

Chapter PIB 1

POTATO ASSESSMENT: METHOD OF COLLECTION
AND REFUNDING

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PIB 1.01 Definitions. In addition to the definitions in s. 100.39, Stats., the following definitions apply to this chapter:

(1) "Board" means the potato industry board created under s. 15.135 (2), Stats. and attached to the department under s. 15.03, Stats.

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

(3) "Designated handler" means a person designated under s. PIB 1.02 as the person responsible for the collection and payment of assessments.

(4) "Processor" means a person who commercially processes potatoes into potato products, including but not restricted to frozen, dehydrated, or canned potato products, potato chips and shoestrings, and flour, or who purchases potatoes from the producer thereof for such commercial processing.

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; am. (2), renum. (3) and (4) to be (4) and (3), and am. (3), Register, April, 1982, No. 316, eff. 5-1-82.

PIB 1.02 Designated handler. Assessments provided under s. PIB 1.03 (1), shall be paid to the board by the following designated handlers with respect to potatoes handled by them:

(1) Handlers engaged in the business of buying potatoes from producers for resale as principal or agent or of selling potatoes as agent for producers, other than producers acting as their own designated handler under sub. (4).

(2) Processors purchasing potatoes directly from producers and not from a handler under sub. (1), other than producers acting as their own designated handler under sub. (4).

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

(4) Producers electing to act as their own designated handler in the sale of potatoes to or through designated handlers under sub. (1) or (2). Producers electing to act as their own designated handler in the payment of assessments shall file a written request for authority to act as their own designated handler on forms provided by the board. Producers shall not act as their own designated handler unless board approval is first obtained. Copies of the board approved election shall be filed by

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the producer with designated handlers under sub. (1) or (2) for potatoes sold to or through them.

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; r. (1), (3) and (4), renum. (2) and am., Register, April, 1982, No. 316, eff. 6-1-82.

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

(2) Assessments shall be paid to the board by designated handlers first introducing potatoes into the current of commerce. Designated handlers may collect the assessment from producers or deduct it from the payment made to producers in accordance with procedures under s. PIB 1.04. Handlers may also pay the assessment without any reimbursement from the producer. Failure of designated handlers to collect or deduct the assessment does not relieve a handler from the obligation to remit the assessment to the board.

(3) Assessments shall be due and payable by designated handlers at the time that the basis for payment to producers or the assessable basis for potatoes of a designated handler's own production is determined. The basis for payment or the assessable basis of a handler's own production is determined at the indicated time in each of the following types of potato handling transactions:

(a) *Bulk basis.* A producer delivers field-run potatoes of the producer's own production to a packer for preparation for market. The basis for payment occurs when quantity and grade are determined.

(b) *Pack-out basis.* A producer's potatoes are graded, packed, and awaiting shipment. The basis for payment occurs when the quantity of packages and various grades of the producer's lot are determined.

(c) *Bulk sale for storage.* A producer delivers field-run potatoes of the producer's own production to a handler who takes title and places them in storage for subsequent handling. The basis for payment occurs when the quantity and grade for transfer of title to the potatoes is determined.

(d) *Sale from field or storage.* A handler purchases potatoes from a producer's field or storage for marketing or further storage for subsequent handling. The basis for payment occurs when the quantity and grade for transfer of title to the potatoes is determined.

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

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

(g) *Processor's own production.* A processor utilizes potatoes of the processor's own production in the manufacture of retail products. The basis for payment occurs when a determination of quantity and grade is made and potatoes are delivered to the processing plant or placed in storage for processing.

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

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

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

History: Cr. Register, April, 1982, No. 316, eff. 5-1-82.

PIB 1.04 Collection of assessments from producers. (1) Designated handlers may collect assessments directly from the producer whose potatoes are subject to assessment, or deduct the assessments from payments made to producers for potatoes purchased from or handled for them. If assessments are collected from producers or deducted from proceeds of purchase or sale, the designated handler shall furnish to the producer a statement reflecting the assessments collected or deducted.

(2) Producers engaged in the handling or processing of potatoes of their own production and who are responsible for the payment of assessments as their own designated handler under s. PIB 1.02 (3) and (4), shall be responsible for the maintenance of records and filing of reports under s. PIB 1.05, and the payment of assessments to the department in the same manner as any other designated handler.

(3) Producers are not responsible for remittance of assessments on potatoes of their own production which are graded, packed or handled by them only in connection with their sale to or through a designated handler, except where producers are acting as their own designated handler under s. PIB 1.02 (4).

(4) Producers acting as their own designated handler under s. PIB 1.02 (4), furnish a copy of board authorization to act as their own designated handler to any subsequent handlers identified under s. PIB 1.02 (1) or (2). Furnishing a copy of board authorization to act as one's own designated handler relieves subsequent handlers from the responsibility of payment of assessments on potatoes received from or handled for the producer.

(5) Nonresident designated handlers not maintaining an office or place of business in this state, but otherwise engaged in this state as a designated handler, shall be subject to the same requirements under this chapter as a resident designated handler with respect to business activi-

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ties conducted in this state, and shall be considered as having designated the secretary of state as agent for the service of process.

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

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; renun. from PIB 1.03 and am., Register, April, 1982, No. 316, eff. 5-1-82.

PIB 1.05 Records and reports. (1) Designated handlers shall maintain a separate record for each producer for all potatoes purchased from or handled for the producer. A separate record shall also be maintained by designated handlers for potatoes of their own production which they handled for themselves. Designated handlers shall, by the 10th of each month, file a report with the board on approved forms setting forth the following information for the immediately preceding month:

(a) Total quantity of potatoes handled for each producer, including potatoes of a designated handler's own production. The total quantity shall include potatoes exempt from assessment.

(b) Total quantity of potatoes handled for each producer which are subject to payment of assessment with this report.

(c) Name and address of each producer from whom an assessment is collected or deducted and the respective amounts collected or deducted from each.

(d) Name and address of producers or other handlers liable for payment of assessments together with the total quantity of potatoes received from the producer or prior handler.

(2) Designated handlers shall maintain records indicating which portion of each lot of potatoes handled is subject to assessment.

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

History: Cr. Register, July, 1975, No. 235, eff. 8-1-75; renun. from PIB 1.04 and am., Register, April, 1982, No. 316, eff. 5-1-82.

PIB 1.06 Refunds. (1) Producers who have paid the assessment required under s. 100.39, Stats., and these rules may request and obtain a refund of the assessment, if the assessment has been received by the board.

(a) Producers may obtain a refund of potato assessments by filing a written request on forms provided by the board. Refund requests shall be signed by the producer. Refund requests by corporations or partnerships shall be signed by an officer of the corporation or a partner in

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partnership, and shall indicate the name of the corporation or partnership and title of the person signing the request as an officer or partner.

(b) Refund requests shall be filed with the board on a refund request form within 90 days from the date the assessment is paid by or collected from the producer under s. PIB 1.04.

(c) In addition to the producer's name and address, refund requests shall include the handler's name and address, the quantity in hundred-weight of potatoes on which a refund request is made, and the date on which the assessment was due and payable.

(2) The department, with the consent of the board, shall refund the amount requested within 60 days from the date a fully completed refund request is received by the department. No refunds may be paid unless the assessment on which the refund request is based has been received by the department.

History: Cr. Register, April, 1982, No. 316, eff. 6-1-82.