

Chapter ATCP 147

MINT MARKETING ORDER

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Note: Chapter Ag 147 was renumbered chapter ATCP 147 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

**ATCP 147.01 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Affected producer" or "producer" means an individual, partnership, corporation or other business entity engaged as an owner or tenant in the production and sale of mint.

(2) "Handler" means any person including a processor, agent or producer engaged in the business of buying mint from a producer.

(3) "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.

(4) "Mint" means mint oil produced from any variety of *Mentha cardiaca*, *Mentha piperita*, and *Mentha spicata*.

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

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

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.02 Purpose.** (1) The primary objective of this marketing order is to improve the production and sales of mint products. This includes the development of new products and new markets; improving methods and practices related to producing, processing or marketing mint; and to inform or educate producers, handlers or consumers.

(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 including market research and development, industrial research and educational programs. 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, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.03 Marketing board.** (1) **MEMBERSHIP.** (a) A mint marketing board consisting of 5 affected producers is established to administer this order. 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. Nomi-

nations shall be filed not earlier than 32 days and not later than 64 days after the date of the secretary's call for nominations, and the election held concurrently 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 term 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) Producers shall elect 5 members at large to serve on the marketing board. The nominees shall be affected producers and those receiving the highest number of votes in the election shall be the board members representing all other affected producers.

(2) **TERM OF OFFICE; REMOVAL; VACANCIES.** (a) For the initial election of marketing board members, the board member receiving the highest number of votes shall hold office for a period of 3 years, the 2 board members receiving the second and third highest number of votes shall hold office for a period of 2 years, and the 2 board members receiving the lowest number of votes shall hold office for a period of one year.

(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 as a successor to serve the remainder of the unexpired term of office.

(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.

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(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 used in funding programs and the administration of this order.

(h) To collect such information and data only 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 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, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.04 Applicability of order.** This order shall be applicable to all mint produced in Wisconsin and sold in commercial channels.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.05 Assessments.** (1) Each producer shall be liable for an assessment of 2 cents (\$0.02) per pound on all mint sold to a handler during the first year for which the marketing order is in effect. 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 6 cents (\$0.06) per pound on all mint sold to a handler. Pounds of mint oil shall be determined on the basis of scale tickets, invoices, bills of lading, or other sales or shipping documents or any combination of the above.

(2) When mint is sold by producers to handlers, assessments shall be deducted or collected by handlers from amounts due producers and shall become due to the mar-

keting board at the time title to the mint is transferred from producers to handlers.

(3) When mint is sold by producers to non-resident handlers, producers shall be deemed to be producer-handlers, as defined in s. ATCP 147.01 (5), acting on their own behalf, and assessments shall be due to the marketing board at the time title to the mint is taken by the non-resident handler.

(4) Assessments due to the marketing board shall be payable to the board not later than 15 days from the end of the month in which assessments became due and in accordance with procedures specified by the marketing board.

(5) 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, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.06 Reports.** (1) Each producer shall maintain accurate records of all mint production. Producer records shall include, but may not be limited to, quantity and disposition of mint production. Each handler shall maintain accurate records and accounts of all mint purchased from producers. Handler records shall include, but may not be limited to, names and addresses of each producer from whom mint was purchased, the quantity of mint purchased, and the dates title to the mint was taken and payments made or received. Each producer, 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 proper collection of assessments.

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

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.

**ATCP 147.07 Violations.** Any person who violates a provision of this order is subject to the penalties provided in s. 96.17, Stats.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.