

CR 82-204

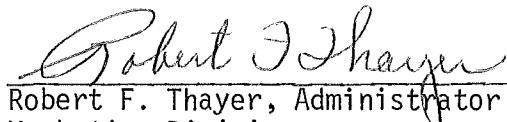
STATE OF WISCONSIN )  
DEPARTMENT OF AGRICULTURE, ) SS.  
TRADE & CONSUMER PROTECTION )

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 adopting rules relating to a milk marketing order for the levy and payment of assessments for the purposes of financing market research and development, industrial research and education programs, and the creation of a marketing board for administration of the marketing order, Chapter Ag 144, Wis. Adm. Code, was duly approved and adopted by the Department on May 2, 1983.

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 2nd day of May, 1983.

  
Robert F. Thayer, Administrator  
Marketing Division

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MAY 3 1983  
3:15 pm  
Revisor of Statutes

7-1-83

ORDER OF THE  
STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING, AMENDING AND REPEALING RULES

1       To create Chapter Ag 144 relating to a milk marketing order  
2 for the levy and payment of assessments for the purposes of  
3 financing market research and development, industrial research and  
4 educational programs, and the creation of a marketing board for  
5 administration of the marketing order.

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

The department's rules relating to the marketing of milk in this state apply to all producers of milk. The rule creates a state marketing order for the purpose of financing market research and development, industrial research, and educational programs related to sales of milk and dairy products. Funds would be raised through producer assessments of 5 cents per hundredweight of milk sold. Funds may also be used to jointly sponsor projects with any public or private organization, including the American Dairy Association of Wisconsin, to meet the objectives of the marketing order.

The marketing order would be administered by a milk marketing board consisting of 25 producers elected by districts for staggered 3-year terms. The board would be incorporated as a non-stock, non-profit corporation. In addition to the responsibilities associated with the administration of the marketing order, the duties of the marketing board include: collection of marketing information, protection of confidential information, reporting non-compliance with the provisions of the marketing order, recommending rules and amendments related to the marketing order, and collection and allocation of funds. The marketing board is required to maintain a bond on its officers and employees and to annually prepare a statement of operations.

Each producer selling milk to handlers or directly to consumers is liable for payment of assessments under the milk marketing order. The rule does not contain a provision for producer refunds. Handlers and processors receiving milk from producers or marketing milk on behalf of producers are responsible for deducting the assessments from amounts due producers. Assessments are payable monthly to the marketing board at the time final settlement is made for milk sold the preceding month.

In addition to collecting and remitting assessments, handlers must maintain accurate records of purchases of milk from producers and may be required to submit reports to the marketing board to verify assessments paid into the marketing order. The marketing board has the authority to audit handlers or producers to ensure compliance.

It is estimated that the milk marketing order will generate \$11 million per year in assessment revenue. If a producer sold 500,000 pounds of milk in a year, that producer would be liable for assessments totaling \$250 on that year's sales. The estimated average volume of milk sold by a producer in this state is 500,000 pounds or 5,000 hundredweight.

Any department services required by the marketing board will be provided on a cost-recovery basis.

After 4 years from the effective date of the marketing order, there would be a producer review. The marketing board would afford each affected producer the opportunity to vote individually in an advisory referendum to determine if producers want the order amended or terminated. If more than 50 percent of those voting disapprove continuation of any or all aspects of the order, the board would recommend action to the secretary to amend or terminate the order.

1 Pursuant to authority vested in the State of Wisconsin  
 2 Department of Agriculture, Trade and Consumer Protection by  
 3 s. 96.15, Stats. (as amended by Chapter 283, Laws of 1981), the  
 4 State of Wisconsin Department of Agriculture, Trade and Consumer  
 5 Protection adopts rules as a milk marketing order interpreting  
 6 Chapter 96, Stats. (as amended by Chapter 283, Laws of 1981), as  
 7 follows:

8 Section 1. Chapter Ag 144 is created to read:

9 Ag 144.01 DEFINITIONS. As used in this chapter, unless the  
 10 context requires otherwise:

11 (1) "Affected producer" means an individual, partnership,  
 12 corporation or other business entity engaged in the production of  
 13 milk within this state and the sale of milk to a handler or  
 14 consumer.

1 (2) "District" means an area of the state, as defined in  
2 s. Ag 144.03, from which representatives are elected to serve on  
3 the marketing board.

4 (3) "Handler" means any person engaged in the business of  
5 purchasing or receiving milk from, or selling milk on behalf of,  
6 affected producers and introducing it into channels of commerce,  
7 or in the business of processing or distributing milk of  
8 producers, or any person engaged in the business of producing milk  
9 for retail consumption in commercial quantities.

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

14 (5) "Milk" means the whole lacteal secretion obtained from  
15 dairy cows.

16 (6) "Process" or "processing" means the bottling, packaging,  
17 treating or preparation of milk for fluid consumption or the  
18 manufacturing of milk into cheese, butter, nonfat dry milk or  
19 other dairy products.

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

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

24 Ag 144.02 PURPOSE. (1) The objectives of this order are to  
25 expand and maintain domestic sales of milk and dairy products,  
26 develop new products and new markets, improve methods and  
27 practices related to marketing or processing of milk and dairy

1 products and inform or educate consumers.

2 (2) Funds collected under this order may be used by the  
3 marketing board for any purpose to meet one or more of the objec-  
4 tives described in this order including advertising and promotion,  
5 market research and development, industrial research and educa-  
6 tional programs. Funds may be used by the marketing board to  
7 jointly sponsor projects with any private or public organization to  
8 meet the objectives of this order.

9 Ag 144.03 DISTRICTS. (1) The state shall be divided into  
10 25 districts for purposes of electing affected producers to the  
11 marketing board. The following counties shall initially  
12 constitute the respective districts.

- 13 (a) District 1. Ashland, Bayfield, Burnett, Douglas, Iron,  
14 Rusk, Sawyer and Washburn counties
- 15 (b) District 2. Florence, Forest, Langlade, Marinette,  
16 Oconto and Vilas counties
- 17 (c) District 3. Lincoln, Oneida, Price and Taylor counties
- 18 (d) District 4. Barron and Polk counties
- 19 (e) District 5. Dunn and St. Croix counties
- 20 (f) District 6. Chippewa and Eau Claire counties
- 21 (g) District 7. Clark county
- 22 (h) District 8. Marathon county
- 23 (i) District 9. Shawano and Waupaca counties
- 24 (j) District 10. Brown, Door and Kewaunee counties
- 25 (k) District 11. Outagamie and Winnebago counties
- 26 (l) District 12. Portage, Waushara and Wood counties
- 27 (m) District 13. Buffalo, Pepin and Pierce counties
- (n) District 14. Jackson, LaCrosse and Trempealeau counties

- 1 (o) District 15. Adams, Juneau and Monroe counties  
2 (p) District 16. Fond du Lac, Green Lake and Marquette  
3 counties  
4 (q) District 17. Calumet and Manitowoc counties  
5 (r) District 18. Kenosha, Milwaukee, Ozaukee, Racine,  
6 Sheboygan, Washington and Waukesha counties  
7 (s) District 19. Columbia and Dodge counties  
8 (t) District 20. Richland and Sauk counties  
9 (u) District 21. Crawford and Vernon counties  
10 (v) District 22. Grant county  
11 (w) District 23. Iowa and Lafayette counties  
12 (x) District 24. Dane and Jefferson counties  
13 (y) District 25. Green, Rock and Walworth counties

14 (2) The district boundaries designated in sub. (1) shall exist  
15 for at least 3 years after the effective date of the marketing  
16 order, at which time the marketing board may reapportion the  
17 districts, with the approval of the secretary, to assure fair  
18 representation to affected producers. The board may reapportion  
19 districts no more frequently than every 3 years coinciding with the  
20 anniversary of the effective date of the order. No alteration of  
21 district boundaries due to reapportionment shall have the effect of  
22 removing a marketing board member from office during the member's  
23 term.

23 Ag 144.04 MARKETING BOARD. (1) MEMBERSHIP. (a) A milk  
24 marketing board consisting of 25 affected producers, one from each  
25 district, is established to administer this order. Board members  
26 shall reside in the district which they are elected to represent.  
27 Board members shall be nominated and elected as prescribed in

1 s. 96.10(1), Stats. Notice of the secretary's decision for issu-  
2 ance of this marketing order shall contain a call for nominations  
3 for election of board members to initial terms of office. Nomina-  
4 tions shall be filed not earlier than 75 days and not later than  
5 105 days after the date of the secretary's call for nominations,  
6 and the election held within 60 days after approval of the market-  
7 ing order by referendum. A call for nominations for subsequent  
8 election of affected producers to an expired term of office on the  
9 marketing board shall be made by the board not later than 90 days  
10 before expiration of the term, and nominations shall be filed not  
11 later than 60 days before the term of office expires. Elections to  
12 fill expired terms of office shall be held within the 60-day period  
13 preceding the expiration of the terms of office. If no nominations  
14 are made by affected producers within the times specified, the  
15 secretary or marketing board may nominate affected producers for  
16 election.

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

22 (2) TERM OF OFFICE; REMOVAL; VACANCIES. (a) In the initial  
23 election of marketing board members, members elected from districts  
24 one, 4, 7, 10, 13, 16, 19, 22 and 25 shall serve a one-year term;  
25 board members elected from districts 2, 5, 8, 11, 14, 17, 20 and 23  
26 shall serve a 2-year term; and board members elected from districts  
27 3, 6, 9, 12, 15, 18, 21 and 24 shall serve a 3-year term. All

1 other elections of affected producers to the marketing board shall  
2 be for 3-year terms.

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

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

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

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

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

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

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

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

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

26 (g) To develop procedures for collecting assessments to cover  
27 expenses incurred in carrying out programs and the administration



1 of this order.

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

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

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

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

12 (4) MARKETING SERVICES. The marketing board may, for the  
13 purpose of expending funds for advertising and promotion, name the  
14 American Dairy Association of Wisconsin as the board's marketing  
15 agent. Under this subsection, the American Dairy Association of  
16 Wisconsin may participate and cooperate with any public or private  
17 organization.

18 Ag 144.05 APPLICABILITY OF ORDER. This order shall be  
19 applicable to all milk produced in the state and introduced into  
20 commercial channels.

21 Ag 144.06 ASSESSMENTS. (1) Affected producers shall be  
22 liable for an assessment of 5 cents per hundredweight on all milk  
23 sold to or marketed by a handler. Hundredweight shall be deter-  
24 mined on the basis of scale weights, bulk tank measurements by  
25 licensed weighers and samplers, milk statements, or a combination  
26 of the above.

27 (2) Assessments shall be deducted by handlers from amounts due

1 affected producers and shall become due to the marketing board at  
2 the time title to the milk is transferred from affected producers  
3 to handlers.

4 (3) When milk is sold by affected producers to non-resident  
5 handlers, affected producers shall be deemed to be producer-  
6 handlers, as defined in s. Ag 144.01(7), acting on their own behalf  
7 and assessments shall be due to the marketing board at the time  
8 title is taken by the non-resident handler. Producer-handlers  
9 shall maintain records, file reports and remit assessments due on  
10 their own milk to the marketing board in accordance with procedures  
11 under this chapter.

12 (4) Assessments shall be payable monthly to the marketing  
13 board on the date final settlement is made to affected producers  
14 for milk sold during the preceding month and in accordance with  
15 procedures specified by the marketing board.

16 (5) Producers processing or selling their own milk directly to  
17 consumers shall be liable for payment of assessments. Assessments  
18 due from affected producers selling milk directly to consumers  
19 shall be payable quarterly to the marketing board and a report  
20 filed at the time the assessments are payable, in accordance with  
21 procedures specified by the marketing board.

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

26 Ag 144.07 REPORTS. (1) Each handler shall maintain accurate  
27 records and accounts of all milk purchased from affected producers.

1 Records shall include, but may not be limited to, names and  
2 addresses of producers from whom milk was purchased or sold, quan-  
3 tities of milk purchased or sold, and the dates title of milk was  
4 taken and payments made or received. Each handler and producer-  
5 handler shall maintain and submit reports to the marketing board as  
6 the secretary or the marketing board may require as often as neces-  
7 sary to ensure compliance with this order and the proper collection  
8 of assessments.

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

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

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

18 Ag 144.08 VIOLATIONS. Any person who violates a provision of  
19 this order is subject to the penalties provided in s. 96.17, Stats.

20 Ag 144.09 REVIEW. Affected producers shall be afforded the  
21 opportunity to participate in an advisory referendum after 4 years  
22 from the effective date of this order for the purpose of amending  
23 or terminating this order. The marketing board shall conduct the  
24 advisory referendum and each affected producer shall vote  
25 individually. If more than 50% of the affected producers voting in  
26 the referendum disapprove continuation of any or all aspects of  
27 this order, the board shall recommend action to the secretary under

1 s. 96.05, Stats., for the purpose of amending or terminating this  
2 order.

3 The rules contained in this order shall take effect subsequent  
4 to the election of the marketing board as provided in s. 96.10(1),  
5 Stats., and on the first day of the month following publication in  
6 the Wisconsin administrative register as provided in s. 227.026(1),  
7 Stats.

8 Dated: May 2, 1983.

9 STATE OF WISCONSIN  
10 DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION

11  
12  
13 By Robert F. Thayer  
14 Robert F. Thayer, Administrator  
Marketing Division

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