

Chapter ATCP 144

MILK MARKETING ORDER

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Note: Chapter Ag 144 was renumbered chapter ATCP 144 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

ATCP 144.01 Definitions. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

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

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

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.02 Purpose. (1) The objectives of this order are to expand and maintain domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices related to marketing or processing of milk and dairy products and inform or educate consumers.

(2) Funds collected under this order may be used by the marketing board for any purpose to meet one or more of the objectives described in this order including advertising and promotion, market research and development, industrial research and educational programs. Funds may be

used by the marketing board to jointly sponsor projects with any private or public organization to meet the objectives of this order.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.03 Districts. (1) The state shall be divided into 25 districts for purposes of electing affected producers to the marketing board. The following counties shall initially constitute the respective districts.

(a) District 1. Ashland, Bayfield, Burnett, Douglas, Iron, Rusk, Sawyer and Washburn counties

(b) District 2. Florence, Forest, Langlade, Marinette, Oconto and Vilas counties

(c) District 3. Lincoln, Oneida, Price and Taylor counties

(d) District 4. Barron and Polk counties

(e) District 5. Dunn and St. Croix counties

(f) District 6. Chippewa and Eau Claire counties

(g) District 7. Clark county

(h) District 8. Marathon county

(i) District 9. Shawano and Waupaca counties

(j) District 10. Brown, Door and Kewaunee counties

(k) District 11. Outagamie and Winnebago counties

(l) District 12. Portage, Waushara and Wood counties

(m) District 13. Buffalo, Pepin and Pierce counties

(n) District 14. Jackson, LaCrosse and Trempealeau counties

(o) District 15. Adams, Juneau and Monroe counties

(p) District 16. Fond du Lac, Green Lake and Marquette counties

(q) District 17. Calumet and Manitowoc counties

(r) District 18. Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha counties

(s) District 19. Columbia and Dodge counties

(t) District 20. Richland and Sauk counties

(u) District 21. Crawford and Vernon counties

(v) District 22. Grant county

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- (w) District 23. Iowa and Lafayette counties
- (x) District 24. Dane and Jefferson counties
- (y) District 25. Green, Rock and Walworth counties

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

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.04 Marketing board. (1) MEMBERSHIP. (a) A milk marketing board consisting of 25 affected producers, one from each district, is established to administer this order. Board members shall reside in the district which they are elected to represent. Board members shall be nominated and elected as prescribed in s. 96.10 (1), Stats. Notice of the secretary's decision for issuance of this marketing order shall contain a call for nominations for election of board members to initial terms of office. Nominations shall be filed not earlier than 75 days and not later than 105 days after the date of the secretary's call for nominations, and the election held within 60 days after approval of the marketing order by referendum. A call for nominations for subsequent election of affected producers to an expired term of office on the marketing board shall be made by the board not later than 90 days before expiration of the term, and nominations shall be filed not later than 60 days before the term of office expires. Elections to fill expired terms of office shall be held within the 60-day period preceding the expiration of the terms of office. If no nominations are made by affected producers within the times specified, the secretary or marketing board may nominate affected producers for election.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) **MARKETING SERVICES.** The marketing board may, for the purpose of expending funds for advertising and promotion, name the American dairy association of Wisconsin as the board's marketing agent. Under this subsection, the American dairy association of Wisconsin may participate and cooperate with any public or private organization.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.05 Applicability of order. This order shall be applicable to all milk produced in the state and introduced into commercial channels.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.06 Assessments. (1) Affected producers shall be liable for an assessment of 10¢ per hundredweight on all milk sold to or marketed by a handler. Hundredweight shall be determined on the basis of scale weights, bulk tank measurements by licensed weighers and samplers, milk statements, or a combination of the above.

(2) Assessments shall be deducted by handlers from amounts due affected producers and shall become due to the marketing board at the time title to the milk is transferred from affected producers to handlers.

(3) When milk is sold by affected producers to non-resident handlers, affected producers shall be deemed to be producer-handlers, as defined in s. ATCP 144.01 (7), acting on their own behalf and assessments shall be due to the

marketing board at the time title is taken by the non-resident handler. Producer-handlers shall maintain records, file reports and remit assessments due on their own milk to the marketing board in accordance with procedures under this chapter.

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

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

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

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83; am. (1), Register, July, 1991, No. 427, eff. 8-1-91.

ATCP 144.07 Reports. (1) Each handler shall maintain accurate records and accounts of all milk purchased from affected producers. Records shall include, but may not be limited to, names and addresses of producers from whom milk was purchased or sold, quantities of milk purchased or sold, and the dates title of milk was taken and payments made or received. Each handler and producer-handler shall maintain and submit reports to the marketing

board as the secretary or the marketing board may require as often as necessary to ensure compliance with this order and the proper collection of assessments.

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

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

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

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.08 Violations. Any person who violates a provision of this order is subject to the penalties provided in s. 96.17, Stats.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.

ATCP 144.09 Review. Affected producers shall be afforded the opportunity to participate in an advisory referendum after 4 years from the effective date of this order for the purpose of amending or terminating this order. The marketing board shall conduct the advisory referendum and each affected producer shall vote individually. If more than 50% of the affected producers voting in the referendum disapprove continuation of any or all aspects of this order, the board shall recommend action to the secretary under s. 96.05, Stats., for the purpose of amending or terminating this order.

History: Cr. Register, June, 1983, No. 330, eff. 7-1-83.