

Chapter ATCP 143

CORN MARKETING ORDER

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Note: Chapter Ag 143 was renumbered chapter ATCP 143 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

ATCP 143.01 Definitions. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.02 Purpose. (1) The primary objective of this marketing order is to maintain and expand sales of corn. This includes the development of new products and new markets; improving corn production, marketing, or handling methods or practices; and educational programs for producers, handlers, or consumers relating to the quality or nutritional value of corn or corn products.

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.03 Districts. (1) The state shall be divided into 9 districts for purposes of electing affected producers to the marketing board. The following counties shall initially constitute the respective districts.

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

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

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

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

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

(f) District 6. Sauk and Dane counties.

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

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

(i) District 9. Green and Rock counties.

(2) The district boundaries designated in sub. (1) shall exist for at least 3 years after the effective date of the marketing order, after which the marketing board may reapportion the districts to assure fair representation to affected producers. The board may reapportion districts no more frequently than every subsequent 3 year period which coincides with the anniversary of the effective date of the order. No alteration of district boundaries due to reapportionment shall have the effect of removing a marketing board member from office during the member's term.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.04 Marketing board. (1) **MEMBERSHIP.** (a) A corn marketing board consisting of 9 affected producers, one from each district, is established to administer this order. Board members shall reside in the district which they are elected to represent. Board members shall be nominated and elected as prescribed in s. 96.10 (1), Stats. Notice of the secretary's decision for issuance of this marketing order shall contain a call for nominations for election of board members to initial terms of office. Nominations shall be filed not later than 45 days after the date of the secretary's call for nominations, and the election held within 60 days after approval of the marketing order by referendum. A call for nominations for subsequent election of affected producers to an expired term of office on the marketing board shall be made by the board not later than 90 days before expiration of the term, and nominations shall be filed not later than 60 days before the term of office expires. Elections to fill expired terms of office shall be held within 60 days prior to expiration of the terms of office. If no nominations are made by affected producers within the times specified, the secretary or marketing board may nominate affected producers for election.

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

(2) **TERM OF OFFICE; REMOVAL; VACANCIES.** (a) In the initial election of marketing board members, the 3 board members receiving the highest number of votes shall hold office for a period of 3 years, the 3 board members receiving the fourth, fifth and sixth highest number of votes shall hold office for a period of 2

years, and the 3 board members receiving the lowest number of votes shall hold office for a period of one year.

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

(c) Each member of the marketing board shall continue to be an affected producer during the term of office. Failure of a member to continue as an affected producer shall create a vacancy on the marketing board.

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

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

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

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

(c) To protect the confidentiality of information obtained under this order relating to the businesses of individual producers or handlers.

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

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

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

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

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

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

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.05 Applicability of order. (1) **SCOPE.** This marketing order is applicable to all corn produced in the state and sold into commercial channels.

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

(a) Corn produced for seed purposes.

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.06 Assessments. (1) Affected producers shall be liable for an assessment of one-tenth of one cent per bushel on all corn grown in this state and sold into commercial channels. Bushels shall be determined on the basis of scale tickets, invoices, bills of lading, manifests, settlement sheets, or other sales or shipping documents, or any combination of the above.

(2) Assessments shall be collected by handlers or deducted from amounts due affected producers and shall become due to the marketing board at the time title to the corn is transferred from affected producers to handlers. For purposes of this subsection, assessments shall become due to the marketing board at the fol-

lowing times indicated for the respective types of transactions between producers and handlers.

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

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

(c) When corn is sold by an affected producer under a basis contract, or any contract negotiated in terms of forward prices, assessments shall become due at the time title is taken by the handler according to terms specified in the contract and without regard to any advance payment received by the affected producer from the handler.

(d) When corn is sold by an affected producer under a deferred price contract, or any contract in which price is determined subsequent to the time possession is taken by the handler, assessments shall become due at the time title is transferred by the affected producer according to terms specified in the contract.

(e) When corn is sold by affected producers to non-resident handlers, producers shall be deemed to be producer-handlers, as defined in s. ATCP 143.01 (7), acting on their own behalf, and assessments shall be due to the marketing board at the time title is taken by the non-resident handler.

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

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

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.07 Refunds. (1) Any producer who has paid an assessment may receive a refund upon submitting proof satisfactory to the marketing board that the assessment for which the refund is requested has been paid.

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.08 Reports. (1) Each handler shall maintain accurate records and accounts of all corn purchased from affected producers. Records shall include, but may not be limited to, names and addresses of producers from whom corn was purchased, quantities of corn purchased, and the dates title of corn was taken and payments made or received. Each handler and producer-handler shall maintain and submit reports to the marketing board as the secretary or the marketing board may require as often as necessary to ensure compliance with this order and the proper collection of assessments.

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

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

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

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.

ATCP 143.09 Violations. Any person who violates a provision of this order is subject to the penalties provided in s. 96.17, Stats.

History: Cr. Register, January, 1983, No. 325, eff. 2-1-83.