

Chapter ATCP 145

SOYBEAN MARKETING ORDER

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Note: Chapter Ag 145 was renumbered chapter ATCP 145 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

ATCP 145.01 Definitions. As used in this chapter, unless the context requires otherwise:

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

(2) "Bushel" means 60 pounds of soybeans.

(3) "District" means an area of the state as defined in s. ATCP 145.03 from which representatives are elected to serve on the marketing board.

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

(5) "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.

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

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

(8) "Soybeans" means all varieties of *Glycine max* or *Glycine soya*.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.02 Purpose. (1) The primary objective of this marketing order is to expand and maintain sales of soybeans. This includes the development of new products and new markets; improving methods and practices related to producing, processing, or marketing soybeans; and educational programs for producers, handlers, or consumers relating to the quality or nutritional value of soybeans or soybean products.

(2) Funds collected under this order may be used by the marketing board to meet one or more 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, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.03 Districts. (1) The state shall be divided into 7 districts for purposes of electing affected producers to the marketing board. The following counties shall initially constitute the respective districts:

(a) District 1. Ashland, Barron, Bayfield, Brown, Burnett, Chippewa, Door, Douglas, Dunn, Florence, Forest, Iron, Kewaunee, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Outagamie, Polk, Portage, Price, Rusk, St. Croix, Sawyer, Shawano, Taylor, Vilas, Washburn, and Waupaca counties.

(b) District 2. Buffalo, Clark, Eau Claire, Jackson, LaCrosse, Pepin, Pierce, Trempealeau, and Wood counties.

(c) District 3. Adams, Crawford, Dane, Grant, Green, Iowa, Juneau, Lafayette, Monroe, Richland, Sauk, and Vernon counties.

(d) District 4. Calumet, Columbia, Dodge, Fond du Lac, Green Lake, Jefferson, Manitowoc, Marquette, Ozaukee, Sheboygan, Washington, Waukesha, Waushara, and Winnebago counties.

(e) District 5. Rock county.

(f) District 6. Kenosha and Walworth counties.

(g) District 7. Milwaukee and Racine counties.

(2) The district boundaries designated in sub. (1) shall exist for 3 years after the effective date of the marketing order, at which time the marketing board may reapportion the districts, with the approval of the secretary, to assure fair representation to affected producers. The board may reapportion districts no more frequently than every 3 years coinciding 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, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.04 Marketing board. (1) **MEMBERSHIP.** (a) A soybean marketing board consisting of 7 affected producers, one from each district, is established to administer this order. Board members shall reside in the district 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 25 days after the date of the secretary's call for nominations, and the election held concur-

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rently with the referendum during the period set by the secretary. A call for nominations of affected producers for subsequent election 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 the 60-day period preceding expiration of the terms of office. If no nominations are made by affected producers within the specified times, the secretary or marketing board may extend the time period within which nominations may be filed.

(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) For the initial terms of marketing board members, board members elected from districts one and 7 shall serve one-year terms; board members elected from districts 2 and 6 shall serve 2-year terms; and board members elected from districts 3, 4, and 5 shall serve 3-year terms.

(b) All subsequent elections to the marketing board shall be for 3-year terms.

(c) Each member of the marketing board shall continue to be an affected producer during the term of office. Failure of a board 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 to serve the remainder of the unexpired term of office. 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 bylaws 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.

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

(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, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.05 Applicability of order. (1) **SCOPE.** This marketing order is applicable to all soybeans produced in the state and sold in commercial channels.

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

(a) Soybeans produced for seed purposes and used on farms where produced.

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.06 Assessments. (1) Each affected producer for the first crop year for which the marketing order is effective shall be liable for an assessment of 2 cents per bushel on all soybeans grown in this state and sold in commercial channels. In subsequent years, the marketing board shall annually determine the rate of assessment to be levied and collected but in no event shall it exceed 2 cents per bushel. 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 soybeans is transferred from affected producers to handlers. For purposes of this subsection, assessments shall become due to the marketing board at the indicated time for the following types of transactions between producers and handlers.

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

(c) When soybeans are sold by an affected producer under a basis contract, or any contract negotiated in terms of forward prices, assessment shall become due at the time title to the soybeans 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 soybeans are 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 to the soybeans is transferred by the affected producer according to terms specified in the contract.

(e) When soybeans are sold by affected producers to non-resident handlers, affected producers shall be deemed to be producer-handlers, as defined in s. ATCP 145.01 (6), acting on their own behalf, and assessments shall be due to the marketing board at the time title to the soybeans 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 purposes of foreclosure or loan repayment.

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

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

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.07 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 claims for producer refunds shall be paid by the board within 60 days after receipt of the claim, or within a reasonable period of additional time as may be necessary to determine the validity of the claim.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.08 Reports. (1) Each handler shall maintain accurate records and accounts of all soybeans purchased from affected producers. Records shall include, but may not be limited to, names, and addresses of producers from whom soybeans were purchased, quantities of soybeans purchased, and the dates title to soybeans 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 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 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, August, 1983, No. 332, eff. 9-1-83.

ATCP 145.09 Violations. Any person who violates a provision of this order is subject to the penalties provided in s. 96.17, Stats.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.