

PIB 1

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

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 amending rules relating to the basis for payment, collection and refunding of potato assessments, Chapter PIB 1, Wis. Adm. Code, was duly approved and adopted by the Department on March 1, 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 1 day of March, 1982.

  
Robert F. Thayer  
Administrator  
Marketing Division

5-1-82

ORDER

OF THE

WISCONSIN POTATO INDUSTRY BOARD

ADOPTING, AMENDING OR REPEALING RULES

1 Relating to rules concerning the basis for payment,  
2 collection and refunding of potato assessments.

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

The Potato Industry Board's proposed changes in Chapter PIB 1 clarify current board rules by reorganizing the sections relating to levy and payment of assessments and collection of assessments from producers. Various transactions in the commercial sale of potatoes which constitute the basis for payment are adopted to clarify when assessments authorized under section 100.39(6), Stats. are due and payable. The records and reports section of the rule requires designated handlers to maintain accurate records for each producer indicating quantities of potatoes subject to and exempt from the assessment. A new section is adopted which sets forth the requirements and procedures by which a producer may obtain a refund of the assessment paid to the Potato Industry Board. The assessments authorized by statute are used to support research and foster the growth of the potato industry.

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3 Pursuant to authority vested in the State of Wisconsin Potato  
4 Industry Board by section 100.39(3), Wis. Stats., the State of  
5 Wisconsin Potato Industry Board repeals, amends and adopts  
6 rules interpreting section 100.39, Wis. Stats., as follows:

7 1. Chapter PIB 1 (title) and section PIB 1.01(2) of the  
8 Wisconsin Administrative Code are amended to read:

9 CHAPTER PIB 1

10 (title) POTATO ASSESSMENT: METHOD OF COLLECTION AND REFUNDING

11 PIB 1.01(2) "Department" means the state of Wisconsin  
12 department of agriculture, trade and consumer protection.

1           ~~(e)~~(3) Producers engaged in the processing of their own  
2 potatoes or in selling potatoes of their own production directly  
3 to consumers from their premises, a roadside stand or storage  
4 location, or to itinerant truckers, and not to a handler or  
5 processor under ~~paragraphs-(a)~~ subs. (1) and ~~(b)~~(2).

6           ~~(a)~~(4) Producers electing to act as their own designated  
7 handler in the sale of potatoes to or through designated handlers  
8 under ~~paragraphs-(a)~~ subs. (1) or ~~(b)~~ (2). Producers electing to  
9 act as their own designated handler in the payment of assessments  
10 shall file a written ~~notice-of-such-election~~ request for authority  
11 to act as their own designated handler on approved forms with  
12 provided by the board. Producers shall not act as their own  
13 designated handler unless board approval is first obtained. Copies  
14 of such-notice-of the board approved election shall be filed by the  
15 producer with designated handlers under paragraphs pars. (a)  
16 subs. (1) or (b) (2) for potatoes sold to or through them.

17           6. Sections PIB 1.03 and 1.04 of the Wisconsin  
18 Administrative Code are renumbered PIB 1.04 and 1.05 respectively  
19 and as renumbered are amended to read:

20           PIB 1.04 COLLECTION AND-REMITTANCE OF ASSESSMENTS FROM  
21 PRODUCERS. (1) Designated handlers may collect assessments  
22 directly from the producer whose potatoes are subject to  
23 assessment, or deduct ~~such~~ the assessments from ~~payment~~ payments  
24 made to producers for potatoes purchased from or ~~sold~~ handled for  
25 them. If assessments are collected from producers or deducted  
26 from proceeds of purchase or sale, the designated handler shall  
27 furnish to the producer shall-be-furnished-with a statement

1 ~~responsible for the payment of assessments on potatoes covered~~  
2 ~~under the invoice.~~ Furnishing a copy of board authorization to  
3 act as one's own designated handler relieves subsequent handlers  
4 from the responsibility of payment of assessments on potatoes  
5 received from or handled for the producer.

6 ~~(6)~~(5) Nonresident designated handlers not maintaining an  
7 office or place of business in this state, but otherwise engaged  
8 in this state as a designated handler, shall be subject to the  
9 same requirements under this chapter as a resident designated  
10 handler with respect to business activities conducted in this  
11 state, and shall be considered as having designated the secretary  
12 of state as agent for the service of process.

13 (6) Board approval authorizing producers to act as their own  
14 designated handler shall be valid until the authorization is  
15 voluntarily surrendered by the person to whom granted, or  
16 suspended or revoked by the board. The board may suspend or  
17 revoke the authorization of any person to act as their own  
18 designated handler for any violation by them of s. 100.39, Stats.  
19 or these rules. Producers whose authorization has been suspended  
20 or revoked shall be entitled to a hearing if requested within 10  
21 days of receipt of notice of suspension or revocation. The board  
22 shall notify all other designated handlers of record of any  
23 termination of authorization within 10 days after the effective  
24 date of the termination.

25 PIB 1.05 Records and reports. (1) ~~Each designated handler~~  
26 Designated handlers shall maintain a separate record for each  
27 producer for all potatoes purchased from or handled for such the

1 ~~designated handler.~~ Designated handlers shall maintain records  
2 indicating which portion of each lot of potatoes handled is  
3 subject to assessment.

4 (3) No designated handler shall file a false or misleading  
5 report with the board or fail to remit assessments in the amount  
6 and within the time period as ~~specified-in~~ provided under this  
7 chapter.

8 7. Sections PIB 1.03 and 1.06 of the Wisconsin Administra-  
9 tive Code are adopted to read:

10 PIB 1.03 Levy and Payment of Assessments. (1) An assessment  
11 of one cent per hundredweight is levied against each producer for  
12 all potatoes grown by the producer in this state and entered into  
13 the current of commerce. Potatoes retained by a producer for home  
14 consumption and for use as seed potatoes or as animal feed on the  
15 producer's own farm are exempt from the assessment, but subject  
16 to reporting requirements of s. PIB 1.05(1), Wis. Adm. Code.  
17 Assessments on any lot of potatoes shall be determined on basis of  
18 their sale or utilization for human food purposes or seed. In the  
19 absence of records indicating ultimate disposition or utilization  
20 of potatoes, assessments shall be due and payable on an entire lot  
21 of potatoes.

22 (2) Assessments shall be paid to the board by designated  
23 handlers first introducing potatoes into the current of commerce.  
24 Designated handlers may collect the assessment from producers or  
25 deduct it from the payment made to producers in accordance with  
26 procedures under s. PIB 1.04, Wis. Adm. Code. Handlers may also  
27 pay the assessment without any reimbursement from the producer.

1           (e) Sale of an undug field of potatoes. A producer sells a  
2 field of undug potatoes with payment to be based on crop yield.  
3 The basis for payment occurs when quantity and grade for transfer  
4 of title is determined.

5           (f) Direct sales by producers. A producer packs and sells  
6 potatoes of the producer's own production. The basis for payment  
7 occurs when the quantity and grade is determined and the potatoes  
8 are sold or delivered for sale.

9           (g) Processor's own production. A processor utilizes pot-  
10 atoes of the processor's own production in the manufacture of  
11 retail products. The basis for payment occurs when a deter-  
12 mination of quantity and grade is made and potatoes are delivered  
13 to the processing plant or placed in storage for processing.

14           (h) Sales to cooperatives. A producer delivers a crop to a  
15 cooperative either at harvest or from storage. The basis for  
16 payment occurs when the quantity and grade of potatoes is  
17 determined and potatoes are delivered to the cooperative.

18           (i) Sales by an agent or broker. A broker or designated  
19 handler sells potatoes for producers as the producers' agent or  
20 broker. This may include potatoes graded or packed by the  
21 producer. The basis for payment occurs when the quantity and  
22 grade is determined and potatoes are shipped to the agent or  
23 broker, or other buyer.

24           (4) Designated handlers shall remit assessments directly to  
25 the department by check, draft, or money order payable to the  
26 board not later than 10 days after the end of the month the  
27 assessment is due and payable.

1 provided in s. 227.026(1), Stats.

2 Dated: March 1, 1982.

3  
4 State of Wisconsin  
5 Department of Agriculture,  
6 Trade and Consumer Protection

7 By Robert F. Thayer  
8 Robert F. Thayer  
9 Administrator  
10 Marketing Division

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