

Ag 95

STATE OF WISCONSIN
STATE DEPARTMENT OF AGRICULTURE

I, D. N. McDowell, Director of the State Department of Agriculture of the State of Wisconsin, hereby certify that the attached copy of a marketing order for apples produced in Bayfield County, designated chapter Ag 95 of the Wisconsin administrative code, is a full, true and correct copy of said order and of the whole thereof.

Dated: August 1, 1958.



Director, State Department
of Agriculture

Docket No. 547.
G. O. 190.

ORDER OF THE STATE DEPARTMENT OF AGRICULTURE
ADOPTING RULES

Pursuant to authority vested in the Director of the State Department of Agriculture by section 100.32, Wis. Stats., the Director of the State Department of Agriculture hereby adopts rules as follows:

A marketing order for apples produced in Bayfield County, designated chapter Ag 95 of the Wisconsin administrative code, is adopted to read:

Chapter Ag 95

MARKETING ORDER FOR APPLES PRODUCED IN BAYFIELD COUNTY

Ag 95.01 Definition of area. This order shall be applicable to all apples produced in Bayfield County.

Ag 95.02 Definition of terms. (1) "Director" means the Director of the State Department of Agriculture of the State of Wisconsin.

(2) "Apples" means and includes all varieties of apples produced within the defined area and marketed in fresh form.

(3) "Market" means to sell, distribute or otherwise enter

into the channels of trade apples as defined herein.

(4) "Producer" means any person engaged in the business of producing or causing to be produced apples in commercial quantities.

(5) "Production in commercial quantities" means production of 100 or more bushels of apples in any year.

(6) "Grades" means the grades set forth in the U. S. Standards for Apples (7 C.F.R. 51.300 et seq.).

(7) "Undergrade" means any apples that fail to meet the minimum U. S. Standards for Apples.

(8) "Container" means a crate, box, basket, barrel, bag or similar receptacle used in packaging, transportation or sale of apples and shall include containers furnished by the buyer.

(9) "Bulk sales" refers to those apples offered for sale, exposed for sale, sold, exchanged, bartered or transported which are not in containers.

Ag 95.03 Advisory board. (1) Membership. An advisory board is established consisting of 3 members to assist the Director in the administration of this marketing order. There shall be an alternate member for each member of the Board. Members shall be nominated and elected in accordance with the provisions of the Wisconsin Agricultural Marketing Act (section 100.32, Wis. Stats.). In the event nominations are not made pursuant to such act and within the time specified, the Director may nominate members and alternate members. Alternate members shall be those individuals who receive the next highest number

of votes as recorded in the election of Advisory Board members. An alternate member of the Board shall in the absence of the member for whom he is alternate sit in the stead of such member and shall assume the rights and privileges accorded the regular member. In the event of death, removal, resignation or disqualification of a member, the alternate member shall become his successor.

(2) Term of office. The term of office of the members and alternate members shall be 3 years. The term of office shall commence with the effective date of this order and all members shall serve until their successors have been elected.

(3) Vacancies. To fill any vacancy the Director shall call for an election as provided for in the Wisconsin Agricultural Marketing Act.

(4) Expenses. For services authorized by the Director, the members of the Board, and alternate members when acting as members, shall be reimbursed for expenses on the same basis as state employees.

(5) Duties. The duties of the Board shall be advisory only and may include the following:

(a) To recommend to the Director administrative rules relating to the marketing order.

(b) To receive and report to the Director complaints of violations of the marketing order.

(c) To recommend to the Director amendments to the marketing order.

(d) To advise the Director in the assessment of members of the industry and in the collection of funds to cover expenses

incurred by the Director in the administration of this order.

(e) To advise the Director in the collection of such information and data as the Director may deem necessary to the proper administration of this order.

(f) To advise the Director in the administration of this order.

Ag 95.04 Marketing season. The Director shall make a determination setting a date of the commencement and the termination of the marketing season. The marketing season for the year 1958 shall not exceed 5 weeks in duration. Thereafter the length of the season shall be determined by the Director. Notice of such determination shall be mailed prior to September 1 to all affected producers who are listed with the department.

Ag 95.05 Inspection and certification. (1) During the effective dates of the marketing season, no producer shall sell, consign, transport or ship any lot of apples unless such apples have been subjected to inspection. Apples shall be officially graded by an authorized representative of the Federal-State Inspection Service and shall be accompanied by a valid inspection certificate. This subsection shall not apply to the following:

(a) Apples in containers labeled or stamped as undergrade.

(b) Apples sold or transferred to processors for processing.

However, an accurate record shall be maintained on all apples sold to processors, giving date of sale and amount sold. This record shall be available to the Director upon request.

(c) Apples sold at retail at the premises where produced, in lots of 10 bushels or less.

(d) Apples sold in "bulk" form. However, all apples offered for sale, sold, traded or bartered and moved in this form shall be accompanied by an invoice showing name and address of seller, name and address of buyer, and variety and quantity of apples. A duplicate of each invoice shall be filed with the Director.

(2) All lot inspections shall be accounted for at the time of the sale by a report to the Director giving date of sale, quantity of apples sold, distinguishing marks on containers, name and address of buyers, and the number of the certificate covering the lot from which sale is made.

(3) Regrading, resorting or repacking of any lot of apples shall invalidate any prior inspection certificate.

(4) Inspection certificates shall be valid for a period of 30 days only.

(5) A copy of each inspection certificate issued hereunder shall be filed with the Director.

(6) All containers of apples when being packed or after packing or when delivered for shipment, loaded or shipped or being transported, offered for sale or sold, shall bear the official U. S. grade as designated by the state-federal inspector. This grade shall be conspicuously marked on the container. In the case of apples falling below the established minimum U. S. grades, all containers shall be conspicuously marked with the word "undergrade". In addition, all containers shall bear the name and address of the packer or seller, and, except in the case

of containers marked "undergrade", the size and variety of apples.

Ag 95.06 Advertising. The Director may establish plans and administer a program for advertising and promoting the sale of apples subject to this order.

Ag 95.07 Reports. (1) It shall be the duty of each affected producer to report to the Director on September 1 an estimate of his total production for the year.

(2) It shall be the duty of every producer to keep a complete record of all apples marketed from his orchard. A copy of such record shall be retained by the producer for a period of one year from the date thereof and shall, at all times, be available for inspection by the Director or his authorized representative. The burden of establishing the accuracy of any such record or copy thereof shall rest on the producer making such record.

(3) It shall be the duty of every producer to submit to the Director not later than December 15 of each year a report of apples marketed during the preceding crop season. Such report shall be entered on forms provided by the Director.

Ag 95.08 Assessments. (1) At the beginning of each marketing season, an estimated budget shall be prepared by the Director to cover the necessary cost of administration and enforcement of the marketing order. From this budget shall be calculated the rate of assessment needed to defray such proposed expenditures.

(2) Each producer subject to this marketing order shall be liable for any assessment established by the Director.

(3) In order to provide funds to defray expenses incurred by the Director in the operation of this program, an advance payment

is required. This advance payment shall be at the rate of one cent per bushel, based on the producer's reported production estimate. Such payment shall be made on or before October 1.

(4) Any remaining cost unrecovered at the end of the marketing season shall be assessed against each producer in the ratio that his marketing bears to the total quantity of apples marketed by all affected producers. The final assessment shall be billed to the producer. The actual cost of inspection shall be in addition to such assessment.

(5) Any assessments levied herein shall constitute a personal debt of every person so assessed and shall be due and payable as prescribed herein.

(6) In the event of failure of any person to pay any assessments payable hereunder, the Director may bring an action against such person in a court of competent jurisdiction for collection thereof.

(7) Upon termination of this order, any assessment monies collected and not expended shall be returned to the affected producers entitled thereto.

The rules contained herein shall take effect on September 1, 1958.

Dated: August 1, 1958.

D. N. McDowell

Director, State Department of
Agriculture