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MINNESOTA DAIRY RESEARCH AND PROMOTION ORDER

(Authorized Under Minnesota Agricultural Commodities Promotion Act,
Minnesota Statutes 1969, Sections 32B.01-32B.13, as amended)

Adopted April 1, 1975

Revised July 12, 1977

(Revised under Minnesota Statutes 1982, Section 17.54, subd. 8)

Effective: November 1, 1982

PURPOSE:

The purpose of this research and promotional order is to generate funds equitably from dairy producers for the establishment of market development, promotion and research projects to benefit the Minnesota dairy industry in the production and sale of its product. This may include, but shall not be limited to, the following:

- A. Participation in and cooperation with state, regional, national, or international activities, groups and organizations, including but not limited to, the Midwest Dairy Association, that assist in developing new markets, expanding existing markets, and reducing costs of marketing milk and milk products.
- B. Participation in and development of research projects and programs that will assist in the development of the Minnesota dairy industry.
- C. Participation in and development of educational programs and any and all other programs and projects that will assist in the development of the Minnesota dairy industry.

DEFINITIONS:

Terms used in this order shall have the following meaning:

- A. "Act" means the Minnesota Agricultural Commodities Promotion Act.

- B. "Milk" is defined as the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows excluding that obtained within 15 days before or five days after calving or such longer period as may be necessary to render the milk practically colostrum free. The name "milk" means cows' milk.
- C. "Commissioner" means the Commissioner of Agriculture of the State of Minnesota.
- D. "Council" means the Minnesota Dairy Research and Promotion Council made up of 22 producer members representing 22 equal district areas according to milk production as designated by the Commissioner. One council member shall represent each area. The council shall direct and assist the Commissioner of Agriculture in the administration of this order in accordance with Minnesota Statutes 1982, Sections 17.51 through 17.69.
- E. "Commercial Channels" means the processes of sale of milk to any commercial buyer, dealer, processor, cooperative, or to any person public or private, who resells milk or any product produced from milk for storage, processing, or distribution.
- F. "Cooperative" means a non-profit association of producers, legally constituted under the Laws of Minnesota or any other state, who have gathered together for purposes of bargaining for a price for marketing their commodity. This includes all cooperatives domiciled inside or outside of the state which buy commodities from Minnesota producers.
- G. "First Purchaser" means any person that buys milk for movement into commercial channels from the producer or any other person as defined by Minnesota Statutes 1982, Section 17.53, subd. 8.
- H. "Marketing Year" means a calendar year period from January 1 through December 31.
- I. "Person" means an individual, corporation, association, cooperative or partnership.
- J. "Private Processor" means a privately owed dairy processor legally constituted under the Laws of Minnesota for the purpose of buying or marketing milk and milk products, whether the processor is domiciled within the state or without.
- K. "Producer" means any person or persons, partnership, corporation or cooperative in the State of Minnesota which produces milk as defined above and sells this milk into commercial channels either for fresh or processing purposes, except that in the case of a partnership, each partner who regularly received a portion of the gross receipts directly from the processor shall be considered a producer.
- L. "Producer/Processor" means a producer who processes and markets his own product. For the purpose of collecting the checkoff fee, a producer/processor is the first purchaser.

- M. "Promotion Order" means an order issued by the Commissioner with the advice and consent of a council and after a referendum pursuant to Minnesota Statutes 1982, Sections 17.51 through 17.69 which establishes a program for promotion, advertising, production, education, research, and market development of the processing, distributing, sale, or handling milk and milk products and provides for the collection of checkoff fees.
- N. "Qualified Voter" means a producer who would be subject to the payment of fees to finance the activities described in Minnesota Statutes 1982, Sections 17.51 through 17.69 and who shares directly in the profits and risk of loss from the agricultural operation which produces milk.
- O. "Sale" means any passing of title from the producer to the first purchaser. Sales include any pledge, security interest or lien.
- P. "Producer Settlement" means any payment to the producer from the first purchaser for milk received.

COUNCIL:

- A. Member Qualifications. Council members shall be residents of the State of Minnesota, of legal voting age and be producers as herein defined. Council members shall reside in the district for which they are nominated and elected. The qualifications of members as set forth herein must continue during their term of office or their office shall be declared vacant.
- B. Term of Office. The term of office shall be two years, with the terms of half the council members expiring April 1 in odd numbered years, and the terms of the remaining council members expiring April 1 in even numbered years.
- C. Organization. The Commissioner shall serve as a member of the council but without a vote. The council shall elect from its own membership a chairman, vice-chairman, secretary, treasurer and one other member of the council to serve as its executive committee. Such executive committee shall act in accordance with direction received from the full council. However, when circumstances arise such that immediate action is necessary, the executive committee may act, but must then bring its action before the next regular meeting of the council for review and ratification. Any expenditure of funds by the executive committee shall be in accordance with direction authorized at a prior meeting of the full council.
- D. Budget. Prior to January 1 of each year, the council shall submit to the Commissioner a proposed budget to carry out the purposes of this order. The budget shall go into effect upon approval by the Commissioner but may be altered from time to time by consent of the Commissioner and the Council.

- E. Meetings. The council shall meet at times and places as it may determine or upon call of the chairman or any eight members of the council. A majority of the voting members of a council shall constitute a quorum for the transaction of all business in carrying out the duties of the council.

- F. Compensation and Expenses. Each member of the council, except the Commissioner, shall be entitled to reasonable per diem, not exceeding the same rate of compensation per day as is authorized for payment to members of advisory councils and committees pursuant to state law, while engaged in the performance of his duties, and actual expenses incurred while attending council meetings or executive committee meetings. Payments to council members for other official business of the council requires prior approval by the council.

COLLECTION OF FEES:

- A. To provide funds to carry out the purpose of this Order, the council shall assess a fee of one half of one percent of market value on all milk sold by each producer.
- B. The fee shall be collected by the first purchaser on the date of producer settlement.
- C. In the case of producer/processor, the market value, when no other producer price is available, shall be the Class 1 order price for that area, or if not located in a milk order area, shall be the Class 1 order price in the order area nearest to the producer/processor. Producer/processors shall remit on a monthly basis.
- D. Fees collected by the first purchaser or producer/processor as defined herein shall be remitted to the council in accordance with such forms, procedures, periodic reports and returns as the council shall prescribe. Fees so collected shall be remitted to the council within 30 days following the collection of same.
- E. Payment of the fee is the primary responsibility of the producer, but such liability shall be deemed discharged at the time the fee is deducted by the first purchaser on the date of producer settlement.

REFUNDS OF FEES:

- A. Any producer subject to this order may request that each checkoff fee paid by him/her be refunded. Such request for refund shall be made on forms provided by the commissioner.
- B. Such request shall be delivered to the commissioner's office by mail (preferably certified mail) or in person and must be received within six months following the payment of such fee.

- C. The council shall establish procedures to insure the refund of such checkoff fee as are requested.
- D. Refunds shall be made by the council within 30 days of the request for refund provided that the fee sought to be refunded has been received.

HANDLING OF FEES:

- A. Checkoff fees collected shall be deposited in a federally insured depository and shall be disbursed by the officers and employees approved by the council for the necessary expenses incurred in the administration of this order.
- B. Checkoff fees collected shall be used exclusively for the purpose collected and not to support or oppose a political party or a candidate for nomination or election to a public office.
- C. Council members or staff authorized to control, handle, or disburse funds shall be bonded in such manner and amount as may be required from time to time by the Council.

TERMINATION OF THE ORDER:

- A. The council after consultation with the Commissioner and by a majority vote shall suspend or terminate a promotional order whenever it finds, after a public hearing, that an order is contrary to or does not effectuate the purposes or provisions of Minnesota Statutes 1982, Sections 17.51 through 17.69, provided that the suspension or termination shall not become effective until the expiration of the current marketing year.
- B. Upon petition of the same number of producers as required to initiate the promotion order, the commissioner shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. He shall terminate the order at the end of the current marketing year if a majority of the producers voting in the referendum vote in favor of termination.
- C. If this order is terminated under Minnesota Statutes 1982, Section 17.64, any funds remaining with the council shall be expended to meet existing obligations of the Council. Any surplus remaining after such obligations are met shall be expended for market research purposes in Minnesota, or other lawful purposes under Minnesota Statutes 1982 Section 17.51 through 17.69, at the discretion of the Council.

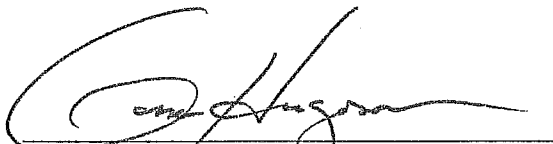
VIOLATIONS:

- A. Any person who violates any provision of Minnesota Statutes 1982, Sections 17.51 through 17.69 or any rule of the commissioner promulgated pursuant to Minnesota Statutes 1982, Sections 17.51 through 17.69 is guilty of a misdemeanor.
- B. Any first handler or first purchaser who fails to make collections or to file a return or to pay any assessment within the time required by Minnesota Statutes 1982, Sections 17.51 through 17.69, or who files a falsified return, shall be liable to the council for the amount due, plus a penalty of six percent of the amount due, plus one percent of the amount for each month of delay. If satisfied that the delay was excusable, the council may return all or any part of the penalty.
- C. Penalties shall be paid to the council and disposed of as provided with respect to other money collected under Minnesota Statutes 1982, Sections 17.51 through 17.69.

DURATION OF ORDER:

- A. This order shall remain in effect unless terminated under Minnesota Statutes 1982, Section 17.64.

Revision approved:


Gene Hugoson, Commissioner

11-15-04
Date