

MINNESOTA SUNFLOWER COUNCIL
PROMOTION ORDER

PURPOSE:

The purpose of this "promotional order" is to generate funds equitably from sunflower producers for the establishment of market development, utilization, public relations, advertising, promotion and research programs and/or projects to benefit the sunflower farmer in the production and sale of sunflower and sunflower products. This may include, but shall not be limited to, the following:

- A. Participation in and cooperation with state, regional, national, or international activities directly or indirectly, or as a result of contract or agreement with other persons or organizations that assist in developing new markets, expanding existing markets, and reducing costs of marketing of sunflower and sunflower products.
- B. Participation in and development of research projects and programs that will assist in the development of new varieties, improved production and handling methods.
- C. Devise, adopt, and conduct a program of education and publicity and any other programs and projects that will assist in the development of the Minnesota sunflower industry.

DEFINITIONS:

- A. "Act" means the Minnesota Agricultural Commodities Promotion Act.
- B. "Commercial Channels" means the processes of sale of sunflower to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells sunflower or any products produced from sunflower for storage, processing, or distribution.
- C. "Commissioner" means the Commissioner of Agriculture of the State of Minnesota or his designee.
- D. "Council" means the Minnesota Sunflower Council created under the provisions of the Act Section 17.51 through 17.69.
- E. "First Purchaser" means any person who buys, receives delivery of or provides storage for sunflower from a producer for movement into commercial channels or a lienholder, secured party or pledgee, who gains title to the sunflower from the producers as a result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee, regardless of when the lien, security interest or pledge was created and regardless of whether or not the first purchaser is domiciled within the state. "First purchaser" does not mean the commodity credit corporation when the sunflower is used as collateral for a federal non-recourse loan, unless the commissioner determines otherwise.
- F. "Marketing Year" means a one year period from October 1 to the last day of September in the following calendar year.

- G. "Producer" means any person who owns or operates a sunflower growing operation and shares in the profits and risk of loss from such operation and who plants, raises, and harvests sunflower during the current or preceding marketing year.
- H. "Promotional Order" means an order issued by the commissioner, with the advice and consent of a council pursuant to Minnesota Statutes Sections 17.51 to 17.69.
- I. "Qualified Voter" means a producer who would be subject to the payment of fees to finance the activities described in this order and who shares directly in the profits or risk of loss from the sunflower operation.
- J. "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest, or lien of sunflower after harvest.
- K. "Sunflower" means all oil or confection (non-oil) sunflower seeds grown in Minnesota.

MEMBERSHIP:

Council members shall be residents of the State of Minnesota, of legal voting age, and be subject to the promotional order. They shall be producers of sunflower in the State of Minnesota and active participants in the promotional order. The qualifications of members as set forth herein must continue during their term of office or their office shall be declared vacant.

COUNCIL REGIONS:

Region 1: Counties - Kittson, Roseau, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomen, Clearwater, Clay, Becker.

Region 2: Counties - - All other Minnesota counties

TERMS:

The term of office of the council members shall be for three years or until their successor is elected and qualified; except for the initial council which shall be as provided for in the Act. The term of office shall terminate on June 30 of the year in which the council member's office expires. In the event a council member ceases to have any of the qualifications herein established, their office shall be deemed vacant. An interim vacancy on the council shall be filled by the council for the remainder of the term vacated. The successor so appointed shall be a producer residing in the same crop reporting region as the former member.

ORGANIZATION:

The commissioner shall serve as a member of the council without vote. The council shall elect from its membership, a chairman, a vice-chairman, a secretary/treasurer, and other officers the council deems appropriate. Terms of the officers shall expire on June 30 of each year; however, they may serve until their successors have been elected but not beyond July 15.

COMPENSATION AND EXPENSES:

Each member of the Council, except the Commissioner, shall be entitled to a 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 Minnesota Statutes Section 15.059, subd. 3, while engaged in the performance of their duties, and actual expenses incurred while attending Council meetings. Payments to Council members for other official business of the Council require approval by the Council.

MEETINGS/QUORUM:

Subject to the requirements of Minnesota Statutes, Sections 17.51 to 17.69, the Council shall meet at times and places as it may determine or upon call of the chairman or of any three members. A majority of the voting members of the Council shall constitute a quorum for the transaction of all business in carrying out the duties of the council. Roberts Rules of Order shall be the official rules of proceedings followed by the Council.

BUDGET:

Before each marketing year begins, the Council shall submit to the Commissioner an approved budget to carry out the purposes of this order. The budget shall go into effect at the beginning of the fiscal year and may be altered from time-to-time by consent of the Council. The budget shall be made public.

REPORT:

The Council shall prepare an annual report on the programs pursuant to its promotional order for the previous operating year. The report shall be mailed to each county extension office in any county involved in the promotional order.

COLLECTION OF CHECKOFF FEES AND DATA:

- A. To provide funds to carry out the purposes of this order, the Council shall assess a fee of four cents (4¢) per hundredweight of sunflower sold through commercial channels. The assessed fee shall not exceed one percent of the market value of the year's production as directed by Minnesota Statutes, Section 17.59, subd. 1.
- B. Fees shall be collected by the first purchaser and remitted to the Council in accordance with such forms, procedures, and periodic reports or returns as the Commissioner shall prescribe. Fees collected shall be remitted to the Council on or before the tenth day of the month following collection of the fee or as prescribed by the Council.
- C. Any producer may, by the use of forms provided by the Commissioner, have the fee paid pursuant to this order refunded to him/her provided such request for refund is received in the office of the Commissioner within 60 days following the payment of such fee. Refunds shall be made by the Commissioner within 30 days after receipt of such request for refund provided that the fee sought to be refunded has been received.

DONATIONS:

The council is authorized to accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of this order.

RIGHT TO SUE AND BE SUED:

The council shall have the right to investigate and prosecute in the name of the State of Minnesota any action or suit to enforce the collection or insure payment of the checkoff fees authorized by the provisions of Minnesota Statutes, Sections 17.51 through 17.69, to sue and be sued in the name of the Council, to hire attorneys as necessary and to all other things necessary to the administration and implementation of Minnesota Statutes, Sections 17.51 through 17.69.

FINANCIAL STATEMENT:

The Council shall make available an annual financial statement of the Council to any producer upon request.

CONTRACTS:

The Council, with the approval of the Commissioner, may contract and cooperate with any person, firm, corporation or association, or with any local, state, federal or international agency or institution, for market development, education, publicity, promotion, research, and advertising within the purposes of Minnesota Statutes, Sections 17.51 through 17.69.

DEPOSIT AND USE OF CHECKOFF FEES:

- A. Checkoff fees collected pursuant to this order shall be deposited in a federally insured depository and shall be disbursed by the officers and employees/contractors as approved by the Council for the necessary expenses incurred in the administration of this order. 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.
- B. If this order is terminated, any funds remaining with the council after the termination of this order shall be expended to meet existing legal obligations of the council. Any surplus remaining shall be expended for production research purposes or other lawful purposes under this order at the discretion of the council.

TERMINATION OF THE ORDER:

- A. (By Council). The council after consultation with the commissioner and by a majority vote shall suspend or terminate this promotional order whenever it finds, after a public hearing, that the order is contrary to or does not effectuate the purposes or provisions of the Minnesota Statutes, Sections 17.51 to 17.69, provided that the suspension or termination shall not become effective until the expiration of the current marketing year.
- B. (By Referendum). Upon petition of the same number of producers as required to initiate the promotional order, the commissioner shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. He shall terminate this order at the end of the current marketing year if a majority of the producers voting in the referendum vote in favor of termination. The petition of producers shall include a statement certifying that the signatures are those of qualified voters.

PENALTY FOR VIOLATIONS:

Any person who violates any provision of Minnesota Statutes, Sections 17.51 through 17.61 or any rule of the commissioner promulgated pursuant to Minnesota Statutes, Sections 17.51 through 17.61 is guilty of a misdemeanor. Any first purchaser who fails to make collections or file a return or to pay any assessment within the time required by Minnesota Statutes, Sections 17.51 through 17.61, 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. Penalties shall be paid to the Council and disposed of as provided with respect to other money collected under Minnesota Statutes, Sections 17.51 through 17.61.

BONDING:

Those members of the Council and authorized employees/contractors directed 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.

ASSOCIATION OF PRODUCERS:

No activity, including meetings, undertaken in pursuance of the provisions of this order and intended to benefit the producers, handlers, or processors of sunflower shall be deemed or considered illegal or in restraint of trade. The Council should, so as not to duplicate activities or services, work closely with the National Sunflower Association.

SEVERABILITY:

If any section, subdivision, or other portion of this Order shall be adjudged unconstitutional by a court of competent jurisdiction or if a change is directed as a result of legislation affecting this order, such adjudication shall not impair the validity of the remaining sections, subdivisions or portions of this Order; or if a change is directed as a result of legislation affecting this Order, the order shall be adjusted to comply with sections, subdivisions, or portions as amended.

Approved:



Commissioner
Minnesota Department of Agriculture

Dec 15, 2009
Date