

1 Department of Agriculture

2 Marketing and International Trade Division

3

4 Adopted Rules Governing Agricultural Research and Promotion

5 Councils and the Administration of Promotional Orders (3 MCAR SS

6 1.0700-1.0706)

7

8 Rules as Adopted

9 3 MCAR S 1.0700 Authority and purpose.

10 Rules 3 MCAR SS 1.0700-1.0706 are prescribed by the
11 commissioner pursuant to Minnesota Statutes, sections 17.54,
12 subdivision 4, 17.58, subdivision 4, and 17.63 to provide for
13 the organization and meetings of commodity councils, to provide
14 general polling procedures for elections and referendums, and to
15 provide for the administration of promotional orders.

16 3 MCAR S 1.0701 Definitions.

17 A. Scope. For the purposes of 3 MCAR SS 1.0700-1.0706, the
18 terms defined in this rule have the meanings given them, and the
19 terms "agricultural commodity," "commissioner," "cooperative,"
20 "council," "first handler," "first purchaser," "marketing year,"
21 "participating producer," "person," and "promotional order" have
22 the meanings given them in Minnesota Statutes, section 17.53.

23 B. Check-off fee. "Check-off fee" means the amount set by
24 the council and stated in the promotional order that each
25 participating producer must pay to finance the activities
26 proposed in the promotional order.

27 C. Chief administrative officer. "Chief administrative
28 officer" means the individual employed by the council to perform
29 duties prescribed by the council. "Chief administrative
30 officer" means the same as "executive director," "executive
31 secretary," and "manager" where they appear in promotional
32 orders.

33 D. Compliance list. "Compliance list" means a list of the
34 names of the first handlers or first purchasers of an
35 agricultural commodity under a promotional order who have paid

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1 check-off fees to the council within the time prescribed by the
2 council for their payment.

3 E. Designated voter. "Designated voter" means a family
4 member who has a written authorization from an individual
5 participating producer who is a qualified voter to vote in the
6 individual participating producer's stead at the time and in the
7 place where the election or referendum is being held.

8 F. Election. "Election" means a vote of the participating
9 producers of any commodity to create a first council, select
10 members of subsequent councils, or decide a referendum.

11 G. Fiduciary. "Fiduciary" means any estate, trust,
12 conservatorship, or guardianship organized or recognized under
13 Minnesota law.

14 H. Noncompliance list. "Noncompliance list" means a
15 compilation of the names of the first handlers or first
16 purchasers of an agricultural commodity under a promotional
17 order who have not paid check-off fees to the council within the
18 time prescribed by the council for the payment.

19 I. Organized area. "Organized area" means the area
20 determined in accordance with Minnesota Statutes, section 17.54,
21 subdivision 3, or areas defined elsewhere in Minnesota law for
22 the purposes of Minnesota Statutes, sections 17.51 to 17.69.

23 J. Petitioners. "Petitioners" means a group of producers
24 who request either the creation of the first council or a
25 referendum at any time during a promotional order by submitting
26 a petition signed by 1,000 producers or 15 percent of the
27 producers to be covered by a promotional order, whichever is
28 less, in accordance with Minnesota Statutes, section 17.54,
29 subdivision 1.

30 K. Producer affidavit. "Producer affidavit" means a
31 document qualified voters must sign under oath which affirms
32 that they are producers of the particular agricultural commodity
33 for which a referendum is being held, that they meet the
34 qualifications for a producer set forth in the promotional
35 order, and that they are casting only one vote each in the
36 election or referendum.

1 L. Proof of paid check-off fee. "Proof of paid check-off
2 fee" means a check stub, a sales invoice, a photostatic copy of
3 a check stub or sales invoice, or a statement on the first
4 purchaser's or first handler's letterhead stationery signed by
5 an officer or responsible representative of the first purchaser
6 or first handler submitted as evidence of a producer's payment
7 of a check-off fee to a first purchaser or first handler. Any
8 proof of paid check-off fee must have a date on it.

9 M. Qualified voter. "Qualified voter" means a person who
10 meets the requirements in Minnesota Statutes, section 17.53,
11 subdivision 16, and 3 MCAR S 1.0705 A.

12 N. Referendum. "Referendum" means an election held to
13 begin, continue, suspend, amend, or terminate a promotional
14 order, or an election held to increase or decrease the amount of
15 check-off fees under the promotional order.

16 3 MCAR S 1.0702 Organization of a council.

17 A. Creation of a council. Upon receipt of a petition to
18 create a council developed in accordance with Minnesota
19 Statutes, section 17.54, subdivision 1, the commissioner shall
20 take the following actions:

21 1. determine the size of the council and the distribution
22 of council membership in consultation with the petitioners;

23 2. appoint a nominating committee to nominate producer
24 candidates for council positions in accordance with Minnesota
25 Statutes, section 17.54, subdivision 3;

26 3. conduct an election to select the first council in
27 accordance with 3 MCAR S 1.0704 A.; and

28 4. determine by lot the term of office for each of the
29 council positions in accordance with Minnesota Statutes, section
30 17.54, subdivision 5.

31 B. Officers and executive committee. Each council shall
32 elect from its own membership a chairman, vice-chairman,
33 secretary, and other officers deemed appropriate by the
34 council. An executive committee of no more than five members,
35 including the officers, may also be elected by the council. The
36 council officers and executive committee members shall have the

1 powers and fulfill the duties in C. or delegate them to a chief
2 administrative officer.

3 C. Powers and duties of the council.

4 1. The council shall convene and conduct meetings in
5 accordance with 3 MCAR S 1.0703.

6 2. The council shall participate in the formulation and
7 administration of promotional orders in accordance with 3 MCAR S
8 1.0706.

9 3. With the approval of the commissioner, the council
10 shall appoint, employ, discharge, fix compensation for, and
11 prescribe the duties of the first chief administrative officer
12 of the council. Subsequent chief administrative officers and
13 all other personnel employed do not require the commissioner's
14 approval. The council and commissioner shall determine the
15 amount of bond required for all individuals on the council and
16 all individuals employed by the council who control, handle,
17 expend, or deposit check-off fees or other funds, including
18 those individuals authorized to sign checks.

19 4. The council shall take the actions listed in a.-d.

20 a. The council shall prepare an annual estimated
21 budget for the operation of the promotional order and submit it
22 to the commissioner for approval before the marketing year
23 begins unless the promotional order directs otherwise.

24 (1) Budgets may be revised during the marketing year.
25 If they are, the commissioner must be notified within 20 days of
26 the revision. Minutes of the council meeting, documenting the
27 changes and the reasons for them, shall constitute notification
28 to the commissioner.

29 (2) Budgets or budget revisions may be prepared on
30 forms provided by the commissioner or on similar forms.

31 b. The council shall consult with banks where funds
32 are deposited regarding check signing procedures. No more than
33 four authorized signatures of council members, the chief
34 administrative officer, or council employees may be provided to
35 the bank, two of which must appear on all checks except refund
36 checks. ~~The-council-may-authorize-any-one-signature-for~~ Refund

1 checks require only one signature, which may be any one of the
2 four authorized.

3 c. The council shall apply for tax exempt status for
4 the council on forms provided by the commissioner. Upon receipt
5 of the completed forms, the commissioner shall handle the
6 request with appropriate federal agencies.

7 d. The council shall complete a financial statement at
8 the close of each marketing year on forms provided by the
9 commissioner or similar forms.

10 5. A council may establish a petty cash account after a
11 favorable vote by a majority of the council members, provided
12 that the use of these funds is consistent with the purposes of
13 Minnesota Statutes, sections 17.51 to 17.69 and 3 MCAR SS
14 1.0700-1.0706. The bond for the council and its staff must be
15 sufficient to cover the amounts in any petty cash accounts
16 created pursuant to this part.

17 6. The council shall keep a record of the following
18 materials and shall make reasonable arrangements for the time
19 and place of inspection of the records by the public:

20 a. the council's annual budgets and financial
21 statements;

22 b. annual reports on promotional order programs of the
23 previous marketing year required under Minnesota Statutes,
24 section 17.57, subdivision 3;

25 c. minutes of all council and executive committee
26 meetings documenting all actions;

27 d. noncompliance lists related to the promotional
28 order, which must be submitted to the commissioner on a
29 semiannual basis;

30 e. information and data collected for the proper
31 administration of promotional orders in accordance with
32 Minnesota Statutes, section 17.57, subdivision 4; and

33 f. any other information deemed by the commissioner or
34 council to be reasonably related to the organization of the
35 council or to the administration of its promotional order.

36 7. The council may receive any donations from public or

1 private sources for the purposes of Minnesota Statutes, sections
2 17.51 to 17.69, or 3 MCAR SS 1.0700-1.0706.

3 8. The council may authorize the executive committee to
4 meet as needed to handle any matter prescribed by the council.
5 At a regularly scheduled meeting of the council, any council
6 member may inquire into the actions taken by the executive
7 committee. Minutes of the executive committee meetings shall be
8 sent to all council members, the commissioner, and the
9 commissioner's designee in accordance with 3 MCAR S 1.0703 E.

10 3 MCAR S 1.0703 Council meetings.

11 A. Notice. The chief administrative officer shall arrange
12 dates and physical facilities for meetings of the council and
13 executive committee after consultation with the council chairman
14 or vice-chairman and the commissioner. The chief administrative
15 officer shall also send written notice of the time and place of
16 the meeting to all council members, the commissioner, and the
17 commissioner's designee at least seven days in advance of
18 council meetings.

19 B. Agenda. An agenda for each council meeting shall be
20 formulated by the chief administrative officer in consultation
21 with the council chairman or vice-chairman and shall be mailed
22 with the meeting notice. Additional items may be included by
23 council members or the commissioner at the time of the meeting.

24 C. Frequency and location of council and executive committee
25 meetings.

26 1. The council shall meet at least four times annually in
27 a location which is reasonably accessible to all council members.
28 Telephone consultations are permitted, but must not replace
29 actual meetings.

30 2. The executive committee shall meet as frequently as
31 authorized by the council in a location which is reasonably
32 accessible to all executive committee members. Telephone
33 consultations may be held in lieu of actual meetings.

34 D. Quorum. A majority of the members of a council
35 constitutes a quorum for the transaction of all business in
36 carrying out council duties.

1 E. Minutes. All actions and decisions taken at meetings of
2 the council and the executive committee must be documented in
3 the minutes. At least one copy of the minutes signed by the
4 presiding officer and the secretary must be kept in the
5 council's permanent file. Copies of minutes must be sent to all
6 council members and submitted to the commissioner and to the
7 commissioner's designee within 30 days of the date of each
8 meeting.

9 3 MCAR S 1.0704 Elections.

10 A. Election of the first council. The procedures in 1.-3.
11 must be followed in electing the first council.

12 1. Upon receipt of nominations for council offices, the
13 commissioner shall promptly arrange for an election, designate
14 polling places reasonably convenient for the producers of the
15 particular agricultural commodity, and provide notice of the
16 election to all media having a general circulation in the
17 organized area.

18 2. The commissioner shall make available ballots which
19 set forth the names of the nominated candidates and shall
20 provide space for write-in candidates at all polling places.
21 Mail balloting is permitted in accordance with 3 MCAR S 1.0705 C.

22 3. Only qualified voters may vote in an election of the
23 first council.

24 B. Subsequent council elections. In addition to the
25 procedures for electing the first council in A., the
26 commissioner shall take the following actions in subsequent
27 council elections:

28 1. determine the manner of selecting the nominating
29 committee;

30 2. set the time limit for accepting nominations; and

31 3. set the times and places of subsequent elections.

32 C. Referendums. The procedures in 1.-7. must be followed in
33 conducting a referendum.

34 1. The council, in consultation with the commissioner,
35 shall set the time and places for the referendum when required
36 under 3 MCAR S 1.0705 B.

1 2. The commissioner shall conduct a referendum in
2 accordance with the general polling procedures outlined in 3
3 MCAR S 1.0705.

4 3. The commissioner shall publish a notice of the
5 referendum, including time and place, in legal newspapers with
6 general circulation in the organized area and shall provide
7 notice to other media at least ten days in advance of the date
8 of the referendum.

9 4. The commissioner shall provide a complete copy of the
10 promotional order to be voted on to each county extension office
11 in the organized areas.

12 5. Only qualified voters may vote in referendums.

13 6. The promotional order shall become effective,
14 suspended, amended, or terminated if approved by a majority of
15 the qualified voters who vote in the referendum.

16 7. If a referendum fails, the commissioner shall not
17 conduct another referendum on any promotional order for the same
18 agricultural commodity until one year has elapsed.

19 D. Financing elections and referendums.

20 1. Petitioners must deposit with the commissioner in
21 advance an amount sufficient to defray the expenses of electing
22 the first council, formulating the initial promotional order,
23 conducting the first referendum, and issuing that promotional
24 order. The funds will be deposited in accordance with 3 MCAR S
25 1.0706 G. Full reimbursement will be made to petitioners by the
26 council when the promotional order is adopted and funds are
27 available from the collection of check-off fees. Petitioners
28 may choose to leave the funds from this reimbursement with the
29 council. Partial reimbursement on a pro rata basis shall be
30 made by the commissioner in cases where the referendum fails and
31 there are funds remaining after the expenses of conducting it
32 are paid.

33 2. Subsequent elections and referendums will be financed
34 by the council.

35 3 MCAR S 1.0705 General polling procedures.

36 A. Qualified voters. Participating producers who may vote

1 in any election or referendum must meet all the conditions in 1.
2 and at least one of the conditions in 2. All qualified voters
3 or designated voters must sign the producer affidavit at the
4 time they vote.

5 1. The conditions in a.-e. apply to all qualified voters.

6 a. Persons, firms, universities, colleges,
7 foundations, landlords, tenants, or fiduciaries may cast one
8 vote only if they have shared in the profits and risk of loss
9 from producing the particular agricultural commodity during the
10 current or preceding marketing year.

11 b. A voter, except a designated voter, even if the
12 voter represents a corporation, association, cooperative, or
13 partnership, must meet Minnesota's general election voting age
14 requirements.

15 c. A voter must be a Minnesota resident or a permanent
16 resident alien, as defined in Minnesota Statutes, section
17 500.221, who resides in Minnesota.

18 d. Absentee mail voting by individual qualified voters
19 is not permitted. Mail balloting is permitted only in
20 accordance with C.

21 e. No individual, landlord, tenant, partnership,
22 association, cooperative, corporation, fiduciary, firm,
23 university, college, or foundation may cast more than one vote
24 per election or referendum even if operations are carried on in
25 more than one organized area of the council.

26 2. The specific provisions in a.-e. apply to the
27 qualified voters named.

28 a. Each individual production unit may cast only one
29 vote. Either the husband or the wife may cast this vote if both
30 operate the production unit but both may not vote.

31 b. Both a landlord and a tenant may vote if each meets
32 the criteria in A.1.a.

33 c. A partnership, whether in two or more names or in
34 the name of a firm, may cast only one vote. The parties to the
35 partnership must determine which one of them will cast the vote
36 for the partnership.

1 d. An association, cooperative, or corporation may
2 cast only one vote. Any officer of an association, cooperative,
3 or corporation may cast its vote.

4 e. A fiduciary may cast only one vote. Only the legal
5 guardian of a fiduciary may cast its vote, even if a husband and
6 wife are jointly carrying on the farming operation subject to a
7 fiduciary arrangement.

8 B. Balloting at polling places. The procedures in 1. and 2.
9 must be followed whenever the commissioner determines that an
10 election will be held at established polling places or a council
11 determines that a referendum will be conducted at established
12 polling places.

13 1. Election and referendum judges may will be selected by
14 the commissioner based-on-eriteria-established-by in
15 consultation with the council,--execept-that. Judges must not
16 indicate their opinions about the election or referendum on the
17 day of the election or referendum. Each polling place must have
18 at least one judge. The judges are to do the following:

19 a. meet at the polling place at least one-half hour
20 before voting begins;

21 b. assure that at least one judge remains at the
22 polling place at all times to oversee the polling process;

23 c. take an oath of election judges and sign the form
24 provided by the commissioner before the polling begins;

25 d. monitor the placement of ballots into the ballot
26 box and be responsible for the overall security of the polling
27 process;

28 e. have each qualified or designated voter write the
29 qualified voter's name, organization, title, and county of
30 business, when appropriate, on a producer affidavit to be
31 provided by the commissioner and have each qualified or
32 designated voter sign the producer affidavit. The written
33 authorization of the designated voter must be attached to the
34 producer affidavit;

35 f. initial the back of the ballot and give it to each
36 qualified or designated voter provided the qualified or

1 designated voter has signed the producer affidavit;

2 g. provide each qualified or designated voter with the
3 voter instruction sheet provided by the commissioner;

4 h. collect a signed producer affidavit at the time a
5 qualified or designated voter places a ballot in the ballot box;

6 i. tabulate the results of the vote and telephone the
7 commissioner the same day with the results;

8 j. complete the certification of election judges form,
9 provided by the commissioner, after the polls have closed; and

10 k. ~~record each qualified voter's name, organization,~~
11 ~~title, and county of business, when appropriate, on a summary of~~
12 ~~voters form provided by the commissioner, using the signed~~
13 ~~producer affidavits, and~~

14 ~~return all the voting materials listed in 2. to the~~
15 commissioner.

16 2. The election and referendum judges shall return the
17 following voting materials to the commissioner by first class
18 mail: completed ballots, signed producer affidavits, ~~completed~~
19 ~~summary of voters forms,~~ judges' oath forms, certification of
20 election form, and any expense vouchers. The election judges
21 handbook must be retained by the chief judge for 30 days after
22 the election or referendum and then destroyed. Any unused
23 ballots, or producer affidavits, ~~or summary of voters forms~~ must
24 also be destroyed.

25 C. Mail balloting. For any election or referendum conducted
26 by mail, the procedures in 1.-5. must be followed.

27 1. A council must have a current and complete list of its
28 participating producers before an election or a referendum can
29 be conducted by mail. The list must be submitted to the
30 commissioner at least 30 days before the starting date of the
31 election or referendum.

32 2. The commissioner shall mail to all participating
33 producers on the council's list a ballot, a producer affidavit,
34 a voter instruction sheet, a ballot envelope, and a return
35 envelope.

36 3. The length of time for the mail balloting shall be

1 determined by the commissioner for each election or referendum,
2 but must not be less than 14 days and must not exceed 30 days.

3 4. If a participating producer of the agricultural
4 commodity for which an election or a referendum is being
5 conducted by mail has not received the voting materials listed
6 in 2. by the time half of the time period in 3. has elapsed, the
7 participating producer or the council may telephone or write the
8 commissioner to request that the voting materials be mailed
9 directly to the participating producer.

10 5. In order to be counted, mail ballots must be returned
11 to the commissioner and must be postmarked on or before the
12 closing date of the election or referendum set by the
13 commissioner under 3.

14 D. Dairy industry referendums. The procedures in 1. and 2.
15 must be followed in dairy industry referendums.

16 1. Dairy cooperative associations may choose to bloc vote
17 their producers in accordance with Minnesota Statutes, section
18 17.54, subdivision 12. The commissioner shall provide the dairy
19 cooperative association with appropriate voting materials.

20 2. Private dairy processors must file with the
21 commissioner a list of their participating producers marketing
22 the bulk of their production with the private dairy processor.
23 The commissioner shall use this list and the procedures in C. in
24 mail balloting producers with private dairy processors during a
25 referendum on any dairy promotional order.

26 E. Certification of election or referendum. The
27 commissioner shall follow the procedures in 1.-4. in certifying
28 an election or referendum.

29 1. Before certifying an election or referendum conducted
30 in accordance with B., the commissioner shall assure that:

31 a. all materials required in B.2. are returned to the
32 commissioner;

33 b. all completed ballots are initialed on the back by
34 an election or referendum judge, and there is no more than one
35 vote per question on the completed ballot;

36 c. the oath of election judges form is signed;

- 1 d. all producer affidavits are signed; and
2 e. the judges' certification of election form is
3 signed.

4 2. Before certifying an election or referendum conducted
5 in accordance with C., the commissioner shall assure that:

6 a. returned ballots and producer affidavits have been
7 postmarked by the closing date set in C.3.;

8 b. there is no more than one vote per question on the
9 ballot; and

10 c. the producer affidavits are signed.

11 3. If any one of the criteria in 1.b. or 2. are not met,
12 the commissioner shall declare the individual ballots invalid
13 and shall not count them toward the outcome of the election or
14 referendum.

15 4. An impartial committee of at least three people
16 appointed by the commissioner shall count the ballots received
17 from the elections or referendums conducted under B. or C.

18 3 MCAR S 1.0706 Administration of promotional orders.

19 A. Formulation. The first council shall meet within 15 days
20 of certification of its election, and subsequent councils shall
21 meet whenever appropriate, to formulate a promotional order,
22 including the amount of a check-off fee to be paid by producers
23 of the agricultural commodity to finance the proposed activities.

24 B. Hearings and referendum. Before any referendum is
25 conducted, the commissioner shall consult with the council and
26 shall hold public hearings on the proposed promotional order in
27 organized areas. Upon completion of the hearings, the
28 commissioner and council shall determine whether the promotional
29 order will be amended, modified, or supplemented. If a
30 promotional order is substantially changed by this process, the
31 commissioner shall hold further public hearings on the changed
32 promotional order. Upon completion of these hearings, the
33 commissioner shall conduct a referendum in accordance with the
34 procedures in 3 MCAR SS 1.0704 C. and 1.0705. The hearings in
35 this section are not subject to Minnesota Statutes, chapter 14.

36 C. Payment of check-off fees. The procedures in 1.-5. must

1 be used by the council in collecting the check-off fees from
2 first purchasers or first handlers.

3 1. The council must determine the type of check-off fee
4 system to be used for the particular agricultural commodity.

5 2. The council must determine the first handler or first
6 purchaser for the agricultural commodity. First handlers or
7 first purchasers are responsible for collecting from
8 participating producers and remitting the check-off fee to the
9 council by the date stated in the promotional order.

10 3. The council must provide forms for the first handler
11 or first purchaser to use in collecting and remitting check-off
12 fees.

13 4. The council must monitor the compliance of each first
14 handler or first purchaser with the terms of the promotional
15 order and maintain a compliance list. In instances where the
16 first handler or the first purchaser is not complying with the
17 terms of the promotional order for collecting and remitting
18 check-off fees, the procedures in E. must be followed.

19 5. The council or chief executive officer must deposit
20 check-off fees collected in a federally insured depository
21 institution. ~~No-more-than-the-maximum-amount-insured-under~~
22 ~~federal-law-may-be-deposited-in-any-single-account~~ Any deposited
23 amount in excess of the maximum amount insured under federal law
24 must be secured by the federally insured depository
25 institution. Deposits may be used for either checking or
26 investment, but not for purposes inconsistent with Minnesota
27 Statutes, sections 17.51 to 17.69, or 3 MCAR SS 1.0700-1.0706.

28 D. Refund of check-off fee. The procedures in 1.-7. must be
29 followed in refunding check-off fees.

30 1. Any participating producer wishing a refund of a
31 check-off fee may telephone or write to the commissioner or
32 request in person a refund application form to fill out.

33 2. The participating producer must complete the refund
34 application form and return the original and second copy, along
35 with a proof of paid check-off fee, to the commissioner.

36 3. Upon receipt of the completed refund application form

1 and the proof of paid check-off fee, the commissioner will
2 verify that the information on the refund application form is
3 valid and will forward the original copy of the refund
4 application form to the council. Requests for refunds must be
5 received by the commissioner within the time prescribed in the
6 promotional order for the particular agricultural commodity in
7 order to be valid.

8 4. The council may proceed to write a refund check only
9 if the check-off fee has been sent from the first purchaser or
10 the first handler to the council. The council will retain the
11 original copy of the refund application form and will forward
12 the refund check to the commissioner.

13 5. The commissioner shall mail the refund check and the
14 proof of paid check-off fee to the participating producer. The
15 commissioner shall also return the participating producer's copy
16 of the refund application form if the participating producer did
17 not retain it.

18 6. Refunds will be made by the commissioner and the
19 council within 30 days of the date of the commissioner's receipt
20 of the refund application form except when the check-off fee has
21 not yet been received by the council. In those instances, the
22 council shall write the first purchaser or first handler and
23 request remittance of the check-off fee. ~~The-30-day-period~~
24 ~~begins-on-the-date-the-council-receives-the-check-off-fee-from~~
25 ~~the-first-purchaser-or-the-first-handler~~ When the council has
26 received the check-off fee, the council shall determine the
27 amount of refund and send the refund check to the commissioner.
28 Immediately upon receipt, the commissioner shall mail the refund
29 check to the producer.

30 7. Requests from participating producers for refunds will
31 not be accepted more than 12 times per calendar year.

32 E. Procedures for noncompliance. The procedures in 1.-5.
33 shall be followed by the council and commissioner in determining
34 and acting upon noncompliance by first handlers or first
35 purchasers whose check-off fee collection is not current.

36 1. The council shall maintain a current noncompliance

1 list as noted in 3 MCAR S 1.0702 C.6.d., and shall use it to
2 determine when a first handler or first purchaser has become
3 delinquent in collecting and remitting check-off fees, based on
4 the remittance period provided in the promotional order.

5 2. Either the council or the chief administrative officer
6 shall investigate the reason for noncompliance and make written
7 notation of the date and individual contacted whether by a
8 telephone call, visit, or mail. If a second contact is by mail,
9 the letter must be certified.

10 3. If no response is forthcoming after three contacts
11 have been made, the council may request that the commissioner
12 write to the delinquent first handler or first purchaser. The
13 council's request must be accompanied by the noncompliance list,
14 a summary of the steps that have already been taken, and a
15 statement of the length of the noncompliance period. The
16 commissioner's letter must be certified.

17 4. At the request of the council, the commissioner may
18 send a second letter to delinquent first handlers or first
19 purchasers requesting compliance.

20 5. If there is still no response from the delinquent
21 first handler or first purchaser after the steps in 1.-4. have
22 been taken, the council may engage legal counsel to pursue the
23 matter.

24 F. Suspension or termination of a promotional order.

25 1. A promotional order for an agricultural commodity may
26 be suspended or terminated pursuant to 2. or 3. Public hearings
27 conducted by the commissioner prior to the suspension or
28 termination of a promotional order will not be held pursuant to
29 Minnesota Statutes, chapter 14. No suspension or termination of
30 a promotional order shall take effect until the end of the
31 current marketing year.

32 2. After consultation between the council and the
33 commissioner, and after a public hearing and findings by the
34 council that a promotional order is contrary to or does not
35 effectuate the provisions of Minnesota Statutes, sections 17.51
36 to 17.69, the council may suspend or terminate a promotional

1 order with the approval of a majority of the qualified voters
2 who vote in the referendum.

3 3. Within 60 days of receipt of a petition from the same
4 number of producers required to initiate a promotional order,
5 which includes a statement that the signatures are those of
6 participating producers, the commissioner shall conduct a
7 referendum in accordance with 3 MCAR SS 1.0704 C., and 1.0705.
8 A majority vote of the qualified voters who vote in the
9 referendum will suspend or terminate the promotional order.

10 G. Commissioner's handling of funds. Fees or income
11 received by the commissioner in the administration of Minnesota
12 Statutes, sections 17.51 to 17.69, shall be deposited in
13 accordance with Minnesota Statutes, section 17.59, subdivision 5.