

**THE OHIO VEGETABLE AND SMALL FRUIT RESEARCH AND
DEVELOPMENT PROGRAM PROPOSED PROGRAM AS PASSED BY OHIO
PRODUCERS FEBRUARY 1993 IN ACCORDANCE WITH PROVISIONS OF
SECTION 924 OF THE OHIO REVISED CODE.**

Article I
Purpose

This program is designed to improve the profitability and marketability of vegetable and small fruit crops through research and development. The primary purpose of this program is to provide funding for crop research to assist producers in developing new varieties, new cultural practices and other activities that will enhance the profitability of vegetable and small fruit crops.

Article II
Authority

The Ohio Vegetable and Small Fruit Research and Development Program (hereafter referred to as Program) is established by the Ohio Department of Agriculture pursuant to Chapter 924 of the Ohio Revised Code and 901:4-5-01 to 901:4-5-13 of the Administrative Code, adopted by the Director pursuant to Section 924.02(B) of the Ohio Revised Code.

Article III
Program Extent

Producers of vegetable and small fruit commodities (see Article IV,B) are subject to an assessment of three quarters of one percent of the value of those commodities sold/marketed not to exceed \$50 on production units of 3 to 15 acres nor more than \$3 per acre for production units greater than 15 acres with the assessment to begin on March 1, 1993. Producers are entitled to a refund of the assessment within thirty (30) days of payment, provided the refund request is made within 30 days of payment. Producers who fail to submit a valid refund request within thirty (30) days of due date of the assessment are not entitled to a refund.

Article IV
Definitions

- A. PROGRAM means a program established by authority of the Director of Agriculture pursuant to Section 924.01 through 924.16 of the Revised Code and Administrative Code 901:4-5-01 to 910:4-5-13, or other laws and regulations adopted by the State of Ohio or the Director.
- B. VEGETABLE & SMALL FRUIT CROPS means fruits and products from brambles, blueberries, strawberries, etc., fresh and processed vegetables (such as sweet corn, tomatoes, cucumbers, asparagus, lettuce, herbs, spinach, radishes, etc.) cole crops and products (such as cabbage, broccoli, collards, etc.) root plants and products, (such as turnips, carrots beets, potatoes, etc.) vine crops and products (such as pumpkins, squash, gourds, melons, etc.) and other similar fruits and vegetables as determined by the Director. Excluded from this program are all tree fruits (such as apples, pears, peaches, cherries, etc.) and tomatoes, sugar beets and grapes sold for processing.
- C. DIRECTOR means the Director of Agriculture of the State of Ohio.
- D. PRODUCER means any person who is in the business of producing or causing to be produced vegetable and small fruit crops.
- E. DEPARTMENT means the Ohio Department of Agriculture.
- F. PRODUCTION means the time period from when the seed or plant is planted through the harvest of the plant and/or commodity.
- G. CAUSING TO BE PRODUCED means having first title to vegetable and small fruit crops or commodities. This definition excludes persons who receive a fixed income resulting from providing one or more production or marketing services (for example; investors, lenders, landlords who cash rent, brokers, processors, buyers, etc.)

- H. OHIO VEGETABLE AND SMALL FRUIT BOARD (hereafter referred to as Board) means the operating committee which is appointed by the Director to administer the Ohio Vegetable and Small Fruit Research and Promotion Program.
- I. PRODUCTION YEAR means the twelve consecutive-month period beginning the first day of January through the last day of December, unless otherwise defined by the Director.
- J. PRODUCTION UNIT means a land area of three or more acres with a vegetable or small fruit crop or combination of vegetable and small fruit crops. Production unit includes all land in vegetable and small fruit crop(s) that is owned, rented, leased, sharecropped, or in any other way produces vegetable and small fruit crop(s) for sale by the producer.
- K. ACRE means a land area of 43,560 square feet, or 4,840 square yards.

Article V
Funding

An assessment of three quarters of one percent of the value of vegetable and small fruit commodities sold/marketed from that production unit shall be assessed at the first point of sale with the assessment not to exceed \$50 on production units of 3 to 15 acres nor more than three dollars per acre for production units greater than 15 acres. No assessment shall be collected on production units less than three acres. The Board may accept and utilize voluntary contributions received from producers of vegetable and small fruit crops with less than three acres and from other interested parties.

Article VI
Collection of Assessment

- A. Each producer shall by law submit the assessment no later than December 31 from the commodities produced for market in the current calendar year.
- B. The Board may send by ordinary first class U.S. mail, the assessment reporting form to each known producer. The producer shall complete the form reporting the acreage of each covered vegetable and small fruit crop and the total acreage of all vegetable and small fruit crops and the total acreage of all vegetable and small fruit crops and remit this form along with assessments due. Producers may also submit information on their research needs and priorities. If no assessment is due, the producer must complete the report form. Failure of the Board to mail a producer the remittance form does not relieve the producer of the responsibility to report and forward assessments
- C. Producers must complete the assessment form and make payment of the assessment(s) due on or before December 31. They are then entitled to a refund provided the request is made within 30 days from the receipt of the assessment. If a producer fails to report on or before the date due, the producer forfeits the right to a refund.
- D. Following the receipt of the assessment, the Director shall deposit such monies received with the Treasurer of the State in a special revenue account for this Program pursuant to Section 924.10 of the Revised Code.
- E. Assessment and/or payments received from persons with delinquent accounts will have the assessment and payment credited to the most delinquent account, including partial assessments and payments. Delinquent accounts include past due assessments, interest charges and all costs incurred by the Board and/or the State of Ohio, as defined by the Administrative Code 901:4-5-13 or other laws or regulations adopted by the State of Ohio, and/or the Director.
- F. The Director may also develop and approve special programs or procedures with growers, processors and handlers to collect the assessment at the point of first sale for submission to the Program.

Article VII
Refunds

- A. Any producer from whom an assessment has been collected shall be entitled to receive a refund up to the amount of assessment subject to submitting a properly completed refund request on a form approved and provided by the director.
- B. Refund Form:

1. Refund forms shall be available to producers at the office of the Ohio Vegetable and Small Fruit Research and Promotion Program Board and at the Ohio Department of Agriculture.
 2. Each request for a refund shall contain the following:
 - a) producer's name and mailing address;
 - b) amount and date of assessment;
 - c) identification number as reported for the assessment.
- C. Each request for a refund must be postmarked no later than midnight thirty (30) days from the date the assessment was received, or 30 days from the due date of the assessment, provided a payment of the assessment is received.
- D. The due date of the assessment shall be December 31, for each current calendar year.
- E. Refund payments shall be made as quickly as possible, but no later than thirty (30) days from receipt of request.

Article VII Board

1. The Board shall consist of 12 appointed producer members and the director with rights to vote. Other industry representatives or committees as deemed by the Board may be called upon to advise the Board.
2. As far as practically possible, the Board should equitably represent all sectors of the vegetable and small fruit industry that are subject to the assessment.
3. The first Board shall consist of 4 members to serve a three year term, 4 members to a two-year term, and 4 a one-year term. Thereafter, all members will be appointed to a three year term except for unexpired terms, the appointments shall be effective January 1 each calendar year.
4. The Director will follow ch. 119 of the Revised Code in notifying person of any vacancy and a period for accepting written nominations.
5. A Board member may be removed for one of the following reasons by the Director subject to Board recommendation:
 - a. Three consecutive, unexcused absences from Board meetings. Unexcused absences are to be defined by the Board.
 - b. No longer a producer as defined by the Program.
 - c. Conduct that violates the laws and regulations of the State of Ohio and has negative impact upon the Board.
6. Board Meetings: The Board shall meet at least 2 times but not more that 5 times per calendar year, and at the call of the chairperson, or 7 members of the Board. The Board shall follow accepted rules of parliamentary procedure.
7. Quorum: A simple majority seven members of the Board shall constitute a quorum. A simple majority of concurring votes shall be required to pass any motion or approve any Board action, except as stated otherwise.
8. Board Compensation: Members of the Board except the Director are entitled only to actual and necessary travel and incidental expenses while attending meetings of the Board or while engaged in the performance of official responsibilities as determined by the Board.
9. Limitation of Liability of Board Members and Employees: 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 liabilities for the debts or actions of the Board or thereof or against any board established pursuant to the Act or the assets thereof or against any member, officer, employee, or agent of the Board in 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 which result in a violation of any law. No such person or employee shall be held responsible individually for the act or omission of any member of the Board. The liability of the members of the Board shall be several and not joint and no members shall be liable for the default of any other member.