

MARKETING ORDER #14 FOR SOUTH CAROLINA CORN

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Section I: Definition of Terms.

- I. Terms used in this Marketing Order shall be as defined in the Act with the following additions:
 - a. "Act" means the South Carolina Agricultural Commodities Marketing Act of 1968 and as amended in 1970.
 - b. "Affected area" and "production area" are synonymous and mean the entire area of South Carolina.
 - c. "Board" means the South Carolina Corn Board established pursuant to the provisions of the Act and of this Marketing Order.
 - d. "Bushel," "Unit," and "Affected unit" are synonymous and mean and include one (1) standard U. S. bushel of 56 pounds by weight of corn.
 - e. "Commission" means the Agriculture Commission of South Carolina.
 - f. "Department" means the South Carolina Department of Agriculture.
 - g. "District" means the geographical divisions of the area of corn production established pursuant to the provisions of the Act and of this Marketing Order.
 - h. "First Purchaser" means the person to whom corn is sold by the affected producer of said corn.
 - i. "Marketing season" means the twelve-month fiscal year beginning upon the first day of July of any year and ending upon the last day of June, both dates inclusive.
 - j. "Producer" means any person who owns or operates a corn growing facility and shares in the profits and risk of loss from such operation and who plants, raises, and harvests corn.
 - k. "Sale" or "Sold" means a transaction wherein the property on or to which corn is transferred from the producer to a purchaser for consideration. "Sale" or "Sold" shall also include an agreement to acquire such corn for a consideration.
 - l. "Net Market Price" means—
 - a. Except as provided in subparagraph (ii), the sales price or other value received by a producer for corn after adjustments for any premium or discount based on grading or quality factors, as determined by the Secretary; or
 - b. For corn pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan.
 - m. "Corn" means and includes all kinds and varieties of corn of the species *Zea Mays* grown or sold in the State of South Carolina and marketed or sold as corn by the producer.
 - n. "Commercial quantities" means the sale or marketing of corn with a value of \$1,000 or more by affected producers during the course of the most recently completed full marketing season.

Section II: Marketing Order Purposes.

- I. The purpose of this Marketing Order is to provide funds for the establishment of market development and research programs to aid, assist and enhance the South Carolina corn producing industry and to promote the sale, marketing, production and distribution of corn and corn products. This may include, but is not limited to:
 - a. **Research.** The Board, with the assistance of the Commission and subject to the provisions of the Act, is hereby authorized to carry on or cause to be carried on any necessary and proper research related to marketing, production, processing, handling, or any other phase of consumer preference that would benefit South Carolina corn producers.
 - b. **Promotion.** The Board, with the assistance of the Commission and subject to the provisions of the Act, is hereby authorized to carry out the establishment of plans for advertising and sales promotion of corn, especially in the area of domestic and international trade. The Board shall prepare and engage in programs for promoting and advertising the sale of corn. Any such plan shall be directed toward increasing the sales of such corn without reference to a particular brand or trade name.
 - c. **Education.** The Board, with the assistance of the Commission and subject to the provisions of the Act, is hereby authorized to provide educational materials and to develop and conduct educational programs pertaining to corn and corn products. This may include, but is not limited to, participation in and development of educational and informational programs, alone or with other groups and organizations, that will assist in the promotion and development of the South Carolina corn industry.
 - d. **Market Development.** The Board, with the assistance of the Commission and subject to the provisions of the Act, is hereby authorized to participate in and cooperate with state, regional, national, or international activities, groups, and organizations that invest in developing new markets, expanding existing markets and reducing costs of marketing corn and corn products.
 - e. **Unfair Competition.** The Board, with the assistance of the Commission and subject to the provisions of the Act, is hereby authorized to investigate and take necessary action to prevent unfair trade practices and to correct where possible, trade

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practices which hinder the marketing and production of corn or corn products. Information acquired in such investigation shall be confidential and shall be released only to the extent necessary to effectuate the purposes of the Act.

- f. **Cooperation with Other Agencies and States.** The Board, with the assistance of the Commission, and subject to the provisions of the Act, is hereby authorized to cooperate with agencies of the United States Government, the State of South Carolina, and other States as deemed by the Board and the Commission to be desirable and useful to effectuate the purposes of this Marketing Order and of the Act. Such cooperation may include, but is not necessarily limited to the following:
- i. Coordination and cooperation in promotion, advertising, educational programs, disease control, marketing and transportation research, and any of the several areas of authority permitted to the Board and the Commission by this section and by the Act.
 - ii. Coordination of purposes with other boards, commissions, or any other marketing order group in the State of South Carolina or other states, areas, or foreign countries so long as such cooperation is in the best interest of the corn producers of South Carolina and is pursuant to the Act.

Section III: South Carolina Corn Board.

- I. **Establishment and Membership.** A Corn Board is hereby established with such powers, duties, and procedure as are authorized by the Act. The Board shall be composed of seven (7) producer members elected by districts as provided in subsection (II.) of this section, and an ex-officio member as specified by the Act. The producer members shall be elected as herein provided by the vote of the majority of the commercial corn producers of South Carolina.
- II. **Representative Districts.** For the purpose of nomination and selection of producer members of the Board, the affected area shall be divided into four (4) representative districts as follows:
 - a. "District Number 1" shall be and include the twenty-two (22) counties of Abbeville, Aiken, Anderson, Cherokee, Chester, Edgefield, Fairfield, Greenville, Greenwood, Kershaw, Lancaster, Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartanburg, Union, York.
 - b. "District Number 2" shall be and include the seven (7) counties of Chesterfield, Darlington, Dillon, Florence, Horry, Marion, Marlboro.
 - c. "District Number 3" shall be and include the five (5) counties of Clarendon, Georgetown, Lee, Sumter, Williamsburg.
 - d. "District Number 4" shall be and include the twelve (12) counties of Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg.
- III. **Membership.**
 - a. Producer members of the Board shall be elected from each district as follows:
 - i. One of the producer members, being position number 1, shall be elected from District Number 1.
 - ii. Two of the producer members, being positions number 2 and 3, shall be elected from District Number 2.
 - iii. Two of the producer members, being positions number 4 and 5, shall be elected from District Number 3.
 - iv. Two of the producer members, being positions number 6 and 7, shall be elected from District Number 4.
 - b. One ex-officio member, being position number 8, may be appointed as specified by § 46-17-190. This ex-officio member shall be without vote in the actions of the Board.
- IV. **Membership Qualifications.**
 - a. Board members shall be citizens and residents of the State of South Carolina, over the age of twenty-five (25) years.
 - b. Producer members shall have been actively engaged in producing corn within this State for a period of five years and have during this period derived a substantial portion of their individual incomes therefrom.
 - c. Producer members of the Board shall be active producers of corn in the district in and for which they are nominated and elected.
 - d. The qualifications of producer members as set forth herein must continue during their term of office.
 - e. The ex-officio member so designated by the Commission shall be either a corn producer, a person active in or interested in matters related to corn, or a person not so related.
- V. **Term of Office.**
 - a. The term of office of the elected producer members shall be three (3) years from the date of their election and until their successors are elected and qualified.
 - b. **Initial Board.** The initial members of the Board shall serve from the effective date of this Marketing Order in terms of office terminating as follows:

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1. Positions 1, 4, and 7 shall terminate on December 31 nearest to three (3) years from the effective date of this Marketing Order;
2. Positions 2 and 5 shall terminate on December 31 nearest to two (2) years from the effective date of this Marketing Order;
3. Positions 3 and 6 shall terminate on December 31 nearest to one (1) year from the date of this Marketing Order.
4. The term of office for the ex-officio member, being position Number 8, shall terminate three (3) years from the effective date of this Marketing Order.

VI. Nomination and Election of Board Members.

- a. Not earlier than September 20 and not later than October 1 of each year, the Commission shall give notice by mail to all producers, in a district wherein a vacancy will occur in the Board, of such vacancy or such vacancies and call for nominations. Nominations of candidates for election shall be oral and shall follow such order and procedures as are specified by the Commission with the advice of the Board. The notice of such vacancies shall specify the date and time for a separate nominating meeting of affected producers in each required district at which meeting oral nominating petitions shall be accepted by the Commission. Each oral nomination shall be seconded by no less than five (5) qualified producers, which seconding action shall be indicated by standing as the nomination is placed. Said nominating meetings shall be completed in each required district no later than October 15 of each year. Nominations may also be made within five (5) days after such meeting by written petition filed with the Commission and signed by not less than five (5) affected producers entitled to participate in such a meeting.
- b. Notice of every nominating meeting shall be published in a newspaper of general circulation within each district in which a vacancy shall occur not less than ten (10) days in advance of the date of such meeting. Written notice of every such meeting shall be posted on a public bulletin board as provided by Section 46-17-80.
- c. Producer members shall be elected by secret mailed ballot to fill such vacancies as shall occur annually in the Board. Ballots shall be distributed to affected producers of record by mail no earlier than October 25 and no later than November 1 of each year. Each affected producer shall be entitled to one (1) vote. Provisions shall be made by the Commission with the advice of the Board to provide ballots to any qualified producer whose name does not appear on the list of producers maintained by the Commission pursuant to Section 46-17-170 and who requests such ballot by mail or in person. Adequate control of ballots shall be maintained by the Commission with the advice of the Board.
- d. Ballots will be returned by affected producers no earlier than November 1 and no later than November 30 of each year. Ballots shall be returned to the Commission by mail to such address as may be determined by the Commission and which shall be clearly stated along with the voting period at the head of each ballot. Such mailed ballot shall be conducted in such a way and manner that it shall be a secret ballot in accordance with rules and regulations to be promulgated by the Commission. Newly elected and properly certified members of the Board shall take office on January 1 of each year. The Chair of the Commission shall administer an appropriate oath of office to each member of the Board at such time and place as shall be proper.
- e. With respect to the initial Board, the Commission shall call for and receive nominations at the issuance hearings required by Section 46-17-70.

VII. Vacancies. To fill any producer vacancy on the Board occasioned by the failure to qualify of any person elected by the affected producers as a member of the Board, or in the event of the death, removal, resignation, or disqualification of any member, the remaining members shall select a person qualified for membership as provided by the Act and subsection 4 of this regulation for appointment by the Commission to fill the unexpired term. A qualified person shall be appointed by the Commission to fill the ex-officio membership to complete any unexpired term which occurs.

VIII. Powers and Duties of the Board. The Board shall have the following powers and duties:

- a. To administer, enforce, direct, and control the provisions of this Marketing Order as its administrative board pursuant to the authority contained in Section 46-17-270(f).
- b. To elect a chairman and such other officers as it deems necessary; and to select and instruct subcommittees of Board members. The ex-officio member, being position Number 8, shall call the initial meeting and shall preside until a chair is properly elected.
- c. To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the Board and the enforcement of its duties under this Marketing Order.

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- d. To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising, promotional and research agencies, and other persons and firms that it may deem appropriate and pay compensation to the same according to the provisions of the Act.
- e. To accept donations, gifts, and other property to be used for Board purposes.
- f. To exercise the powers and authority conferred by law upon corporations.
- g. To keep accurate records of all receipts and disbursements, which records shall be open to inspection and audit by the Commission and other legal agencies of the State, and to make annual reports therefrom to the Commission.
- h. To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this Marketing Order during each fiscal year.
- i. To assist the Commission in collecting the assessments of producers as provided in this Marketing Order and to expend the same in accordance with and to effectuate the purpose of the Act and this Marketing Order.

IX. Procedure for the Board.

- a. The Board shall by resolution establish a headquarters which shall continue as such unless and until so changed by the Board, at which headquarters shall be kept the books, records, and minutes of the Board meetings.
- b. The Board shall hold regular meetings at least quarterly, with the time and date thereof to be fixed by the resolution of the Board. Four (4) of the voting members of the Board shall constitute a quorum for the transaction of all business and the carrying out of all duties of the Board.
- c. The Board may hold such special meetings as it may deem advisable and shall establish by resolution the time, place, and manner of calling such special meetings with reasonable notice to the members, provided, however, that the notice of any special meeting may be waived by a waiver thereof signed by not less than a quorum of the voting membership.
- d. Any action taken by the Board shall require the majority vote of the members present, provided a quorum is present.
- e. The members of the Board shall receive no salary but shall be allowed the usual mileage, subsistence and per diem as authorized by law for commissions, committees and boards which shall be paid out of Board funds. The ex-officio member shall be reimbursed by the Commission or the Department for the actual expenses incurred in the performance of official duties.

X. Limitation of Liability.

- a. Obligations incurred by the Board and any other liabilities or claims against the Board shall be enforced only against the assets of the Board in the same manner as if it were a corporation and no liability for the debts or actions of the Board shall exist against either the State of South Carolina or any subdivision or instrumentality thereof or against any other Board or Commission established pursuant to the Act or the assets thereof or against any member, officer, employee, or agent of the Board in an individual capacity. The members of the Board, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for the act of omission of any other member of the Board. The liability of the members of the Board shall be several and not joint and no member shall be liable for the default of any other members.

Section IV: Assessments and Assessment Funds.

- I. **Assessments Levied.** On and after the effective date of this Marketing Order, there is hereby levied and there shall be collected by the Commission on behalf of the Board, as provided in § 46-17-310, upon all corn grown and/or sold in the State of South Carolina, regardless of state of origin, an annual assessment of one-half of one percent of the net market price of corn at the first point of sale, which shall be paid by the producer thereof upon each and every bushel of corn sold, processed, delivered for sale or processed by or for the production stored or delivered for storage when such storage or delivery for storage shall be outside the boundaries of this State.
- II. **Exemptions.** No assessment shall be collected on the following:
 - a. Corn of a producer's own production used by the producer on their own premises for seed, feed, or other personal consumption;
 - b. Corn donated or shipped for relief or charitable purposes;
 - c. Corn sold at roadside stands; and/or
 - d. Corn sold by producer's marketing less than commercial quantities being Sales or Marketing of Corn with a value of \$1,000 or less during the course of the most recently completed full marketing season.

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III. Collection of Assessments.

- a. All assessments made and levied pursuant to the provisions of the Act and of this Marketing Order shall be paid by the respective producers who shall be liable therefor.
- b. The first purchaser of a quantity of corn shall deduct the assessment on the corn from the money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:
 - i. January, February, and March.
 - ii. April, May, and June.
 - iii. July, August, and September.
 - iv. October, November, and December.
- c. At the end of each period, the first purchaser shall remit to the Commission all assessments collected during the period within thirty (30) days after the end of the period. The Commission shall determine the date of a payment for purposes of this Marketing Order by the postmark applied to the remitting envelope.
- d. The Board shall make and furnish to each first purchaser and producer such rules, regulations, and procedures established within the provisions of this regulation and of the Act to ensure the collection of such assessments as shall be due and payable.
- e. Corn stored in private or public storage within the State of South Carolina shall not be liable for assessment until sale is made, provided that corn placed in storage for Commodity Credit Corporation loan purposes shall be considered to have been sold for purposes of compliance with the provisions of the Act and this regulation. It shall be the responsibility of the producer of such corn to make and pay to the Commission such assessment as may be due immediately upon concluding such Commodity Credit Corporation loan without regard to future disposition of such loan or of the corn in question.
- f. On or before the beginning of each marketing season, the Board shall give reasonable notice to all producers, first purchasers, handlers, and other affected persons of the rules, regulations, procedures, and methods of collection of assessments.

IV. Failure to Remit Assessments.

- a. Any unpaid assessments due to the Commission from a person responsible for remitting assessments to the Commission pursuant to the provisions of the Act and of this Marketing Order shall be increased two percent (2%) each month beginning with the day following the date such assessments were due under this section. Any remaining amount due shall be increased at the same rate on the corresponding date of each month thereafter until paid.
- b. Any first purchaser within the State of South Carolina who fails or neglects to collect such assessment from any producer and/or remit such collection to the Commission as herein provided shall be considered to be in violation of this Marketing Order. Every person convicted of such violation pursuant to § 46-17-400 shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or by imprisonment of not less than ten (10) days nor more than six (6) months, or both. Each violation during any day shall constitute a separate offense.
- c. Any producer who by virtue of their activities or circumstances shall be within the meaning of the term "first purchaser" or "handler" as herein defined, or who shall sell, ship, or otherwise dispose of corn to a purchaser or other person or store corn outside the jurisdiction of this Marketing Order, shall forthwith remit to the Commission the full amount of the assessment due. Any producer who fails to pay or remit such assessment as herein provided shall be considered to be in violation of this Marketing Order and shall upon conviction be punished as provided by the above.

V. Funds.

- a. The Commission shall deposit all monies collected pursuant to this Marketing Order in a separate account allocated to the Board, and such account shall be in the name of the South Carolina Corn Board pursuant to § 46-17-370.
- b. All income, interest, or otherwise, derived from this fund must be reinvested in the fund.
- c. Expenses and disbursements incurred and made pursuant to the Act and this Marketing Order shall be made by draft or check bearing the signature of the Chair of the Board and one other person, designated by the majority vote of the Board, which person shall be either a member or an employee of the Board.
- d. Monies collected by the Commission and Board pursuant to the Act and this Marketing Order as assessments shall be used by the Board only for the purposes of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of the Act and this Marketing Order.

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VI. Refund of Assessments.

- a. Any producer may, if dissatisfied with any assessment that has been levied and collected, be refunded the full amount of such assessment.
- b. The Board shall create application forms for producers requesting a refund of assessments levied and collected and make such applications publicly available on the internet websites of the Board and the Department and provide such forms to producers upon telephone or mail request.
- c. The checkoff refund form must:
 - i. contain the mailing address, fax number, and electronic mail address of the location to which the assessment refund form may be sent;
 - ii. contain information concerning procedures to claim an assessment refund; and
 - iii. contain any other information determined necessary by the Board.
- d. The producer's application for a refund must be received by the Board not more than 60 days after the assessment is deducted from the sale price of the producer's corn.
 - i. provided that request for refund is made in writing and in the hands of the Commission and of the Chair of the Board within 60 days from the date upon which assessment was due and that such assessment was properly paid and receipt issued prior to this date; provided that the payment of the assessment was not the result of legal action brought against such producer.
- e. Proof that an assessment has been deducted from the sale price of a producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser.
- f. The refund form and proof of assessment may be mailed, faxed, or electronically submitted to the Board. The refund form must clearly state how to request a refund, the address where the form may be mailed, the fax number where the form may be faxed, and the electronic mail address where the form may be received.
- g. If a refund is due to the producer, the Board shall remit the refund of the assessment to the producer not more than 60 days of the assessment being received from the first purchaser.
- h. In lieu of a refund under Paragraph A in this section, the Board will allow producers to make partial refund requests and allow for assignment of such partial refunds to pay membership dues for the South Carolina Corn and Soybean Association. ("Association") as provided in this paragraph. The Board shall administer the Partial Refund Program as follows:
 - i. The producer must fill out an application and assignment form setting forth the producer's desire (i) to join or renew membership in the Association and (ii) to assign a specified portion of the refund to the Association. The format of this application and assignment form must be approved by the Board.
 - ii. The application and assignment form must contain a certification by the producer showing that a sufficient amount of corn was sold to provide adequate fees for the assignment requested.
 - iii. The producer and the Board shall receive copies of the completed application and assignment forms.
 - iv. The Board shall make payment to the Association based on the number of completed application and assignment forms received.
- i. The Board will monitor all refund payments made pursuant to this section to ensure that producers do not receive full or partial refunds in an amount greater than the amount of the original fee paid.

Section V: Information Reports and Maintaining Records

- I. All persons subject to the provisions of the Marketing Order shall make and render such reports and furnish such information to the Board as may be necessary or required under the Act or this Marketing Order to effectuate the purpose thereof. Any information obtained by any person pursuant to the provisions of this regulation shall be confidential and shall not be disclosed to any other person save to a person with like right to obtain the same or any attorney employed by the Board to give legal advice thereon or by court order.
- II. **First Purchaser Requirements.** A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter for at least three (3) years.
 - a. The Board may periodically audit a first purchaser's checkoff assessment and remittance records. The audit must be conducted by:

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- i. A qualified public accountant of the Board's choosing; or
 - ii. An auditor who is familiar with the storage, conditioning, shipping, and handling of agricultural commodities.
- b. The costs associated with the audit shall be paid by the Board.

Section VI: Continuance.

- I. Prior to the completion of each five (5) calendar years from the effective date of this Order, or the completion of five (5) complete corn marketing seasons, whichever shall be the longer period, the Commission shall resubmit this Order to a referendum of affected producers and shall require that said affected producers re-assent to the continuance of the Order for an additional and similar period according to the requirements for initial assent pursuant to § 46-17-140. If the required assent is not given by the affected producers, this Order shall be declared to be terminated.

Section VII: Effective Date.

- I. The effective date of the Marketing Order for Corn shall be July 1, 2024.

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