

**MICHIGAN DEPARTMENT OF AGRICULTURE
& RURAL DEVELOPMENT**

In the matter of the proposed Michigan
Wheat Committee:
Findings, Recommendations, and Order

**OPINION AND ORDER OF THE DIRECTOR:
MICHIGAN WHEAT COMMITTEE**

Order of May 9, 2011 on the proposed program known as the Michigan Wheat Committee.

I. DISCUSSION

Two public hearings were held on March 30, 2011 and March 31, 2011 to receive public comment on the proposed Michigan Wheat Committee (MWC). Consideration of the program was requested by wheat producers pursuant to the Agricultural Commodities Marketing Act, 1965 PA 232; MCL 290.651 et seq. The purpose of the proposed MWC is to promote the profitable production, marketing, and utilization of wheat on behalf of Michigan wheat producers.

II. HISTORY OF PROCEEDINGS

Between February 8, 2011 and February 17, 2011, the Michigan Department of Agriculture & Rural Development (MDARD)¹ Director Keith Creagh received 240 petition signatures from wheat producers requesting the establishment of a marketing program for wheat and that the Director appoint a temporary

¹ At the time of the petition circulation, Executive Order 2011-2 changing the Michigan Department of Agriculture to the Michigan Department of Agriculture & Rural Development had not yet become effective.

committee to develop a proposed program. The petitions further requested at least one public hearing to gather comments and gauge interest in a referendum for the creation of the MWC under 1965 PA 232.

According to PA 1965 232, Section 10: MCL 290.660(a):

Whenever the director has received a petition signed by 25%, or 200, whichever is less, of the producers of an agricultural commodity regarding the adoption of a marketing program or amendments to an existing marketing program, he or she shall give notice of a public hearing on the proposed marketing program or the proposed amendments to an existing marketing program. After receiving a petition for the establishment of a marketing program, the director may appoint a temporary producer committee to develop the proposed marketing program to be considered at the public hearing.

The 240 signatures of wheat producers met the required threshold. After receiving the petitions, the Department verified the signatures against producer lists maintained by the U.S. Department of Agriculture National Agricultural Statistics Service Michigan Office. The Director appointed a temporary producer committee on March 2, 2011. The temporary committee consisted of: John Diehl, Dansville; Mark Metz, Ida; Mike Hauck, Mt. Pleasant; Dave Milligan, Cass City; Chris Schmidt, Auburn; Dean Kantola, Ravenna; Ross Voekler, Pigeon; Larry Wineland, Dewitt; and Art Loeffler, Frankenmuth. The temporary producer committee met on March 10, 2011 and provided the Director with a proposed marketing program.

The proposed program was made available on the Department's website. Notice of the proposed program and the public hearings were delivered by U.S. mail to wheat producers of record as determined by the U.S. Department of Agriculture, National Agricultural Statistics Service, Michigan Office. Paid notices were published in the following daily newspapers on Sunday, March 20, 2011: Kalamazoo Gazette; Bay City Times; Saginaw News; and Marquette Mining Journal, and on March 25, 2011 in the weekly Farmers Exchange. In addition, news articles about the proposed program and the public hearings appeared in several farm and agricultural publications.

Pursuant to notice, public hearings occurred on Wednesday, March 30, 2011 at the Wickson District Library Community Room, 359 South Franklin Street in Frankenmuth, Michigan at 2 p.m., and on Thursday, March 31, at the Michigan Library and Historical Center, Lake Superior Room, 702 West Kalamazoo Street, Lansing, Michigan, at 10 a.m. Brad Deacon presided as hearings officer for the Department.

At the March 30 hearing, 15 people attended. Of the eleven individuals who spoke, nine expressed support for the program. Supporters talked about the

need for additional research on issues including varieties, sprouting, and vomitoxin and the need to be proactive on disease and pest issues. Supporters also talked about the need to provide quality wheat to millers to ensure long term viability for both growers and processors. One member of the public spoke in opposition to the proposed program, stating that seed and chemical companies are currently doing research and that farmers are already providing quality wheat for millers. One person expressed support for the process under Act 232, but was neutral on the actual program.

At the March 31 hearing, 19 people attended. Of the twelve individuals who spoke, nine expressed support for the program, and commented on the importance of research and the need to improve quality of wheat to meet the changing needs of wheat processors. Speakers expressed support for an organized group of growers who would be able to direct funds to research to address specific grower concerns. One person spoke in support of the program, but stated that the program needs to be strictly defined mission to ensure that producers' funds are only spent to improve Michigan wheat. Two individuals spoke against the program, arguing that check-off programs in general do not provide a benefit to the growers, that state funds currently going to Michigan State University should cover the cost of research, and that the research done on wheat benefits seed companies but not producers. They also expressed concern that under the proposed program, seed growers would not pay the assessment and that seed growers should be included in the program. One person expressed support for the process under Act 232, but was neutral on the actual program.

The record was held open until 5 p.m. on Thursday, March 31, 2011 for written comments. The Department received three letters and two voicemail calls that were transcribed in opposition to the program, and fourteen letters in support of the proposed program, including one from a person who attended and spoke at a public hearing.

The notice of hearing, the transcripts of oral testimony from the public hearings, a list of people attending the public hearings, and the written testimony are attached.

III. FINDINGS

A review of the hearing record from March 30, 2011 and March 31, 2011 reflects that from the oral and written testimony, 31 supported the proposed MWC and 6 have been opposed. One person testified as neutral on the program itself but supportive of using the process outlined in 1965 PA 232.

Those in favor outlined the need for additional research on germination, varieties, and disease resistance of wheat as well as the need to market and promote Michigan grown wheat.

Under Section 7 of the Act, MCL 290.657, marketing programs shall consist of an odd number of members and contain provisions for nominations of those members, and additional language is necessary to clarify the nomination process for the Industry Representative.

IV. CONCLUSIONS AND RECOMMENDATIONS

Based upon the foregoing, as Director of Michigan Department of Agriculture and Rural Development, I conclude that the proposed Michigan Wheat Committee contains fair and reasonable provisions, and, if adopted, would be in the public interest.

V. ORDERING PARAGRAPHS

Having examined the petitions and other evidence submitted and being fully advised in these matters, I find that:

1. The Department has jurisdiction in this matter under 1921 PA 13, Sec. 5, as amended, MCL 285.5; and 1965 PA 232, as amended; MCL 290.651 et seq.;
2. The Department has received petitions and other evidence supporting the concept of a marketing program for Michigan wheat producers;
3. A temporary committee was properly appointed to draft a proposed program;
4. Public hearings were lawfully conducted on the proposed Michigan Wheat Committee as required by Section 10 of 1965 PA 232, MCL 299.660(a), with those testifying in support of and against the concept of the program, and with all other evidence having been considered;

THEREFORE, IT IS HEREBY ORDERED that the proposed Michigan Wheat Committee, as presented at the public hearings, is approved, with the following changes to the Program language:

Page 1, under "Authority" adding at the end of the last sentence "Act".

Page 1, under "Definitions" moving the definition of "Handler" from Page 2.

Page 1, under "Definitions", after "Handler" inserting the definition: "'Industry Representative" means a person employed by a handler or processor."

Page 2, under "Establishment and Membership," subpart 2: the word "milling" should be removed.

Page 2, under "Establishment and Membership," subpart 4: after "producers" the words "and handlers or processors of Michigan wheat." should be added.

Page 3, under "District" after "established" the words "in addition to one industry representative." should be added; and the table should include the additional row for the Industry Representative.

Page 4, under "Nominations" at the end of the paragraph the following sentence should be added: Not more than one hundred eighty (180) days nor less than sixty (60) days prior to the expiration of the term of office, no more than two nominations for the Industry Representative member shall be submitted to the Governor from nominations received from the Michigan State Millers' Association.

Page 4, under "Qualifications and Appointments" Part 1, the words "a District" should be added between "for" and "Committee". On line two, the word "duly" should be removed. In the second sentence, the words "for district members" should be added between "petitions" and "shall". The sentence "Voting is limited to one vote per entity." should be moved to be the second sentence of this paragraph.

Page 4, under "Qualifications and Appointments" should include a new #3 to read: "A person appointed as an Industry Representative shall meet the definition of an Industry Representative and shall qualify by filing a written acceptance and oath of office within 10 days after being notified of his/her appointment." and renumbering the remaining provisions.

Page 4, under "Disqualification" in part 1, after "represents" the following should be added: "or in the case of the Industry Representative, ceases to be involved in the industry."

Page 4, under "Disqualification" in part 2, the word "commodity" should be removed on line 3, before "marketing program".

Page 8, under "B. Collections of Assessments," the language of subpart 4 should be removed and the following inserted: "A Producer who processes their own wheat shall be responsible for remitting assessments to the Committee on a monthly basis before the end of the month following the month of usage or sale."

Page 8, under "B. Collections of Assessments" part 5 should be removed, part 6 renumbered as part 5, and a new Part 6 added, to read: "Assessments for wheat sold as seed shall be collected from Producers by the first handler who shall deduct the full amount of the assessment from the total monies due the Producer based on the volume of clean seed sold, valued at a price determined by the Committee annually by June 1. Assessments shall be remitted to the Committee by December 1 of each year."

Page 9, under "Budget" in part 3, after "Wheat" the word "Program's" should be inserted and the words "Marketing Committee's" should be removed.

With these changes, the proposed Michigan Wheat Committee shall proceed to a referendum vote by producers as authorized by MCL 290.661.

FURTHER, IT IS ORDERED that the referendum will be conducted by mail ballot from June 20, 2011 through July 1, 2011.

By: 
Keith Creagh, Director
Michigan Department of Agriculture
& Rural Development

Dated: May 9, 2011 at Lansing, Michigan