

Michigan Tree Fruit Research & Development Program Creating the Michigan Tree Fruit Commission

PURPOSES

This program is developed for the purpose of improving the economic position and competitiveness of the Michigan tree fruit industry. This shall be accomplished by supporting the fruit research stations, research and extension programs. The goal for this program is to keep Michigan's tree fruit industry on the cutting edge of new technology as well as implementation of new research that keep Michigan's farmers economically viable in the world market into the future. This program prescribes the provisions or procedures by which, for the purpose for accomplishing the above objectives, the research and marketing needs in this state can be addressed in a proactive way.

AUTHORITY

This research program for Michigan's tree fruit industry is hereby issued by the director of the Michigan Department of Agriculture, pursuant to the "Agricultural Commodities Marketing Act," 1965 PA 232, as amended, MCL 290.651 – MCL 290.674 and the following provisions or procedures governing the marketing and handling in any manner, of Michigan's tree fruit industry in the channels of trade, and hereby prescribed.

EXTENT

All tree fruit sold for processing or fresh purposes, handled or distributed in the channels of trade shall conform with the provisions or procedures as set forth herein.

DEFINITIONS

"PRODUCER" – Producer means any person engaged in this business of producing, or causing to be produced for any processing or fresh market outlet, any tree fruit 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.

"PROCESSOR" – Processor means any person engaged in canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, brining, crushing, or in any other way preserving or changing the form of Michigan tree fruit for the purpose of marketing them.

"HANDLER" – Handler means any person engaged in the operation of packing, grading, selling, offering for sale of marketing and marketable tree fruit in commercial quantities as defined in the program, who as owner, agent or otherwise, ships or causes tree fruit to be shipped.

“DEPARTMENT” – Department means the state department of agriculture and rural development.

“DIRECTOR” – Director means the director of the state department of agriculture and rural development.

“COMMISSION” – Commission means the Michigan Tree Fruit Commission established under this program.

“DISTRICT” – District means of the geographic division of the production area as established herein.

“TREE FRUIT” – Tree fruit means apples, cherries (sweet and tart), peaches and plums that are marketable and produced in Michigan for the purpose of processing and fresh market sales.

“PROCESSING” – Processing means to alter, change or modify tree fruit in such a manner as to change their original form or appearance for marketing purposes.

“FRESH” – Fresh means tree fruit that is sold other than processing uses either directly or indirectly to consumers from farmers operated by a producer as defined.

Michigan Tree Fruit Commission

ESTABLISHMENT

The Michigan Tree Fruit Commission is hereby established to perform the function and administering the Michigan Tree Fruit Research and Development Program pursuant to 1965 PA 232 as amended, MCL 290.651 – MCL 290.674.

MEMBERSHIP

The Michigan Tree Fruit Commission shall be composed of nine tree fruit producers. The director of the Michigan department of agriculture and rural development and the director of the Michigan State University AgBioResearch shall serve as ex-officio members without a vote.

TERMS OF OFFICE

The regular term of office of members of the Michigan Tree Fruit Commission shall be three years from date of appointment, or until their successors are appointed and qualified; provided, however, the appointed members at the beginning of the program shall be on a staggered term of one two and three year terms. After the initial set up of the commission, all terms will be for three years beginning March 1, 2014.

DISTRICTS

To determine a basis for selecting committee members, the following districts are hereby established:

- District No. 1 (Northern Region) shall consist of all the counties north of the southern boundary of Manistee, Wexford, Missaukee, Roscommon, Otsego and Iosco counties including the upper peninsula.
- District No. 2 (Central Region) shall consist of all of the counties north of the southern boundary of Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer and St. Clare counties and extending north to include all counties to the district 1 line.
- District No. 3 (Southern Region) shall consist of all of the counties in the state of Michigan not included in district 1 or 2.

SELECTION

The governor shall appoint members from districts as follows:

District No. 1 – Northern: 3 members
District No. 2 – Central: 4 members
District No. 3 – Southern: 2 members

A nominee list shall be submitted annually to the governor not later than February 1 for terms that are expiring.

Appointment of members shall be made from lists submitted to the governor by the Michigan State Horticultural Society with input from other state wide tree fruit organizations in Michigan.

ACCEPTANCE

Any person appointed as a commission member shall qualify by filing a written acceptance and oath within ten days after being notified by the governor of such selection.

VACANCIES

To fill any vacancy occasioned by the failure of any person appointed as a committee member to qualify as a producer, or in the event of the death, removal, resignation, or disqualification of any member, a successor for the unexpired term of such member shall be nominated and appointment in the manner specified under selection and acceptance.

PROCEDURE

A simple majority of the voting members of the commission 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 public meetings all votes shall be cast in person.

EXPENSES AND COMPENSATION

1. The commission is authorized to incur such expenses as are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the director determines to be appropriate.
2. Commission members when acting on commission business will be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties, and in the exercise of their powers. In addition, they may receive compensation at the rate to be determined by the commission, not to exceed \$75.00 for each day, or portion thereof, spent in attending to commission business.

FISCAL YEAR

This fiscal period of this commission shall begin and end on an annual basis, the date of which shall be established by the commission with the approval of the director.

POWERS

The commission shall have the following powers:

1. To administer the provisions of the program in accordance with its term and provisions;
2. To make procedures to effectuate the terms and provisions of this program;
3. To receive, investigate, and report to the commissioners complaints of violation of the provisions of this program;
4. To recommend to the director amendments to this program;
5. To receive and administer funding from state and federal institutions to execute the program; and
6. To receive funding from royalties generated from research.

DUTIES

It shall be among other things, the duty of the commission:

1. Annually, within 60 days after the beginning of each fiscal year, to meet and organize to select a chairman and such other officers as may be necessary, to select sub-committees of committee members, and to adopt such procedures and regulations for the conduct of its business as it may deem advisable;
2. To furnish to the director such available information as may be requested;
3. To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person, and to protect the handling of commission funds through fidelity bonds for such employees;
4. To collect and assemble information and data necessary to the proper administration of the program;
5. To keep minutes, books, and records which clearly reflect all the acts and transactions of the commission, and such minutes, books and records shall be subject to examination at any time by the director or by their authorized agent or representative. Minutes of each commission meetings shall be reported promptly to the director. At the end of each season an annual report of operation shall be furnished to the director;
6. At the beginning of each fiscal period, to prepare a budget of its anticipated receipts and expenses for such fiscal period, together with a report thereon; and
7. To cause the books for the commission to be audited by a certified public accountant at least once each fiscal period, and such other time as the commission may deem necessary or as the director may request, the report of such audit shall show the receipt and expenditure of funds collected. A copy of each report shall be made available at the principal office of the commission for inspection by producers and a copy of each such report shall be furnished to the director.

ASSESSMENTS

A. Assessments

1. Assessments for the fiscal period shall be fixed upon producers at a maximum rate of \$2.50 per ton for cherries sold; 4 cents per CWT. for apples sold: \$2.00 per ton for peaches sold; and \$4.50 per ton for plums sold.

The commission can use a sliding scale to set the assessment rate on any given year and vary the rate up and down as priorities are set by their spring meeting. The commission may set a lesser rate for categories of fruit with a lower grade or value.

2. When tree fruit is shipped outside the state of Michigan for processing, fresh packing or marketing, then the first handler of the tree fruit in Michigan shall be responsible for the assessment payment.
3. The director shall direct the processors, or the handlers, to collect and remit the producer assessments to the commission account as designed by the director. Such payment to said account shall be made no later than September 30 of the year in which the assessment is levied for cherries, peaches and plums. Apple assessments would be due quarterly on processed apples, monthly on fresh apples and annually from farm markets. With all assessments due September 30 of the following year. The payment of the assessments may be deducted from the amount owed by the producer.
4. In the event that tree fruit has not been delivered to a processor or handler it shall be the responsibility of the producer to pay the assessment directly to the commission.
5. The assessment shall be accompanied with a report form provided by the commission which would include the name of the handler or producer, address, volume of tree fruit purchased and/or handled from each producer and the amount of the assessment collected.

B. Budget

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

At any time during, or subsequent to, a given fiscal period, the committee may recommend the approval of an amended budget.

C. Accounting

1. If, at the end of the fiscal period, the assessments collected are in excess of the expenses incurred, such excess shall be accounted for in accordance with one of the following:
 - a. If such excess is not retained in a reserve, as provided in subparagraph (b) of this section, it shall be refunded proportionately to the producers from whom it was collected.

- b. The commission, with the approval of the director, may establish and maintain during one or more fiscal periods reserve funds equal to approximately one fiscal period's expenses. Such reserve funds may be used for all authorized expenses.
2. All funds received by the commission shall be used solely for the purposes specified in the program. The director may at any time require the commission and its members to account for all receipt and disbursement.
3. Upon the expiration of the term of office of any member of the commission, such member shall account for all receipt and disbursements and deliver all property and funds of the commission in his possession to the commission and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the commission full title to all the property, funds, and claims vested in such member pursuant to this research and development program.

PROVISIONS

- A. The commission is authorized to carry out research programs designed to improve the market production and acceptability of Michigan tree fruit, to develop new products and processes for tree fruit and to contribute to the effectiveness of Michigan Tree Fruit Research and Development Program.

The commission is authorized to establish research programs that support the infrastructure of the fruit research stations, as well as research and extension programs for tree fruit grown in Michigan.

- B. The commission is authorized to gather and prepare research information and reports which are necessary for the proper operation of the program.
- C. The commission is authorized to contract with any appropriate person or organization as it deems necessary for accomplishing the purposes of this program.
- D. The commission is authorized to receive money from state and federal agencies to fulfill the purpose of the program.

ROYALTIES

The commission is authorized to receive royalties.

COMPLIANCE AND REPORTS

- A. Upon request of the commission and with approval of the director, producers, processors and handlers shall furnish to the director reports and other information pertaining to the quantity of tree fruit tonnage delivered for processing or fresh sales as may be necessary for the commission to properly and effectively perform its duties under this program.

1. Reports required from each processor and handler shall include a complete list of all producers and their addresses from whom they received tree fruit during each harvest period, together with the quantity of tree fruit received from each producer, and the amount of assessments withheld from each producer.
2. All individual reports shall be held confidential by the commission on behalf of the director and their staff including the department accountants and auditors. Compilation of general public reports is authorized from data submitted, provided there is no disclosure of the identity of the producers or operations.
3. Records or data as required by the commission shall be maintained by the producer, handler or processor for a period of three years.

SEPARABILITY

- A. If any provision of section of this research and development program is declared invalid, is amended, suspended, or terminated, 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 provision of 1965 PA 232, as amended, MCL 290.651 – MCL 290.674.
- B. This program shall become effective April 1, 2014.