

CR 82-152

STATE OF WISCONSIN)
DEPARTMENT OF AGRICULTURE,) SS.
TRADE & CONSUMER PROTECTION)

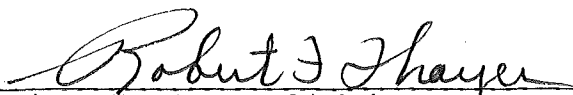
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert F. Thayer, Administrator, Marketing Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order adopting rules relating to a corn marketing order for the levy and payment of assessments for the purposes of financing research, market development and educational programs, and the creation of a marketing board for administration of the marketing order, Chapter Ag 143, Wis. Adm. Code, was duly approved and adopted by the Department on December 6, 1982.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 6th day of December, 1982.


Robert F. Thayer, Administrator
Marketing Division

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ORDER OF THE
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING AND REPEALING RULES

To create Chapter Ag 143 relating to a corn marketing order for the levy and payment of assessments for the purposes of financing research, market development and educational programs, and the creation of a marketing board for administration of the marketing order.

Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection

The department's proposed rules relating to marketing of corn in this state apply to all producers of corn sold into commercial channels. The rule creates a state corn marketing order for the purposes of financing research, market development, and educational programs related to corn sales. Funds would be raised through producer assessments of one-tenth of one cent per bushel of corn sold into commercial channels. Funds may also be used to jointly sponsor projects with any public or private organization to meet the objectives of the marketing order.

The marketing order would be administered by a corn marketing board under the general guidance of the department. The marketing board, consisting of 9 producers elected by districts for staggered 3-year terms, would be incorporated as a non-stock, non-profit corporation. In addition to the responsibilities associated with the administration of the marketing order, the duties of the corn marketing board include: collection of marketing information, protection of confidential information, recommending rules and amendments related to the marketing order, reporting non-compliance with the provisions of the marketing order, and collection and allocation of funds. The marketing board is required to maintain a bond on its officers and employees and to annually prepare a statement of operations.

Each producer selling corn into commercial channels is liable for payment of the assessment under the corn marketing order. Handlers and dealers taking title to the corn sold to them by producers are responsible for collecting the assessment from amounts due the producers. Assessments are payable to the marketing board by the 15th of the month following the month in which the sale occurred. Producers acting as handlers on their own behalf must also remit assessments due on their own corn.

In addition to collecting and remitting assessments, handlers must maintain accurate records of purchases of corn from producers

and may be required to submit monthly reports to the marketing board to verify assessments paid into the marketing order. The marketing board has the authority to audit handlers or producers to ensure compliance.

A producer may request a refund of the assessment which the producer paid into the marketing order. Claims for producer refunds must be filed within 90 days after assessments become due, and the refund paid by the marketing board within 60 days after claims are filed.

It is estimated that the corn marketing order will generate \$200,000 per year in assessment revenue. If a producer sold 25,000 bushels in a year, that producer would be liable for assessments totaling \$25.00 on that year's sales. The estimated average volume of corn sold by a producer in this state is 25,000 bushels.

Any department services required by the marketing board will be provided on a cost-recovery basis.

1 Pursuant to authority vested in the State of Wisconsin
2 Department of Agriculture, Trade and Consumer Protection by
3 section 96.15, Wis. Stats. (as amended by Chapter 283, Laws of
4 1981), the State of Wisconsin Department of Agriculture, Trade and
5 Consumer Protection adopts rules as a corn marketing order
6 interpreting Chapter 96, Wis. Stats. (as amended by Chapter 283,
7 Laws of 1981), as follows:

8 Section 1. Chapter Ag 143 is created to read:

8 Ag 143.01 DEFINITIONS. As used in this chapter, unless the
10 context requires otherwise:

11 (1) "Affected producer" means an individual, partnership, cor-
12 poration or other business entity engaged as an owner or tenant in
13 the growing of corn within this state, and selling corn in
14 commercial channels.

15 (2) "Bushel" means 56 pounds of shelled corn or 72 pounds of
16 ear corn.

17 (3) "Corn" means all varieties of Zea mays whether shelled or
18 ear corn, but excluding sweet corn.

1 (4) "District" means an area of the state as defined in
2 s. Ag 143.03 from which representatives are elected to serve on the
3 marketing board.

4 (5) "Handler" means any person including a dealer, agent, or
5 producer engaged in the business of buying corn from affected
6 producers and introducing the corn into commercial channels.

7 (6) "Marketing board" or "board" means a ch. 181, Stats.,
8 non-stock corporation consisting of affected producers elected to
9 serve as board members and having the duties described in this
10 order.

11 (7) "Producer-handler" means an affected producer who sells
12 corn to a non-resident handler.

13 (8) "Secretary" means the secretary of the state of Wisconsin
14 department of agriculture, trade and consumer protection.

15 Ag 143.02 PURPOSE. (1) The primary objective of this market-
16 ing order is to maintain and expand sales of corn. This includes
17 the development of new products and new markets; improving corn
18 production, marketing, or handling methods or practices; and educa-
19 tional programs for producers, handlers, or consumers relating to
20 the quality or nutritional value of corn or corn products.

21 (2) Funds collected under this order may be used by the mar-
22 keting board to meet one or more of the objectives described in
23 this order. Funds may be used by the marketing board to jointly
24 sponsor projects with any private or public organization to meet
25 the objectives of this order.

26 Ag 143.03 DISTRICTS. (1) The state shall be divided into
27 9 districts for purposes of electing affected producers to the

1 marketing board. The following counties shall initially constitute
2 the respective districts.

3 (a) District 1. Douglas, Bayfield, Ashland, Iron, Vilas,
4 Burnett, Washburn, Sawyer, Price, Oneida, Polk, Barron, Rusk,
5 Lincoln, Chippewa, Taylor, Eau Claire, Clark, Marathon, Jackson,
6 Wood, Portage and Waupaca counties.

7 (b) District 2. St. Croix, Dunn, Pierce, Pepin, Buffalo and
8 Trempealeau counties.

9 (c) District 3. Forest, Florence, Marinette, Langlade,
10 Oconto, Shawano, Door, Outagamie, Brown, Kewaunee, Winnebago,
11 Calumet, Manitowoc, Fond du Lac and Sheboygan counties.

12 (d) District 4. Monroe, Juneau, Adams, Waushara, Marquette
13 and Columbia counties.

14 (e) District 5. LaCrosse, Vernon, Crawford, Richland, Grant,
15 Iowa and Lafayette counties.

16 (f) District 6. Sauk and Dane counties.

17 (g) District 7. Green Lake, Dodge, Washington, Ozaukee,
18 Waukesha and Milwaukee counties.

19 (h) District 8. Jefferson, Walworth, Racine and Kenosha
20 counties.

21 (i) District 9. Green and Rock counties.

22 (2) The district boundaries designated in sub. (1) shall exist
23 for at least 3 years after the effective date of the marketing
24 order, after which the marketing board may reapportion the dis-
25 tricts to assure fair representation to affected producers. The
26 board may reapportion districts no more frequently than every sub-
27 sequent 3 year period which coincides with the anniversary of the

1 effective date of the order. No alteration of district boundaries
2 due to reapportionment shall have the effect of removing a
3 marketing board member from office during the member's term.

4 Ag 143.04 MARKETING BOARD. (1) MEMBERSHIP. (a) A corn
5 marketing board consisting of 9 affected producers, one from each
6 district, is established to administer this order. Board members
7 shall reside in the district which they are elected to represent.
8 Board members shall be nominated and elected as prescribed in
9 s. 96.10(1), Stats. Notice of the secretary's decision for
10 issuance of this marketing order shall contain a call for
11 nominations for election of board members to initial terms of
12 office. Nominations shall be filed not later than 45 days after
13 the date of the secretary's call for nominations, and the election
14 held within 60 days after approval of the marketing order by
15 referendum. A call for nominations for subsequent election of
16 affected producers to an expired term of office on the marketing
17 board shall be made by the board not later than 90 days before
18 expiration of the term, and nominations shall be filed not later
19 than 60 days before the term of office expires. Elections to fill
20 expired terms of office shall be held within 60 days prior to
21 expiration of the terms of office. If no nominations are made by
22 affected producers within the times specified, the secretary or
23 marketing board may nominate affected producers for election.

24 (b) Affected producers residing in each district shall elect
25 one affected producer from the district to serve on the marketing
26 board. The nominee receiving the highest number of votes in the
27 election in each district shall be the board member representing

1 that district.

2 (2) TERM OF OFFICE; REMOVAL; VACANCIES. (a) In the initial
3 election of marketing board members, the 3 board members receiving
4 the highest number of votes shall hold office for a period of 3
5 years, the 3 board members receiving the fourth, fifth and sixth
6 highest number of votes shall hold office for a period of 2 years,
7 and the 3 board members receiving the lowest number of votes shall
8 hold office for a period of one year.

9 (b) All other elections of affected producers to the
10 marketing board, subsequent to the terms of office of the initial
11 marketing board, shall be for a 3-year term.

12 (c) Each member of the marketing board shall continue to be
13 an affected producer during the term of office. Failure of a mem-
14 ber to continue as an affected producer shall create a vacancy on
15 the marketing board.

16 (d) If a vacancy occurs for any reason, the marketing board
17 shall appoint an affected producer as a successor to fill the
18 unexpired term. The successor shall be from the same district in
19 which the vacancy occurs.

20 (3) DUTIES. The duties of the marketing board shall include
21 the following:

22 (a) To adopt by-laws consistent with the articles of
23 incorporation, ch. 96, Stats., and this order.

24 (b) To develop and maintain administrative services necessary
25 for proper administration of this order.

26 (c) To protect the confidentiality of information obtained
27 under this order relating to the businesses of individual producers

1 or handlers.

2 (d) To develop and recommend to the secretary administrative
3 rules related to this order.

4 (e) To receive, evaluate and report to the secretary
5 complaints of violations of this order.

6 (f) To recommend to affected producers or to the secretary
7 amendments to this order.

8 (g) To develop procedures for collecting assessments to cover
9 expenses incurred in carrying out programs and the administration
10 of this order.

11 (h) To collect such information and data as necessary for
12 proper administration of this order.

13 (i) To determine how funds collected under this order are to
14 be allocated.

15 (j) To annually prepare a statement on operations of this
16 order, including an independently audited financial statement for
17 the previous marketing year.

18 (k) To maintain a bond on its officers and employes in an
19 amount of not less than 50 percent of the annual operating budget
20 of this order.

21 Ag 143.05 APPLICABILITY OF ORDER. (1) SCOPE. This marketing
22 order is applicable to all corn produced in the state and sold into
23 commercial channels.

24 (2) EXCLUSIONS. This marketing order does not include:

25 (a) Corn produced for seed purposes.

26 (b) Corn produced for the purpose of feeding the producer's
27 own livestock.

1 (c) Corn produced and sold directly to a producer of
2 agricultural commodities for the purpose of feeding that producer's
3 own livestock.

4 Ag 143.06 ASSESSMENTS. (1) Affected producers shall be lia-
5 ble for an assessment of one-tenth of one cent per bushel on all
6 corn grown in this state and sold into commercial channels. Bush-
7 els shall be determined on the basis of scale tickets, invoices,
8 bills of lading, manifests, settlement sheets, or other sales or
9 shipping documents, or any combination of the above.

10 (2) Assessments shall be collected by handlers or deducted
11 from amounts due affected producers and shall become due to the
12 marketing board at the time title to the corn is transferred from
13 affected producers to handlers. For purposes of this subsection,
14 assessments shall become due to the marketing board at the
15 following times indicated for the respective types of transactions
16 between producers and handlers.

17 (a) When corn is sold by an affected producer for currency,
18 certified or personal check, money order, or other type of cash
19 transaction, assessments shall become due when the quantity sold is
20 determined.

21 (b) When corn is sold by an affected producer under a pur-
22 chase contract, assessments shall become due at the time title is
23 taken by the handler according to terms specified in the contract.

24 (c) When corn is sold by an affected producer under a basis
25 contract, or any contract negotiated in terms of forward prices,
26 assessments shall become due at the time title is taken by the
27 handler according to terms specified in the contract and without

1 regard to any advance payment received by the affected producer
2 from the handler.

3 (d) When corn is sold by an affected producer under a
4 deferred price contract, or any contract in which price is deter-
5 mined subsequent to the time possession is taken by the handler,
6 assessments shall become due at the time title is transferred by
7 the affected producer according to terms specified in the
8 contract.

9 (e) When corn is sold by affected producers to non-resident
10 handlers, producers shall be deemed to be producer-handlers, as
11 defined in Ag 143.01(7), acting on their own behalf, and assess-
12 ments shall be due to the marketing board at the time title is
13 taken by the non-resident handler.

14 (3) For the purpose of this section, lending agencies, includ-
15 ing the commodity credit corporation, shall be deemed handlers, if
16 title is taken for the purposes of foreclosure or loan repayment.

17 (4) Producer-handlers shall maintain records, file reports,
18 and remit the assessments due on their own corn to the marketing
19 board in accordance with procedures under this chapter.

20 (5) Assessments shall be payable to the marketing board within
21 15 days from the end of the month in which assessments became due
22 in accordance with procedures specified by the marketing board.

23 (6) The marketing board, or the secretary, shall have the
24 authority to audit financial and other records of handlers,
25 producers, or their agents to ensure compliance with this section.

26 Ag 143.07 REFUNDS. (1) Any producer who has paid an assess-
27 ment may receive a refund upon submitting proof satisfactory to the

1 marketing board that the assessment for which the refund is
2 requested has been paid.

3 (2) Claims for producer refunds must be submitted on forms
4 prescribed by the marketing board and filed within 90 days after
5 the assessments are due to the marketing board by the handler.

6 (3) All valid requests for refunds shall be paid by the board
7 within 60 days after receipt of the request, or within a reasonable
8 period of additional time as may be necessary to determine the
9 validity of the request.

10 Ag 143.08 REPORTS. (1) Each handler shall maintain accurate
11 records and accounts of all corn purchased from affected producers.
12 Records shall include, but may not be limited to, names and
13 addresses of producers from whom corn was purchased, quantities of
14 corn purchased, and the dates title of corn was taken and payments
15 made or received. Each handler and producer-handler shall maintain
16 and submit reports to the marketing board as the secretary or the
17 marketing board may require as often as necessary to ensure compli-
18 ance with this order and the proper collection of assessments.

19 (2) Each handler shall provide affected producers with a
20 record of all assessments collected and remitted to the marketing
21 board at least once each year.

22 (3) The marketing board or the secretary may require producers
23 to file reports as may be necessary for the administration and
24 enforcement of this order.

25 (4) The secretary may require the marketing board to provide
26 information necessary for enforcement of ch. 96, Stats., or this
27 order.

1 Ag 143.09 VIOLATIONS. Any person who violates a provision of
2 this order is subject to the penalties provided in s. 96.17,
3 Stats.

4 The rules contained in this order shall take effect subsequent
5 to the election of the marketing board as provided in s. 96.10(1),
6 Stats., and on the first day of the month following publication in
7 the Wisconsin administrative register as provided in s. 227.026(1),
8 Stats.

9 Dated: December 2, 1982

10 STATE OF WISCONSIN
11 DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

12
13 By Robert F. Thayer
14 Robert F. Thayer
Administrator
Marketing Division

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