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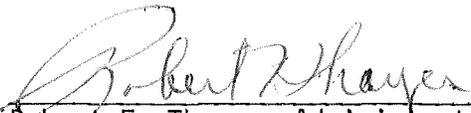
STATE OF WISCONSIN)
DEPARTMENT OF AGRICULTURE,) SS.
TRADE & CONSUMER PROTECTION)

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 a cranberry marketing order for the levy and payment of assessments for the purposes of financing research, market development and educational programs, and the creation of a marketing board for administration of the marketing order, Chapter Ag 142, 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 13th day of July, 1983.


Robert F. Thayer, Administrator
Marketing Division

9.1.83

3-year terms. Under the rule, the concept of an advisory council as provided for in the present marketing order to assist the secretary in the administration of the order will be eliminated and replaced by a cranberry marketing board. The board 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 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 cranberries to handlers for processing or at retail is liable for payment of assessments under the marketing order. The proposal does not contain a provision for producer refunds. Handlers receiving and purchasing cranberries from producers are responsible for collecting the assessment from amounts due the producers. Assessments are payable to the marketing board by February 1 of each calendar year. Producers acting as handlers must also remit assessments due on their own cranberries.

In addition to collecting and remitting assessments, handlers must maintain accurate records of purchases of cranberries 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 authority to audit handlers or producers to ensure compliance.

It is estimated that the cranberry marketing order will generate \$50,000-\$100,000 per year in assessment revenue. There are currently 130 cranberry producers in Wisconsin. The estimated average volume of cranberries sold by producers is 7,500 barrels. If a producer sold 7,500 barrels in a year, that producer would be liable for assessments totaling \$375.00 at \$0.05 per barrel or \$750.00 at \$0.10 per barrel.

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 Depart-
 2 ment of Agriculture, Trade and Consumer Protection by s. 96.15,
 3 Stats. (as amended by Chapter 283, Laws of 1981), the State of
 4 Wisconsin Department of Agriculture, Trade and Consumer Protection
 5 adopts rules as a cranberry marketing order interpreting Chapter
 6 96, Stats. (as amended by Chapter 283, Laws of 1981), as follows:

1 Section 1. Chapter Ag 97 is repealed.

2 Section 2. Chapter Ag 142 is created to read:

3 Ag 142.01 DEFINITIONS. As used in this chapter, unless the
4 context requires otherwise:

5 (1) "Affected producer" or "producer" means an individual,
6 partnership or other business entity in Wisconsin engaged in the
7 production and sale of cranberries.

8 (2) "Barrel" means 100 pounds of cranberries.

9 (3) "Cranberries" means all varieties of Vaccinium
10 macrocarpon.

11 (4) "Handler" means any person, including a producer, per-
12 forming any of the functions of processing cranberries or selling
13 cranberries directly to consumers.

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

18 (6) "Processing" or "processed" means the operation of
19 canning, packing, freezing, preserving or otherwise preparing
20 cranberries for marketing in any form.

21 (7) "Producer-handler" means a producer who sells
22 cranberries to a non-resident handler.

23 (8) "Secretary" means the secretary of the state of Wis-
24 consin department of agriculture, trade and consumer protection.

25 Ag 142.02 PURPOSE. (1) The primary objective of this mar-
26 keting order is to maintain and expand the sales of cranberries.
27 This includes the development of new products and new markets;

1 improving methods and practices related to producing, processing or
2 marketing of cranberries; and providing educational programs for
3 producers, handlers or consumers.

4 (2) Funds collected under this order may be used by the mar-
5 keting board to meet one or more of the objectives described in this
6 order including market research and development, industrial research
7 and educational programs. Funds may be used by the marketing board
8 to jointly sponsor projects with any private or public organization
9 to meet the objectives of this order.

10 Ag 142.03 MARKETING BOARD. (1) MEMBERSHIP. (a) A cranberry
11 marketing board consisting of 7 producers is established to adminis-
12 ter this order. Board members shall be residents of Wisconsin.
13 Board members shall be nominated and elected as prescribed in
14 s. 96.10(1), Stats. Notice of the secretary's decision for issuance
15 of this marketing order shall contain a call for nominations for
16 election of board members to initial terms of office. Nominations
17 shall be filed not later than 20 days after the secretary's call for
18 nominations, and the election held concurrently with the referendum
19 during the period set by the secretary. A call for nominations of
20 producers for subsequent election to an expired term of office on
21 the marketing board shall be made by the board not later than 90
22 days before expiration of the term, and nominations shall be filed
23 not later than 60 days before the term of office expires. An elec-
24 tion to fill any expired term of office shall be held within the
25 60-day period preceding expiration of the term of office. If no
26 nominations are made by producers within the specified times, the
27 secretary or marketing board may extend the time period within which

1 nominations may be filed.

2 (b) Producers shall elect at large 7 affected producers to
3 serve on the marketing board. The nominees receiving the highest
4 number of votes in the election shall be the board members
5 representing all other affected producers.

6 (2) TERM OF OFFICE; REMOVAL; VACANCIES. (a) For the
7 initial election of marketing board members, the 3 board members
8 receiving the highest number of votes shall hold office for a
9 period of 3 years, the 2 board members receiving the fourth and
10 fifth highest number of votes shall hold office for a period of
11 2 years, and the 2 board members receiving the lowest number of
12 votes shall hold office for a period of one year.

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

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

19 (d) If a vacancy occurs for any reason, the marketing board
20 shall appoint an affected producer to serve the remainder of the
21 unexpired term of office.

22 (3) DUTIES. The duties of the marketing board shall include
23 the following:

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

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

1 (c) To protect the confidentiality of information obtained
2 under this order relating to the businesses of individual
3 producers or handlers.

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

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

8 (f) To recommend to producers or to the secretary amendments
9 to this order.

10 (g) To develop procedures for collecting assessments used in
11 funding programs and the administration of this order.

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

14 (i) To determine how funds collected under the marketing
15 order are to be allocated.

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

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

22 Ag 142.04 APPLICABILITY OF ORDER. This order shall be
23 applicable to all cranberries produced in Wisconsin and sold for
24 processing or directly to consumers.

25 Ag 142.05 ASSESSMENTS. (1) Each producer for the first
26 crop year for which the marketing order is effective shall be lia-
27 ble for an assessment of 5 cents (\$0.05) per barrèl on all cran-

1 berries produced during that crop year. Thereafter, the marketing
2 board shall annually determine the rate of assessment to be levied
3 and collected, but in no event shall it exceed 10 cents (\$0.10)
4 per barrel on all cranberries produced. Number of barrels shall
5 be determined on the basis of acreage and yields, scale tickets,
6 invoices, bills of lading, or other sales or shipping documents,
7 or any combination of the above.

8 (2) When cranberries are sold by producers to handlers,
9 assessments shall be deducted or collected by handlers from
10 amounts due producers and shall become due to the marketing board
11 at the time title to the cranberries is transferred from producers
12 to handlers.

13 (3) When cranberries are sold by producers to non-resident
14 handlers, producers shall be deemed to be producer-handlers, as
15 defined in s. Ag 142.01(7), acting on their own behalf, and
16 assessments shall be due to the marketing board at the time title
17 to the cranberries is taken by the non-resident handler.

18 (4) When cranberries are sold by producers directly to
19 consumers without previously being processed, producers shall be
20 deemed to be handlers acting on their own behalf and assessments
21 shall be due to the marketing board at the time the cranberries
22 are sold to consumers.

23 (5) Assessments due to the marketing board shall be payable
24 to the board on or before February 1 of the year after the
25 cranberries are harvested.

26 (6) The marketing board, or the secretary, shall have the
27 authority to audit financial and other records of handlers, pro-

1 ducers, or their agents to ensure compliance with this section.

2 Ag 142.06 REPORTS. (1) Each producer shall maintain accu-
3 rate records of all cranberry production. Producer records shall
4 include, but may not be limited to, quantity and disposition of
5 cranberry production. Each handler shall maintain accurate
6 records and accounts of all cranberries purchased from producers
7 or processed by the handler. Handler records shall include, but
8 may not be limited to, names and addresses of each producer from
9 whom cranberries were purchased, the quantity of cranberries
10 processed, and the dates title to the cranberries was taken and
11 payments made or received. Each handler, producer, and
12 producer-handler shall maintain and submit reports to the market-
13 ing board as the secretary or the marketing board may require as
14 often as necessary to ensure compliance with this order and proper
15 collection of assessments.

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

19 Ag 142.07 VIOLATIONS. Any person who violates a provision
20 of this order is subject to the penalties provided in s. 96.17,
21 Stats.

22 The rules contained in this order shall take effect subse-
23 quent to the election of the marketing board as provided in
24 s. 96.10(1), Stats., and on the first day of the month following
25 publication in the Wisconsin administrative register as provided
26 in s. 227.026(1), Stats.

27

Dated: July 13, 1983.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By Robert F. Thayer
Robert F. Thayer, Administrator
Marketing Division

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