.

"Retailer" means any person or legal entity holding in its name a cannabis retailer license issued by WSLCB.

"Testing laboratory" means any laboratory accredited by a Washington state agency to conduct cannabis-related analysis for the sale and distribution of cannabis product.

"Tier" means any of the production licensing categories established by WSLCB based on size of plant canopy under WAC 314-55-075.

"Traceability system" means the seed-to-sale electronic tracking system designated under WAC 314-55-083 by WSLCB for mandatory use by all producers, processors, and retailers.

"Unprocessed product" means harvested cannabis sold by a producer without packaging for retail sale or any other form of processing. "Unprocessed product" includes, without limitation, uprooted or wet-cut whole plants, bundles of braches with colas, bagged bulk lots of flower, trim, and leaf, but does not include pre-harvest material.

"WSDA" means the Washington state department of agriculture.

"WSLCB" means the Washington state liquor and cannabis board or any successor agency charged with any regulatory powers over cannabis currently held by WSLCB.

NEW SECTION

WAC 16-504-020 Marketing order purposes. This marketing order is made for the following purposes, and any others permitted by chapter 15.66 RCW:

- (1) To establish plans and conduct programs for cannabis-related matters;
- (2) To provide for carrying on research as contemplated in this marketing order;
- (3) To cooperate with and act in an advisory capacity to WSLCB and other interested parties with respect to cannabis-related matters within the scope of the powers and purposes of the commission as described in this marketing order;
- (4) To cooperate with other interested parties toward standardizing methods by which to identify and determine the genetics, cultivars, standards, and grades of cannabis and determine labeling requirements with respect to the same;
- (5) To conduct reviews, surveys, and inquiries regarding market metrics and analytics, including trends, revenues, profitability, projections, business practices, and other economic drivers of the industry;
- (6) To provide information or communicate on matters pertaining to the production, irrigation, fertigation, processing, transportation, marketing, uses and other technical matters relating to cannabis produced in Washington state to any elected official or officer or employee of any agency;
- (7) To inform and advise producers in all matters regarding cannabis, including educational information on its cultivation, usage, risks, and related technical and scientific developments;
- (8) To provide information and services for meeting resource conservation objectives of producers;

(9) To provide cannabis-related education and training to producers, processors, retailers, and researchers and their employees, including health and safety information; and

(10) To assist and cooperate with WSDA, WSLCB, Washington department of ecology, Washington department of health and any other local, state, or federal government agency in the investigation and control of pests, diseases, and other factors that could adversely affect the cultivation or quality of cannabis.

NEW SECTION

WAC 16-504-030 Cannabis commission.

(1) **Establishment and composition of commission.** The commission is hereby established to administer this marketing order. The commission consists of thirteen voting members, including eight producer members elected from the districts, one statewide at-large producer member, one statewide tier 1 producer member, one statewide tier 2 producer member, one statewide tier 3 producer member, and the director.

(2) **Advisory council.** Upon nomination by WSLCB or the commission, the director appoints a WSLCB representative, a processor-only member, a retailer member, and a testing laboratory member to serve as a non-voting advisory council to the commission.

(3) **Commission membership.**

(a) Voting members.

(i) Positions 1 through 8: District-elected producer members. Positions 1 through 8 are voting positions filled by the district-elected representatives.

(ii) Position 9: Statewide at-large producer member. Position 9 is a voting position filled by a producer from any tier and any district.

(iii) Position 10: Statewide tier 1 producer member. Position 10 is a voting position filled by a tier 1 producer from any district.

(iv) Position 11: Statewide tier 2 producer member. Position 11 is a voting position filled by a tier 2 producer from any district.

(v) Position 12: Statewide tier 3 producer member. Position 12 is a voting position filled by a tier 3 producer from any district.

(vi) Position 13: Director. Position 13 is a voting position filled by the director or the director's appointed representative.

(b) Advisory council members.

(i) Advisory council position 1: WSLCB. Position 1 is filled by a representative nominated by WSLCB and appointed by the Director.

(ii) Advisory council position 2: Processor-only. Position 2 is filled by a qualified processor-only nominated by the commission and appointed by the director.

(iii) Advisory council position 3: Retailer. Position 3 is filled by a qualified retailer nominated by the commission and appointed by the director.

(iv) Advisory council position 4: Testing laboratory. Position 4 is filled by a testing laboratory nominated by the commission and appointed by the director.

(3) Membership qualifications.

(a) General qualifications. Each member of the commission other than the director and the WSLCB representative must:

(i) Be a resident of this state and over the age of twenty-one years;

(ii) Continue to meet all applicable membership qualifications throughout the term of office; and

(iii) Have a minimum of three years as a named owner in whole or in part of an entity holding the relevant business license issued by WSLCB, and such license must not be suspended at the time of nominations, election, or appointment.

(b) District residency. Producer members in Positions 1 through 8 must be producers with production facilities in the district in which they are nominated and elected. Producer members elected to positions 9 through 12 may be from any district.

(c) Disqualification. Members who become disqualified during their tenure are deemed to have vacated their positions.

(4) **Representative districts.** For purposes of nomination and election of producer members of the commission, the state of Washington is divided into four representative districts, each of which elects two voting members to the commission:

(a) District 1, positions 1 and 2, comprises the counties of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and Whatcom.

(b) District 2, positions 3 and 4, comprises the counties of Chelan, Douglas, Ferry, Grant, Kittitas, Okanogan, Pend Oreille, and Stevens.

(c) District 3, positions 5 and 6, comprises the counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Lincoln, Spokane, Walla Walla, Whitman, and Yakima.

(d) District 4, positions 7 and 8, comprises the counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

(5) **Initial election of district representatives.** To provide for a transition to an election cycle where only one-third of the producers elected from the districts will be up for re-election in any year, some commission members elected in the initial election have truncated terms as provided in subsection (6) (b) of this section. The nominations and election procedures set forth in this marketing order apply to the initial election except that nominees receiving the first and second most votes in each district fill the two positions assigned to that district in numerical order as set out in section (6) (b) in this section.

(6) **Term of office.**

(a) Regular term. Except for initial terms as described in (6)(b) below, the term of office for all members is three years.

(b) Initial terms. The initial terms of office for the producer members initially elected from the districts are:

(i) Position 1 (district 1), position 3 (district 2), position 5 (district 3), and position 7 (district 4) have an initial three-year term;

(ii) Position 2 (district 1), position 4 (district 2), position 6 (district 3), and position 8 (district 4) have an initial two-year term; and

(iii) Position 9, position 10, position 11 and position 12 have an initial one-year term.

(7) Term limits.

(a) Elected members: No individual in positions 1 through 12 may serve more than two full consecutive three-year terms, provided that a member having served two full consecutive three-year terms is eligible for re-election following a hiatus of at least one year. A member whose first term is less than three years as a result of filling a vacancy or being an initially elected member of the commission may serve two full terms in addition to the partial term.

(b) Advisory council: Advisory council appointees may serve more than two consecutive three-year terms, provided that a member having served two consecutive three-year terms shall be eligible for reappointment following at least a one-year hiatus.

(8) Nomination and election of commission members.

(a) Notice and nominations.

(i) Nomination, election, and appointment of commission members must be as set forth in chapter 15.66 RCW and specified by the director.

(ii) Not earlier than March 19 and not later than April 3 of each year, the director must call for nominations by giving notice to all producers with positions up for election at the start of the next fiscal year.

(iii) Except as provided in (iv) below, nominations must be by petition submitted no later than April 12 following the call for nominations and signed by at least five persons qualified to vote for such nominee. Only persons in a district may nominate district-elected producer members.

(iv) Any producer member of the commission may nominate any qualified producer orally or in writing for any open position at any meeting of the commission held prior to the close of the nomination period.

(b) Ballots and voting. Elections must be conducted by secret and authenticated ballot. No later than May 1 of each year, the director must send ballots to all producers in each district in which an election is being held. Ballots must be returned to the director no later than June 1 of that year. A producer is entitled to one vote. In the case of a tie, the commission must elect by majority vote one of the nominees subject to the tied vote.

(c) Filling of vacancies. In the event of a vacancy in positions 1 through 12, the remaining members of the commission, by majority vote, must elect one or more qualified individuals to serve the remainder of the term. The nomination must be made as soon as practicable, and in no event later than the commission's second meeting after the position becomes vacant.

(e) Single qualified nominee. As provided in RCW 15.66.120(5), the director must declare a nominee as elected or appointed whenever there is only one nominee to a position and the nominee is qualified.

(f) Insufficient district nominees. If a district fails to nominate enough individuals to fill all the district's elected positions, the commission by majority of the voting members must elect from the relevant district one or more qualified individuals to the vacant position(s) no later than the first regular meeting following the expiration of the terms.

(9) Bylaws, meetings, and voting.

(a) Bylaws. The commission must adopt bylaws and such other rules of governance as it may deem prudent and expedient.

(b) Regular and annual meetings. The commission must hold regular meetings at least quarterly with date and time to be fixed by resolution of the commission. One of the regular meetings must be a physically convened annual meeting at which the commission's annual business plan and operating budget must be presented and voted upon, with proposed plans to be submitted to the director for approval. The commission must send notice of the meetings to each commission member and comply with all applicable notice rules.

(c) Special meetings and executive sessions. The commission may hold special meetings in accordance with RCW 42.30.080. The commission, by majority vote or upon determination of the chairperson or the director, may also call an executive session of the commission at which attendance is limited to voting commission members and invitees.

(d) A quorum consists of more than fifty percent of the voting members of the commission. Proxies are prohibited.

(e) Majority vote. Action taken by the commission must pass by a majority vote of the voting members at a meeting where a quorum is present, except for reserved matters under subsection (f) in this section, which require a supermajority vote.

(f) Reserved matters. The actions below are reserved matters that require the approval of a supermajority vote of at least two-thirds of the voting members at a meeting where a quorum is present. The commission may determine by majority vote of the voting members at a meeting where a quorum is present that any other discrete matter not listed in this subsection as reserved is subject to a supermajority vote.

(i) Any adjustment to the assessment rate schedule;

(ii) Adopting or amending the bylaws of the commission;

(iii) Any act of the commission are not contemplated in the then-current business plan and operating budget, including without limitation borrowing money, incurring debt, granting liens, or the acquisition, encumbrance, or disposal of capital assets of the commission;

(iv) All real estate transactions, including without limitation lease, purchase, and sales transactions;

(v) Appointment or dismissal of the commission's legal counsel (other than attorneys assigned or appointed by the state attorney general), accountant, and/or auditor;

(vi) Opening or closing any financial account in the name of the commission;

(vii) Entering into any contract exceeding a term of one year;

(viii) Opening or closing a branch or representative office of the commission; and

(ix) Initiating a petition to amend or terminate the marketing order.

(g) Expense reimbursement. No commission member may receive any salary or other compensation from the commission, except that the commission by resolution may provide that each member be paid a specified sum not to exceed the compensation rate set by RCW 43.03.230 for each day spent in attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and travel expenses in accordance with RCW 43.03.050 and 43.03.060. The commission may adopt by resolution provisions for reimbursement of other reasonable out-of-pocket expenses incurred by members of the commission in carrying out the provisions of this marketing order.

NEW SECTION

WAC 16-504-040 Powers and duties of commission. The commission has the following powers and duties to:

(1) Elect a chair and such other officers as determined advisable by a majority vote of the commission or as contained in bylaws adopted by the commission;

(2) Adopt, rescind, and amend bylaws and other internal rules of governance as it may deem prudent and expedient for the administration and operation of the commission and the carrying out of its duties under this marketing order;

- (3) Administer, enforce, direct and control the provisions of this marketing order;
- (4) Employ and discharge at its discretion such administrators, staff, professional consultants and service providers, and other persons and firms that it may deem appropriate;
- (5) Designate a public records officer, rules coordinator, and any other representative required by the laws governing state agencies and commodity commissions;
- (6) Comply with all other laws applicable to state agencies and commodity commissions;
- (7) Acquire personal property and purchase or lease office space and other necessary real property and transfer and convey the same;
- (8) Institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this marketing order;
- (9) Keep accurate records of all its receipts and disbursements, which records must be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years, and at any time by a duly appointed internal auditor upon a majority vote of the commission;
- (10) Make necessary disbursements for routine operating expenses;
- (11) Expend funds for all activities, projects, and undertakings of the commission permitted under this marketing order, including cannabis-related education and training programs for producers, processors, retailers, and researchers or their employees;
- (12) Cooperate with other interested parties for the purposes provided in this marketing order;
- (13) Enter into contracts or interagency agreements with any other interested parties to carry out the purposes provided in

this marketing order in accordance with applicable provisions of Title 39 RCW.

(14) Solicit, accept and expend or retain any gifts, bequests, contributions, or grants from private persons and/or public agencies to carry out the purposes provided in this marketing order;

(15) Enter into contracts or cooperative agreements for research as provided in this marketing order;

(16) Retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission, provided that the retention of a private attorney is subject to appointment or approval by the office of the state attorney general;

(17) Engage in appropriate fundraising activities for the purpose of supporting activities of the commission authorized by this marketing order;

(18) Participate in international, federal, state, and local hearings, meetings, and other proceedings in all matters relating to cannabis, including without limitation the production, irrigation, manufacture, regulation, transportation, distribution, sale or use of cannabis including activities authorized under RCW 42.17A.635, and the reporting of those activities to the public disclosure commission;

(19) Obtain from WSLCB a list of the names and addresses of producers, processors, and retailers, and such other available data from the traceability system as requested by the commission to be used to collect assessments under this marketing order and to verify back-records for a minimum three-year period. The commission is entitled but not required to rely on such list and data as provided by WSLCB;

(20) Obtain and audit the records of producers upon at least fourteen days written notice and during normal business hours to determine whether appropriate assessments have been paid and to verify back-records for a minimum three-year period;

(21) Acquire, create, develop, and own intellectual property rights, licenses, and patents and to collect royalties resulting

from the sale or licensing of commission-funded research, provided all results and recommendations from research conducted or funded by the commission must be made available to all producers without charge, except for reasonable out-of-pocket costs as the commission may determine;

(22) Speak on behalf of the Washington state government with regard to cannabis producers and producer/processors, subject to oversight of the director; and

(23) Exercise such other powers and duties that are necessary to carry out the purposes of this marketing order.

NEW SECTION

WAC 16-504-050 Assessments, collections, and reconciliations.

(1) Assessment methodology. This marketing order establishes an assessment methodology setting maximum and minimum assessment rates at a percentage of the net unit price paid to a producer at the time of first sale. Processed products are assessed at a lower rate than unprocessed products to take into account the processing costs inherent in processed products. The commission may by supermajority vote to reduce or increase the effective assessment rate, provided the effective assessment rate does not exceed the maximum and minimum assessment rate established by this marketing order. This marketing order intends the initial assessment rate to be the monetary equivalent of one dollar per one thousand dollars of unprocessed product and seventy-five cents per one thousand dollars of processed product.

(2) Assessments levied.

(a) An assessment is levied in accordance with the requirements of this section. The amount of the annual assessment must be in accordance with the following rate schedule:

PRODUCT TYPE	MINIMUM ASSESSMENT RATE	MAXIMUM ASSESSMENT RATE
Unprocessed Product	0.00068% x Net Unit Price	0.002% x Net Unit Price
Processed Product	0.0005% x Net Unit Price	0.0015% x Net Unit Price

(b) This marketing order further establishes the initial assessment rate as shown in the following schedule:

PRODUCT TYPE	ASSESSMENT RATE
Unprocessed Product	0.001% x Net Unit Price
Processed Product	0.00075% x Net Unit Price

(c) After the initial fiscal year, the commission must set annual assessment rates at a regular meeting no later than May 1 of each year, to become effective for the next fiscal year. Within the maximum and minimum limits, the commission may change all, any, or none of the assessment rates in a given year. The commission must give notice to producers of the assessment rate before the beginning of the fiscal year in which it is effective.

(d) In compliance with RCW 15.66.150, the total amount of the annual assessment paid by all producers must not exceed three percent of the total market value of all units sold, processed, stored, or delivered for sale, processing, or storage by all producers of such units during the year to which the assessment applies, as documented by the traceability system.

(e) A producer/processor combining its self-grown cannabis with cannabis purchased from another producer must calculate the assessment only on the portion of its self-grown cannabis used in the final cannabis product.

(f) The commission annually may establish reasonable written procedures for collection of the assessment in accordance and conformity with the marketing order. On or before May 1 of each year, the commission must give written notice to all producers of the collection procedures for the next fiscal year. If no such notice is given, the then-current collection procedures will continue for another year.

(g) Assessments are levied only once upon first sale of cannabis product. No assessment is levied for the sale of pre-harvest material, or where there is a transfer of cannabis product without a sale, including:

(i) Cannabis samples allowed to producers for quality control and research development;

(ii) Cannabis samples provided without charge to retailers in support of a sale or for educational purposes for their employees;

(iii) Cannabis samples provided to licensed laboratories for testing purposes.

(iv) Cannabis lawfully returned for a refund to any producer by any handler;

(v) Cannabis confiscated or destroyed by enforcement authorities;

(vi) Cannabis lawfully donated to approved individuals and institutions for charitable, medical, or research purposes; and

(vii) Such other non-commercial transfers or other circumstances as the commission may determine are within the intent and spirit of this provision.

(3) Collection of assessments.

(a) Producers must self-assess and are solely liable for the payment of the assessment to the commission in a timely manner following the first sale.

(b) At the time of first sale, the producer must keep a written record of the type of cannabis product sold and the calculation of the applicable assessment. The producer must remit such amount to the commission by the last day of the quarter following the quarter in which the first sale occurs.

(4) Surplus and refunds. Upon a determination by the commission that it has received more than a sufficient amount of revenue needed to carry out the approved projects and activities of the commission within a given fiscal year, the commission may:

(a) Refund the surplus funds on a pro rata basis to those producers who paid assessments within that fiscal year; or

(b) Carry the surplus funds over into the next succeeding fiscal year to be used for commission projects and activities in that year.

(5) Reconciliations and refunds. At the end of each fiscal year, the commission must reconcile each producer's payment account with the sales recorded in the traceability system for the applicable year and determine whether any producer has over or underpaid assessments. The commission must refund payments and producers must pay underpayments no later than sixty days after the commission delivers the reconciliation to the producer. The determination of any such overpayment or shortfall is final, absent an obvious and indisputable error.

NEW SECTION

WAC 16-504-060 Public records.

(1) Public records officer.

(a) The commission's designated public records officer is responsible for assuring compliance with public records disclosure requirements.

(b) The commission files the name of the commission's current public records officer with the office of the code reviser in accordance with RCW 42.56.580.

(2) Records requests.

(a) Persons requesting disclosure of public records must submit a request in writing to the public records officer by mail to the physical address or email address established by the commission in rule within the first year following election of the initial commission members. The written request must include:

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

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

(iii) Sufficient information to identify records requested.

(b) 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. For adequate protection of the records:

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

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

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

(iv) 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 is limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

(3) Response to records requests.

(a) The public records officer must respond to public records requests within five business days by:

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

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

(iii) Acknowledging receipt of the request and providing a reasonable estimate of the time needed to respond to the request;

(iv) 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

(v) Denying the public records request. Responses refusing in whole or in part the inspection of a public record must 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.

(b) The commission may base a request for additional time to respond to the request on the need to:

(i) Clarify the intent of the request;

(ii) Locate and assemble the information requested;

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

(iv) 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.

(c) 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.

(d) 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.

(4) Inspection and copy fees.

(a) No fee will be charged for the inspection of public records.

(b) 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.

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

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

(5) Exemptions. The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. The following list of public disclosure exemptions is specific to commission records. This list is not exhaustive and other exemptions may apply:

(a) Under RCW 42.56.380(3), production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.66 RCW.

(b) Under RCW 42.56.380(5), financial and commercial information and records supplied by persons under chapter 15.66 RCW to the commission with respect to marketing activities or individual producer's production information.

(c) Under RCW 42.56.070(8), lists of individuals requested for commercial purposes.

(d) Under RCW 5.60.060(2) and RCW 42.56.290, 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.

(e) Under RCW 42.56.230(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.

(6) Review of denial of records requests.

(a) 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 must specifically refer to the statement that constituted or accompanied the denial.

(b) The commission's designee must 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.

(c) Under RCW 42.56.560, 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.

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

(7) Records index. The commission must establish a records index and make the index available for public review. The index includes the following records:

- (a) Commission authorizing statute;
- (b) Commission marketing order;
- (c) Minutes of commission meetings;
- (d) Commission board roster; and
- (e) List of research projects.

NEW SECTION

WAC 16-504-070 Severability.

If any provision of this marketing order or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the marketing order or

the application of the provision to other persons or circumstances is not affected.