

Chapter ATCP 142

CRANBERRY MARKETING ORDER

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Note: Chapter Ag 97 as it existed on August 31, 1983 was repealed and a new chapter Ag 142 was created effective September 1, 1983; Chapter Ag 142 was renumbered chapter ATCP 142 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

ATCP 142.01 Definitions. As used in this chapter, unless the context requires otherwise:

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

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

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

(4) "Handler" means any person, including a producer, performing any of the functions of processing cranberries or selling cranberries directly to consumers.

(5) "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.

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

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

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.02 Purpose. (1) The primary objective of this marketing order is to maintain and expand the sales of cranberries. This includes the development of new products and new markets; improving methods and practices related to producing, processing or marketing of cranberries; and providing educational programs for producers, handlers or consumers.

(2) Funds collected under this order may be used by the marketing board to meet one or more of the objectives described in this order including 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, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.03 Marketing board. (1) **MEMBERSHIP.** (a) A cranberry marketing board consisting of 7 producers is established to administer this order. Board members shall be residents of Wisconsin. 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 later than 20 days after the secretary's call for nominations, and the election held concurrently with the referendum during the period set by the secretary. A call for nominations of producers for subsequent election 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. An election to fill any expired term of office shall be held within the 60-day period preceding expiration of the term of office. If no nominations are made by producers within the specified times, the secretary or marketing board may extend the time period within which nominations may be filed.

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

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

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

(c) 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.

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

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

(a) To adopt bylaws 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 producers or to the secretary amendments to this order.

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

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

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

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

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.04 Applicability of order. This order shall be applicable to all cranberries produced in Wisconsin and sold for processing or directly to consumers.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.05 Assessments. (1) Each producer for the first crop year for which the marketing order is effective shall be liable for an assessment of 5 cents (\$0.05) per barrel on all cranberries produced during that crop year. Thereafter, the marketing board shall annually determine the rate of assessment to be levied and collected, but in no event shall it exceed 10 cents (\$0.10) per barrel on all cranberries produced. Number of barrels shall be determined on the basis of acreage and yields, scale tickets, invoices, bills of lading, or other sales or shipping documents, or any combination of the above.

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

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

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

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

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.06 Reports. (1) Each producer shall maintain accurate records of all cranberry production. Producer records shall include, but may not be limited to, quantity and disposition of cranberry production. Each handler shall maintain accurate records and accounts of all cranberries purchased from producers or processed by the handler. Handler records shall include, but may not be limited to, names and addresses of each producer from whom cranberries were purchased, the quantity of cranberries processed, and the dates title to the cranberries was taken and payments made or received. Each handler, producer, 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 proper collection of assessments.

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

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

ATCP 142.07 Violations. Any person who violates a provision of this order is subject to the penalties provided in s. 96.17, Stats.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.