

# MICHIGAN ONION PROMOTION AND DEVELOPMENT PROGRAM (Revised April 23, 2003)

## PURPOSE

This program is developed for the purpose of improving the economic position of the Michigan onion growers by creating greater marketing opportunities for their product. This shall be accomplished through this program by supporting research, conducting advertising and promotion programs, assembling and disseminating marketing information and expanding the markets for Michigan onions.

## AUTHORITY

This promotion and development program for Michigan onions is hereby issued by the Director of the Michigan Department of Agriculture pursuant to the "Agricultural Commodities Market Act", Act No. 232 of Public Acts of 1965, as amended.

## DEFINITIONS

"Bag" means fifty (50) pounds of onions by weight or the equivalent thereof in metric units.

"Committee" means the Michigan Onion Committee established under this program.

"Department" means the State Department of Agriculture.

"Director" means the director of the State Department of Agriculture.

"Market Year and Fiscal Year" means the twelve-month period beginning the first day of July and ending the following thirtieth day of June.

"Onion" means that mature bulb vegetable known as **Allium cepa L.** produced in Michigan for the purpose of fresh market and/or processing.

"Processor" means a person engaged in canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, milling, or in any other way preserving or changing the form of onions for the purpose of marketing.

"Producer" means any person engaged in the business of producing or causing to be produced for any market, any onions in quantity beyond his own family use, and having a value at first point of sale of more than \$800.00 in any one growing and marketing season within the last three years.

"Program" means the Michigan Onion Promotion and Development Program established by order of the Director pursuant to 1965 PA 232, as amended, prescribing rules and regulations governing the marketing for processing, distributing, selling or handling in any manner of onions produced in this state during any specified period and which he determines would be in the public interest.

"Research" means programs directed toward the development of improved varieties, cultural practices, or programs that result in more efficient onion production, new product development, new markets and handling or distribution.

"Shipper" means a person engaged in the shipping of onions or transporting his own onions, whether as owner, agent or otherwise, into the channels of trade and commerce.

## **ESTABLISHMENT AND MEMBERSHIP**

A. The Committee is hereby established and is authorized to perform the function of administering the Program pursuant to 1965 PA 232, as amended. The Committee shall consist of seven members appointed by the Governor with the advice and consent of the Senate as to nominations received from producer associations and producers. The nominations will be based on statewide production or industry representation criteria.

B. The Director of the Michigan Department of Agriculture shall serve as ex-officio and a faculty member of the Michigan State University College of Agriculture and Natural Resources, appointed by the Dean, may serve as an ex-officio member without vote.

### **C. Terms of Office**

The regular term of office for members of the committee shall be for three (3) years from the date of appointment or until their successors are appointed and qualified. Members shall not serve on the committee for more than two (2) consecutive terms. A member may be reappointed to the committee after an absence of one (1) year. The initial appointment shall provide for staggered terms by appointing three (3) members for three (3) years; two (2) members for two (2) years; and two (2) members for one (1) year.

### **D. Nominations**

By February 15 each year the nominees from each district, where elections are needed, shall be submitted to the Governor for selection as committee members. Nominees from each district shall be selected by the Michigan Onion Growers Association and/or other onion producers in Michigan.

To fill committee vacancies, the Governor shall select such members from unselected nominees on the current nominee list from the district involved.

### **E. Qualifications and Appointments**

1. A person appointed as a committee member shall be a producer or shipper and shall qualify by filing a written acceptance and oath of office within 15 days after being notified of his appointment.

2. To fill the unexpired term of a committee member whose office is vacant, the Governor shall appoint a member from nominees provided by the committee from the district involved within 30 days after the vacancy occurs.

3. A committee member whose term of office has expired may serve until his successor is appointed.

#### **F. Disqualification**

Disqualification of a committee member may be made for any of the following reasons:

1. He ceases to be a producer or shipper.

2. Executive disqualification by the Governor on recommendations of the committee and the Director when a member's conduct is unsatisfactory to the industry and the commodity program. The member against whom charges are made shall have a proper hearing before the committee with the assistance of counsel if he desires.

#### **PROCEDURE**

A. A simple majority of the voting members of the committee shall be necessary to constitute a quorum. A simple majority of concurring votes shall be required to pass any motion or approve any committee action. At assembled meetings, all votes shall be cast in person.

B. The committee may meet by telephone, telegraph or other means of communication, and any vote at such a meeting shall be promptly confirmed in writing.

C. The committee shall keep minutes, books and records which clearly reflect all its acts and transactions. The minutes, books and records are subject to examination at any time by the Director or his authorized agent or representative. Minutes of a committee meeting shall be reported promptly to the Director.

#### **COMPENSATION EXPENSES**

A. Committee members shall be entitled to actual expenses, and per diem not to exceed the amount authorized in section 7, 1965 PA 232, as amended, while attending meetings of the committee or engaged in the performance of official responsibilities delegated by the committee.

B. The committee may incur reasonable expenses for its maintenance and functioning, and for the purposes that the Director, pursuant to the program, deems appropriate.

#### **DUTIES AND RESPONSIBILITIES**

A. Responsibilities of the committee:

1. Developing administrative procedures of the program in accordance with its terms and provisions.

2. Receiving, investigating and reporting to the Director, complaints of a violation of the provisions of the program.

3. Recommending such amendments to the marketing program as seem advisable.

4. Giving reasonable notice to all producers and shippers of all changes in rules and procedures and any amendments thereto.

**B. Duties of the Committee:**

1. As soon as practicable after the appointment of members, meet and organize, select a chairman and other officers deemed necessary, select subcommittees of committee members and adopt procedures and rules deemed advisable for the conduct of its business.

2. Appoint employees, agents, and representatives deemed necessary and determine their salaries and define their duties and protect the handling of committee funds.

3. Furnish the Director such available information as he may request.

4. Prepare a promotion and development policy within the scope of the program.

5. Act as intermediary between the Director and any producer or shipper.

6. Cause the books of the committee to be audited by the Michigan Auditor General or by a certified public accountant at least once each fiscal year and at other times deemed necessary by the committee or as the Director may request. The audit report shall show the receipt of and expenditure of funds handled during the fiscal year. A copy of each report shall, within 30 days after completion thereof, be made available at the principal office of the committee for inspection by producers and shippers, and a copy of each report shall be furnished to the members of the committee and the Director.

7. Publish annually a written activity and financial report and make it available to interested parties with a copy to the Director.

8. The committee shall keep accurate records of the date and amounts received. These records shall be maintained for at least five years.

9. Collect and assemble information and data necessary to the proper administration of the program.

**PROGRAM**

The committee, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organization, agency or person for:

A. Any needed production, distribution, new product development, new markets or handling research or survey studies related to onions and their products.

B. The preparation and dissemination of marketing information to include supply information, demand information, quality characteristics and other factors concerning onions.

C. Developing educational materials and programs pertaining to onions and participating in trade fairs, exhibitions, food shows and other such activities for the purpose of developing markets.

### **ASSESSMENT AND COLLECTION OF FUNDS**

A. Assessment levied: To carry out the provisions and intent of this program, an assessment not to exceed three cents (\$.03) cents per bag or six cents (\$.06) per hundredweight for each bag of onions shipped shall be collected from all Michigan producers by shippers or processors. In the event of conversion to metric measure, an equivalent maximum assessment will apply.

B. Collection of Assessment

1. All assessments shall be paid by the respective producer.

2. Beginning September 1, 1977, such assessments shall be due and collectable from the producers by the shipper or processor of the onions, and such shipper or processor shall deduct the full amount of the assessment from the total monies due to the producer and shall remit to the committee all monies collected on a monthly basis before the end of the month, following the month of payment to the producer.

3. The committee shall establish procedures to insure the collection of such assessments as shall be due and payable under this marketing program.

### **BUDGET**

As soon as practicable after the beginning of each fiscal year and as may be necessary thereafter, the committee shall prepare a budget of net income and expenditures necessary to carry out the program. The committee shall present such budget to the Director with an accompanying report showing the basis for its calculations.

No more than 15 percent of the Program's income will be spent for administration of the program.

At any time during, or subsequent to, a given fiscal year the committee may recommend the approval of an amended budget. Upon the basis of such recommendations, or other available information, the Director may approve an amended budget.

## **ACCOUNTING**

A. If at the end of the fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

1. If the committee finds that the money may be necessary to defray the cost of operating the program in succeeding marketing programs, all or any portion of the money may be carried over into succeeding seasons.

2. Such excess may be refunded upon a pro-rated basis to all persons from whom assessments were collected.

B. All funds received by the committee shall be used solely for the purposes specified in the program. The Director may at any time require the committee and its members to account for all receipts and disbursements.

C. Upon the expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds of the committee in his possession to the committee and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds and claims vested in such member pursuant to this marketing program.

D. All personnel having access to the funds must be bonded appropriately.

## **SEVERABILITY**

If any provision or section of this program is declared invalid, or the application thereof to any person, circumstance or thing is held invalid, the validity of the remainder or the applicability to the other persons, circumstances or things, shall not be affected thereby.

## **MISCELLANEOUS**

A. This program may be terminated in accordance with the provisions of 1965 PA 232, as amended.

B. This program shall become effective upon the Director certifying assent as a result of the referendum provided for in Section II of 1965 PA 232, as amended.

This program is authorized by 1965 PA 232 and is intended to be consistent with the provisions of the act. Should any provision be viewed as exceeding the authority granted under the act, or inconsistent with the provisions of the act, the act shall govern the conduct of the program.

Amended April 23, 2003 per 2002 PA 601 (Amendments to 1965 PA 232) by consent of the Director of Agriculture, Dan Wyant, and Nora Viau, Chair, Michigan Commission of Agriculture.