

## Chapter 604 Department of Agriculture, Oregon Fine Fescue Commission

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### DIVISION 1

#### PROCEDURAL RULES

**604-001-0000**

##### Procedure for Notice of Intended Rulemaking

Before adopting, amending or repealing any permanent rule, the Oregon Chewings Fescue and Creeping Red Fescue commission will give notice of the intended action.

(1) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days before the effective date of the rule;

(2) By mailing a copy of the notice to persons on the Oregon Chewings Fescue and Creeping Red Fescue Commission's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Associations with an interest in Commission's rulemaking and publications whose readers have an interest in the Commission's activities; and

(c) Newspapers in primary production regions of the commodities represented by the commission.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: CFC 13, f. & ef. 10-27-77; CRFC 1-2001, f. & cert. ef. 6-12-01

### DIVISION 10

#### GENERAL

**604-010-0005**

##### Definitions

As used in OAR 604-010-0011 and 604-010-0015, unless otherwise required by context:

(1) "Person" means any individual, corporation, association, partnership, and joint stock company.

(2) "Commission" means the Fine Fescue Commission.

(3) "Casual Sale" means any sale or sales of Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 100 pounds.

(4) "First Purchaser" means any person who buys Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bent-

grass seed, from the producer in the first instance, or handler who received the seed in the first instance from the producer for resale or processing.

(5) "Producer" means a person or other legal entity producing Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, for market, whether as landowner, landlord, tenant, sharecropper, or otherwise.

(6) "Handler" means any producer, processor, or distributor, or other person engaged in the handling or marketing of or dealing in Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, whether as an owner, agent, employee, broker, or otherwise.

(7) "Fescue" means Chewings Fescue seed or Creeping Red Fescue seed.

(8) "Highland Bentgrass" means Highland Bentgrass seed (*Agrostis castellana*).

Stat. Auth.: ORS 576, SB 946 (2011)

Stats. Implemented: ORS 576, SB 946 (2011)

Hist.: CFC 1, f. 5-1-56, ef. 4-26-56; CFC 3, f. 9-27-57; CRFC 1-2001, f. & cert. ef. 6-12-01; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

**604-010-0011**

##### Assessments

(1) Any person who is a first purchaser (or who otherwise is required to pay an assessment to the Oregon Fine Fescue Commission) for all purchases made on or after April 1, 2002, shall deduct and withhold an assessment of one percent (1%) of the price per pound of seed purchased from the price paid to the producer thereof for all Fescue seed grown in Oregon.

(2) Any person who is a first purchaser (or who otherwise is required to pay an assessment to the Oregon Fine Fescue Commission) shall deduct and withhold an assessment of \$1.75 for each 100 pounds on a clean seed basis from the price paid to the producer thereof, on and after July 1, 2010, for Highland Bentgrass seed or any commodity or mixture which contains more than 50 percent of Highland Bentgrass seed.

Stat. Auth.: ORS 576, SB 946 (2011)

Stats. Implemented: ORS 576.325 - 576.375, SB 946 (2011)

Hist.: CFC 6, f. & ef. 11-7-62; CFC 8, f. 4-5-63, ef. 7-1-63; CFC 10, f. 6-18-64; CFC 11, f. 6-25-65, ef. 7-1-65; CFC 12, f. 7-6-70, ef. 7-1-70; CFC 1-1979, f. 6-7-79, ef. 7-1-79; CFC 1-1988, f. 7-1-88, cert. ef. 8-1-88; CFC 1-1989, f. 6-15-89, cert. ef. 7-1-89; CFC 1-1991(Temp), f. 7-30-91, cert. ef. 8-1-91; CFC 1-1995, f. & cert. ef. 11-29-95; CRFC 1-2002, f. 3-25-02, cert. ef. 4-1-02; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

**604-010-0015**

##### Reports and Payment by First Purchaser

(1) First purchasers and handlers, as defined in 604-010-0005(4) and (6), must submit completed and signed assessment reports on commission approved form.

(2) Assessment reports shall include all purchases by or deliveries to a first purchaser or handler of Fescue seed (net paid weight) and all purchases by or deliveries to a first purchaser or handler of Highland Bentgrass seed or any commodity or mixture which contains more than 50 percent of such Highland Bentgrass seed.

(3) Quarterly assessment reports are due in the commission office postmarked on or before the 30th day of the reporting month specified below. Quarterly assessments shall be reported as follows:

(a) January, February, March assessments are reported on or before April 30th;

(b) April, May, June assessments are reported on or before July 30th;

(c) July, August, September assessments are reported on or before October 30th;

(d) October, November, December assessments are reported on or before January 30th.

(4) Within 30 days after the end of each quarter, the first pur-

purchaser and completely filled out and shall include in addition to all other required information and figures:

- (a) The date each transaction is made;
  - (b) The name of each grower;
  - (c) The crop year;
  - (d) The variety (Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed or any commodity or any blend consisting of 50 percent or more of Highland Bentgrass seed);
  - (e) The pounds of cleaned seed;
  - (f) The price per pound for Chewings Fescue seed and Creeping Red Fescue seed; and
  - (g) The tax assessment deducted and withheld.
- Stat. Auth.: ORS 576, SB 946 (2011)  
Stats. Implemented: ORS 576, SB 946 (2011)  
Hist.: CFC 2, f. 5-29-56; CRFC 1-2001, f. & cert. ef. 6-12-01; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

### DIVISION 30

#### COMMISSION MAKE UP, TERMS, QUALIFICATIONS, TERM LIMITS, REMOVAL FROM OFFICE

##### 604-030-0010

###### Number of Commissioners, Terms

The Oregon Fine Fescue Commission will consist of nine (9) members appointed by the Director of the Oregon Department of Agriculture for a term of three (3) years or, if for a term following a prior term for that person, ending three (3) years from the date of expiration of any prior term. There shall be no limit on the number of terms a commissioner may serve.

Stat. Auth.: 2003 OL Ch. 604, ORS 576.  
Stats. Implemented: 2003 OL Ch. 604, ORS 576  
Hist.: CRFC 1-2003, f. 11-26-03, cert. ef. 1-1-04; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

##### 604-030-0020

###### Qualifications of Commissioners

(1) For purposes of this rule:

(a) A "producer" is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. A producer must have paid the commission assessment on the commodity in each of the preceding three calendar years.

(b) A "handler" is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Oregon Fine Fescue Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed;

- (b) A majority of the members will be producers;
- (c) At least one member will be a handler;
- (d) Seven members who are not a handler or the public member will be producers; no less than six members will be producers of Chewings Fescue seed or Creeping Red Fescue seed; one member will be a producer of Highland Bentgrass seed.

(3) All members of the Oregon Fine Fescue Commission will serve from the state at large, except that two members of the Commission shall be from Union County, and all members must reside within the State of Oregon.

Stat. Auth.: 2003 OL Ch. 604, ORS 576  
Stats. Implemented: 2003 OL Ch. 604, ORS 576  
Hist.: CRFC 1-2003, f. 11-26-03, cert. ef. 1-1-04; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

##### 604-030-0030

###### Removal of Commissioners

(1) The Director of the Department of Agriculture may remove a commissioner from office, and declare the position vacant for cause, including the following reasons:

- (a) Two unexcused absences, or other neglect of duty in office;
- (b) Use of the commission appointment for financial gain or to avoid financial detriment;
- (c) Unauthorized use or disclosure of confidential information;
- (d) Conduct in violation of Oregon government standards and practices laws;
- (e) Misappropriation or misuse of commission funds;
- (f) Failure to satisfy one or more qualifications for appointment;
- (g) Not working for the positive economic benefit of the commodity;
- (h) Inefficiency; or
- (i) Misconduct.

(2) The Commission may make a recommendation to the Director of the Department of Agriculture, or the Director may request a recommendation from the Commission on the removal of any commissioner.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576  
Stats. Implemented: 2003 OL Ch. 604 & ORS 576  
Hist.: CRFC 1-2003, f. 11-26-03, cert. ef. 1-1-04

##### 604-030-0040

###### Chair and Other Officers

Annually, at the first regular meeting of the Commission at the beginning of the new fiscal year the Commission will elect from its members a Chair, a Vice Chair and a Treasurer who will serve until their successors are elected and qualified. The Chair, Vice Chair, or Treasurer may resign as such or may be removed from that position by vote of a majority of Commissioners. If the Chair, Vice Chair, or Treasurer ceases to be a Commissioner, the office will be vacant and a successor will be selected at the next regular meeting of the Commission. The Chair will preside over all meetings of the Commission. The Vice Chair will act in lieu of the Chair when the Chair is unable to perform the duties of the office of Chair or while the office is vacant, and the Treasurer will oversee the financial records of the Commission.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576