

CR 82-247

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

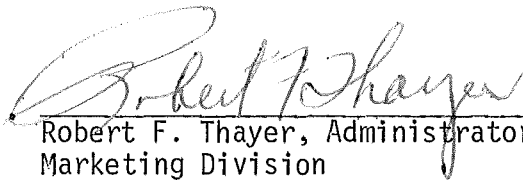
RECEIVED  
JUL 14 1983  
4:20 pm  
Revisor of Statutes  
Bureau

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 soybean marketing order for the levy and payment of assessments for the purposes of financing market research and development, industrial research and educational programs, and the creation of a marketing board for administration of the marketing order, Chapter Ag 145, Wis. Adm. Code, was duly approved and adopted by the Department on July 13, 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 13<sup>th</sup> day of July, 1983.

  
Robert F. Thayer, Administrator  
Marketing Division

Q. 1. 83

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

5 To create Chapter Ag 145 relating to a soybean marketing  
6 order for the levy and payment of assessments for the purposes of  
7 financing market research and development, industrial research and  
8 educational programs, and the creation of a marketing board for  
9 administration of the marketing order.

---

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

The department's rules relating to marketing of soybeans in this state apply to all producers of soybeans sold in commercial channels. The rule creates a state soybean marketing order for the purposes of financing market research and development, research relating to production, marketing or handling practices and educational programs related to the sale of soybeans and soybean products. Funds will be raised through producer assessments of 2 cents per bushel of soybeans sold in commercial channels during the first crop year in which the marketing order is in effect. Thereafter, the marketing board will annually determine the rate of assessment but with a maximum allowable assessment of 2 cents per bushel, depending on the annual operating budget of the board. Funds may also be used to jointly sponsor projects with any public or private organization to meet the objectives of the marketing order.

The marketing order will be administered by a soybean marketing board under the general guidance of the department. The marketing board, consisting of 7 producers elected by districts for staggered 3-year terms, will 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 soybean marketing board include: collection of marketing information, protection of confidential information, recommending rules and amendments related to the marketing order, reporting non-compliance with the provisions of 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 soybeans in commercial channels is liable for payment of the assessment under the soybean marketing order. Handlers and dealers taking title to the soybeans sold to

them by producers are responsible for collecting the assessment from amounts due the producers. Assessments are payable to the marketing board by the 15th of the month following the month in which the sale occurred. Producers acting as handlers on their own behalf must also remit assessments due on their own soybeans.

In addition to collecting and remitting assessments, handlers must maintain accurate records of purchases of soybeans from producers and may be required to submit monthly 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.

A producer may request a refund of the assessment which the producer paid into the marketing order. Claims for producer refunds must be filed within 90 days after assessments become due, and the refund paid by the marketing board within 60 days after claims are filed.

It is estimated that the soybean marketing order will generate \$250,000 per year in assessment revenue. If a producer sold 2,700 bushels in a year, that producer would be liable for assessments totaling \$54.00 at 2 cents per bushel. The estimated average volume of soybeans sold by a producer in this state is 2,700 bushels.

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

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

8 Section 1. Chapter Ag 145 is created to read:

9 Ag 145.01 DEFINITIONS. As used in this chapter, unless the  
 10 context requires otherwise:

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

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

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

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

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

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

14 (7) "Secretary" means the secretary of the state of Wis-  
15 consin department of agriculture, trade and consumer protection.

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

18 Ag 145.02 PURPOSE. (1) The primary objective of this mar-  
19 keting order is to expand and maintain sales of soybeans. This  
20 includes the development of new products and new markets; improv-  
21 ing methods and practices related to producing, processing, or  
22 marketing soybeans; and educational programs for producers, han-  
23 dlers, or consumers relating to the quality or nutritional value  
24 of soybeans or soybean products.

25 (2) Funds collected under this order may be used by the  
26 marketing board to meet one or more objectives described in this  
27 order. Funds may be used by the marketing board to jointly spon-

1 sor projects with any private or public organization to meet the  
2 objectives of this order.

3 Ag 145.03 DISTRICTS. (1) The state shall be divided into  
4 7 districts for purposes of electing affected producers to the  
5 marketing board. The following counties shall initially  
6 constitute the respective districts:

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

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

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

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

19 (e) District 5. Rock county.

20 (f) District 6. Kenosha and Walworth counties.

21 (g) District 7. Milwaukee and Racine counties.

22 (2) The district boundaries designated in sub. (1) shall  
23 exist for 3 years after the effective date of the marketing order,  
24 at which time the marketing board may reapportion the districts,  
25 with the approval of the secretary, to assure fair representation  
26 to affected producers. The board may reapportion districts no  
27 more frequently than every 3 years coinciding with the anniversary

1 of the effective date of the order. No alteration of district  
2 boundaries due to reapportionment shall have the effect of  
3 removing a marketing board member from office during the member's  
4 term.

5 Ag 145.04 MARKETING BOARD. (1) MEMBERSHIP. (a) A soybean  
6 marketing board consisting of 7 affected producers, one from each  
7 district, is established to administer this order. Board members  
8 shall reside in the district they are elected to represent. Board  
9 members shall be nominated and elected as prescribed in  
10 s. 96.10(1), Stats. Notice of the secretary's decision for issu-  
11 ance of this marketing order shall contain a call for nominations  
12 for election of board members to initial terms of office. Nomina-  
13 tions shall be filed not later than 25 days after the date of the  
14 secretary's call for nominations, and the election held concur-  
15 rently with the referendum during the period set by the secretary.  
16 A call for nominations of affected producers for subsequent elec-  
17 tion to an expired term of office on the marketing board shall be  
18 made by the board not later than 90 days before expiration of the  
19 term, and nominations shall be filed not later than 60 days before  
20 the term of office expires. Elections to fill expired terms of  
21 office shall be held within the 60-day period preceding expiration  
22 of the terms of office. If no nominations are made by affected  
23 producers within the specified times, the secretary or marketing  
24 board may extend the time period within which nominations may be  
25 filed.

26 (b) Affected producers residing in each district shall elect  
27 one affected producer from the district to serve on the marketing

1 board. The nominee receiving the highest number of votes in the  
2 election in each district shall be the board member representing  
3 that district.

4 (2) TERM OF OFFICE; REMOVAL; VACANCIES. (a) For the ini-  
5 tial terms of marketing board members, board members elected from  
6 districts one and 7 shall serve one-year terms; board members  
7 elected from districts 2 and 6 shall serve 2-year terms; and board  
8 members elected from districts 3, 4, and 5 shall serve 3-year  
9 terms.

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

12 (c) Each member of the marketing board shall continue to be  
13 an affected producer during the term of office. Failure of a  
14 board member to continue as an affected producer shall create a  
15 vacancy on the marketing board.

16 (d) If a vacancy occurs for any reason, the marketing board  
17 shall appoint an affected producer to serve the remainder of the  
18 unexpired term of office. The successor shall be from the same  
19 district in which the vacancy occurs.

20 (3) DUTIES. The duties of the marketing board shall include  
21 the following:

22 (a) To adopt bylaws consistent with the articles of  
23 incorporation, ch. 96, Stats., and this order.

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

26 (c) To protect the confidentiality of information obtained  
27 under this order relating to the businesses of individual

1 producers or handlers.

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

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

6 (f) To recommend to affected producers or to the secretary  
7 amendments to this order.

8 (g) To develop procedures for collecting assessments to  
9 cover expenses incurred in carrying out programs and the  
10 administration of this order.

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

13 (i) To determine how funds collected under this order are to  
14 be allocated.

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

18 (k) To maintain a bond on its officers and employes in an  
19 amount of not less than 50 percent of the annual operating budget  
20 of this order.

21 Ag 145.05 APPLICABILITY OF ORDER. (1) SCOPE. This market-  
22 ing order is applicable to all soybeans produced in the state and  
23 sold in commercial channels.

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

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

27 (b) Soybeans produced for the purpose of feeding the



1 producer's own livestock.

2 Ag 145.06 ASSESSMENTS. (1) Each affected producer for the  
3 first crop year for which the marketing order is effective shall  
4 be liable for an assessment of 2 cents per bushel on all soybeans  
5 grown in this state and sold in commercial channels. In subse-  
6 quent years, the marketing board shall annually determine the rate  
7 of assessment to be levied and collected but in no event shall it  
8 exceed 2 cents per bushel. Bushels shall be determined on the  
9 basis of scale tickets, invoices, bills of lading, manifests,  
10 settlement sheets, or other sales or shipping documents, or any  
11 combination of the above.

12 (2) Assessments shall be collected by handlers or deducted  
13 from amounts due affected producers and shall become due to the  
14 marketing board at the time title to the soybeans is transferred  
15 from affected producers to handlers. For purposes of this subsec-  
16 tion, assessments shall become due to the marketing board at the  
17 indicated time for the following types of transactions between  
18 producers and handlers.

19 (a) When soybeans are sold by an affected producer for cur-  
20 rency, certified or personal check, money order, or other type of  
21 cash transaction, assessments shall become due when the quantity  
22 sold is determined.

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

27 (c) When soybeans are sold by an affected producer under a

1 basis contract, or any contract negotiated in terms of forward  
2 prices, assessments shall become due at the time title to the soy-  
3 beans is taken by the handler according to terms specified in the  
4 contract and without regard to any advance payment received by the  
5 affected producer from the handler.

6 (d) When soybeans are sold by an affected producer under a  
7 deferred price contract, or any contract in which price is deter-  
8 mined subsequent to the time possession is taken by the handler,  
9 assessments shall become due at the time title to the soybeans is  
10 transferred by the affected producer according to terms specified  
11 in the contract.

12 (e) When soybeans are sold by affected producers to  
13 non-resident handlers, affected producers shall be deemed to be  
14 producer-handlers, as defined in Ag 145.01(6), acting on their own  
15 behalf, and assessments shall be due to the marketing board at the  
16 time title to the soybeans is taken by the non-resident handler.

17 (3) For the purpose of this section, lending agencies,  
18 including the commodity credit corporation, shall be deemed  
19 handlers if title is taken for purposes of foreclosure or loan  
20 repayment.

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

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

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

4 Ag 145.07 REFUNDS. (1) Any producer who has paid an  
5 assessment may receive a refund upon submitting proof satisfactory  
6 to the marketing board that the assessment for which the refund is  
7 requested has been paid.

8 (2) Claims for producer refunds must be submitted on forms  
9 prescribed by the marketing board and filed within 90 days after  
10 the assessments are due to the marketing board by the handler.

11 (3) All valid claims for producer refunds shall be paid by  
12 the board within 60 days after receipt of the claim, or within a  
13 reasonable period of additional time as may be necessary to  
14 determine the validity of the claim.

15 Ag 145.08 REPORTS. (1) Each handler shall maintain accu-  
16 rate records and accounts of all soybeans purchased from affected  
17 producers. Records shall include, but may not be limited to,  
18 names and addresses of producers from whom soybeans were pur-  
19 chased, quantities of soybeans purchased, and the dates title to  
20 soybeans was taken and payments made or received. Each handler  
21 and producer-handler shall maintain and submit reports to the mar-  
22 keting board as the secretary or the marketing board may require  
23 as often as necessary to ensure compliance with this order and the  
24 proper collection of assessments.

25 (2) Each handler shall provide affected producers with a  
26 record of assessments collected and remitted to the marketing  
27 board at least once each year.

1 (3) The marketing board, or the secretary, may require pro-  
2 ducers to file reports as may be necessary for the administration  
3 and enforcement of this order.

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

7 Ag 145.09 VIOLATIONS. Any person who violates a provision  
8 of this order is subject to the penalties provided in s. 96.17,  
9 Stats.

10 The rules contained in this order shall take effect subse-  
11 quent to the election of the marketing board as provided in  
12 s. 96.10(1), Stats., and on the first day of the month following  
13 publication in the Wisconsin administrative register as provided  
14 in s. 227.026(1), Stats.

15 Dated: July 13<sup>th</sup>, 1983

16 STATE OF WISCONSIN  
17 DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION

18  
19 By Robert F. Thayer  
20 Robert F. Thayer, Administrator  
Marketing Division

21 WH/T3/11/SP/D19  
22 7/12/83-12  
23  
24  
25  
26  
27