

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

**CALIFORNIA FRESH CARROT RESEARCH AND
PROMOTION PROGRAM**

Effective January 1, 1987
Incorporating Amendments through August 10, 2012

CALIFORNIA FRESH CARROT RESEARCH AND PROMOTION PROGRAM

ARTICLE I

DEFINITIONS

Section A. DEFINITION OF TERMS As used in this Program, the following terms shall have the following meanings:

1. "Act" means the California Marketing Act, being Chapter 1 of Part 2, Division 21 of the Food and Agricultural Code.

2. "Department" means the California Department of Food and Agriculture.

3. "California Fresh Carrot Research and Promotion Program" or "Program" means, unless the context indicates otherwise, this marketing order, directly affecting handlers of carrots, which is issued by the Department pursuant to the provisions of the Act.

4. "California Fresh Carrot Advisory Board," "California Fresh Carrot Board," "Carrot Advisory Board," "Advisory Board," and "Board" are synonymous and mean the California Fresh Carrot Advisory Board created pursuant to Article II of this Program.

5. "Person" means any individual, partnership, corporation, firm, association, subsidiary, affiliate, or other business unit.

6. "Carrots," for the purposes of this Program, mean any and all varieties of carrots (*Daucus Carota*) produced in California that are sold in their fresh form including baby cut carrots, carrot sticks, coins and all other forms of carrots prepared for fresh consumption; but shall not include carrots used for manufacturing purposes, as herein defined, nor shall it include carrots moved for the purposes of animal feed under a disposal order or By-Products Permit, as defined in the Food and Agricultural Code.
(Amended 1/2/94)

7. "Handler" means any person engaged within this State as a distributor of carrots or as a processor of carrots or a shipper of carrots who handles a quantity of ten million (10,000,000) pounds or more of carrots, as herein defined, during a marketing season, and who first received or obtains such carrots from a producer thereof and shall include any producer of carrots who performs any of the functions of a distributor or of a processor or of a shipper, as such terms are defined as follows:
(Amended 1/2/94)

a. "Distributor" means any person engaged in the operation of selling, marketing, or distributing carrots which he has produced, or purchased or acquired from a producer, or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise, but shall not include a retailer except such retailer who purchases or acquires from or handles on behalf of any producer, carrots not theretofore subjected to the regulation of this Program;

b. "Processor" means any person engaged in the operation of receiving, sorting, washing, grading, packing, or otherwise preparing for market or marketing carrots as herein defined;

c. "Shipper" means any person other than a common carrier who ships carrots.

8. "Producer" and "Grower" are synonymous and mean any person engaged within this State in the business of producing or causing to be produced carrots of any variety, as defined in this Program.

9. "Standard Container" means standard containers for carrots as such containers are defined in the Food and Agricultural Code of California.

10. "To Handle" means to perform any of the functions of a handler as herein defined.

11. "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade, carrots.

12. "Ship" means to transport carrots or cause them to be transported by any means whatsoever, except such transportation as is necessary in the production or the producer marketing of carrots to a handler.

13. "Grower-Shipper" means any producer who performs the function of a shipper as herein defined.

14. "Market," unless the context indicates otherwise, shall be synonymous with the phrase "to market" and shall mean to sell, ship, distribute or otherwise handle.

15. "Prepare for Market" means to receive, sort, wash, grade, pack, process, transport, or otherwise prepare for market carrots in their fresh form, as herein defined.

16. "Manufacturing" means altering carrots from their original fresh form, such as by freezing, fermenting, dehydrating, parboiling, boiling, canning, distilling, juicing, crushing, etc.
(Amended 1/2/94)

17. "Books and Records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data reflecting operations under this Program.

18. "Marketing Season," "Fiscal Year," and "Fiscal Period" are synonymous and mean the period beginning April 1 of any year and extending through March 31 of the following year. (Amended 8/10/12.)

ARTICLE II

CALIFORNIA FRESH CARROT ADVISORY BOARD

Section A. ESTABLISHMENT, MEMBERSHIP AND TERM OF OFFICE

1. A board to be known as the California Fresh Carrot Advisory Board is hereby established to assist the Department in the administration of this Program.

2. The Board shall consist of the following: Each handler who handles carrots and who wishes to be represented on the Board, shall be entitled to nominate one (1) member and one (1) alternate to serve on the Board. The Department shall appoint members and alternate members of the Board from the nominations made by handlers.

(Amended 3/2/98.)

3. In addition to the handler members, upon recommendation of the Board, the Department may appoint one (1) member and one (1) alternate member to the Board to represent the general public. Such persons shall not be affiliated in any way with respect to the production or marketing of carrots and shall have all of the rights and privileges, including voting, of any other member or alternate member of the Board.

(Amended 3/2/98.)

4. The term of office of members and alternate members of the Board, except the initial Board, shall be three (3) years, beginning November 15 of the year in which they are appointed and continuing at the pleasure of the Department through November 14 of the third year following their appointment, or until their successors have been appointed and have qualified.

(Amended 3/2/98)

Section B. INITIAL ADVISORY BOARD

1. The members and their respective alternates of the initial Advisory Board shall serve from the date of their appointment through November 14, 1988, or until their successors are appointed and have qualified.

2. Nominations of persons eligible to serve on the initial Advisory Board shall be received at the public hearing held on this Program.

3. The Department shall appoint the initial members and their alternates from nominations received at such public hearing, and such nominations shall be in accordance with the district classifications as set forth in Section A of this Article.

Section C. NOMINATION AND APPOINTMENT OF SUCCEEDING MEMBERS AND ALTERNATE MEMBERS OF THE ADVISORY BOARD

1. Beginning in 1990 and every three years thereafter, prior to the end of the term of office of the members and alternates, the Department shall notify and solicit from all carrot handlers the nominations of persons to represent each handler as the member and alternate member on the Board for the upcoming 3-year term. (Amended 3/2/98)

2. Each handler having a member and/or alternate handler on the Board, shall maintain eligibility by qualifying as a carrot handler during each year such handler is represented. (Amended 3/2/98)

Section D. FAILURE TO NOMINATE In the event nominations are not made pursuant to Section C of this Article, the Department may appoint the handler members of the Advisory Board and their respective alternates, without regard to handler nominations, from persons who are qualified as provided for in Section A of this Article.

Section E. QUALIFICATION Any person appointed by the Department as a member or as an alternate member of the Board shall qualify by filing with the Department a written acceptance and such other documents as may be required.

Section F. ALTERNATE MEMBERS An alternate member of the Board shall, in the absence of the member for whom he is an alternate, sit in the place and stead of such member at any meeting of the Board and shall have all the powers, duties and privileges of the member while attending any such meeting. In the event of the death, removal, resignation or disqualification of a member, his/her alternate shall act in his/her place and stead until a successor of such member is appointed and has qualified.

Section G. VACANCIES The Department shall fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Advisory Board. In replacing a member or alternate member of the Advisory Board, the Department may take into consideration any nominations made by the handler concerned.
(Amended 3/2/98)

Section H. ORGANIZATION

1. Fifty-one percent (51%) of the eligible-to-vote Board membership positions shall constitute a **QUORUM**. Any recommendations of the Board to the Department shall require the affirmative vote of not less than fifty-one percent (51%) of the members or their respective alternates who are in attendance at a regularly called meeting of the Board. Any action taken for establishing an assessment rate or establishing or revising a budget shall require a majority vote of the full Board, plus one additional vote.
(Amended 3/2/98)

2. The Board shall select a chairman and a vice chairman from its membership, and a secretary and such other officers as it may desire who may or may not be members of the Board, and may adopt such rules for the conduct of its meetings and functions hereunder as may be deemed desirable and necessary.

Section I. COMMITTEES The Board may recommend and the Department may appoint such committees as may be necessary. Such committees may include an advisory committee consisting of producers, or non-producers, who are not handlers, to assist the Board and the Department in performing duties authorized pursuant to this program.

Section J. EXPENSES The members of the Board, alternate members of the Board whether or not acting as members, and committee members may be reimbursed for necessary expenses incurred by them in the performance of their duties and in the exercise of their powers hereunder.

Section K. DUTIES AND POWERS OF THE ADVISORY BOARD The Advisory Board shall have the following duties and powers, which may be exercised subject to the approval of the Department:

1. To administer the provisions of this Program.
2. To recommend to the Department administrative rules and regulations relating to this Program.
3. To receive and report to the Department complaints of violations of this Program.
4. To recommend to the Department amendments to this Program.
5. To assist the Department in the assessment of members of the industry and in the collection of such assessments to cover expenses incurred by the Board and the Department in the administration of this Program.
6. To assist the Department in the collection of such necessary information and data as the Department or the Board may deem necessary to the proper administration of this Program and of the Act.
7. To keep minutes, books and records which will clearly reflect all of its meetings, acts and transactions and to provide the Department with copies of the minutes duly certified by an authorized officer of the Board. Said minutes, books and records shall at all times be subject to examination by the Department or its duly authorized representatives.
8. To employ such personnel as may be deemed necessary and to fix their compensation and terms of employment.
9. To receive, invest, and disburse funds pursuant to the provisions of Article 10 (commencing with Section 58921) of the California Marketing Act.

Section L. LIMITATION OF LIABILITY OF MEMBERS OF THE BOARD The members of the Board or any committees hereunder duly appointed by the Department, and the employees of such Board, shall not be held responsible individually in any way whatsoever to any producer, shipper, grower-shipper, handler, or to any other 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 any act or omission of any other member of the Board, committee or employee. The liability of the members of the Board, its committees, or employees, shall be several and not joint, and no member shall be liable for the default of any other member.

ARTICLE III

EDUCATION, PUBLIC RELATIONS, ADVERTISING, MERCHANDISING, MARKET DEVELOPMENT, MARKET RESEARCH AND SURVEYS, AND SALES PROMOTION PLANS

Section A. EDUCATION, PUBLIC RELATIONS, ADVERTISING, MERCHANDISING, MARKET DEVELOPMENT, MARKET RESEARCH AND SURVEYS, AND SALES PROMOTION PLANS (Amended 8/15/89)

1. The Board is hereby authorized to prepare and administer, subject to the approval of the Department, plans for promoting the sale of carrots for the purpose of maintaining existing markets and creating new and larger markets for carrots; provided, that any such plans so developed and conducted shall be directed toward promoting the sale of carrots without reference to a particular private brand name or trade name; and provided, further, that such plans or programs make no false or unwarranted claims on behalf of carrots, nor disparage the quality, value, sale, or use of any other agricultural commodity.

2. Education, public relations, advertising, merchandising, market development, market research and surveys, and sales promotion plans conducted pursuant to this Marketing Program may also include any or all of the following activities:

a. Investigating any reasonable possibilities of increasing the market demands for California carrots both in the domestic and foreign markets.

b. Assembling or disseminating factual information relating to marketing conditions for carrots, as the Board may require, including information as to movement of carrots to market, stocks on hand, or other data relating thereto.

c. Assembling or disseminating educational information designed to improve the quality of carrots through improved methods of harvesting, handling, processing or merchandising practices.

d. Presenting facts to and negotiating with State, Federal or foreign governmental agencies on matters which affect the marketing of carrots.

e. Any other appropriate and authorized activity consistent with the purposes and objectives of this Marketing Program.

3. OFFICIAL BOARD BRAND, TRADE NAME AND LABEL PROGRAMS Pursuant to the provisions of Section 58894 of the Food and Agricultural Code, the Board is authorized to establish and to regulate the permissive use of official Board brands, trade names and labels, and other distinctive designations of grade, quality or condition, except the grade or quality designation in effect pursuant to State or Federal grade standards. Any official Board brand or trade name which is established pursuant to this Section shall not be construed as a private brand or trade name with respect to Section 58889 of the Code.

4. In order to carry out the plans, programs and presentations prescribed in this Section, the Board is authorized to enter into contracts with agencies qualified to render services in formulating, presenting and conducting such plans, programs or presentations.

ARTICLE IV

GENERAL RESEARCH

Section A. RESEARCH AND DEVELOPMENT AND SURVEY STUDIES (Production-Processing and Distribution). The Advisory Board is authorized, subject to the approval of the Department, to undertake or cause to be conducted, to administer, and to expend monies for research relating to production, processing, and distribution of carrots. Such research activities may include, but shall not be limited to research, development and survey programs relating to varietal development, seed improvement, production, harvesting, handling, transportation from field to processing points and from processing points to market, and processing or preparation for market of any or all varieties of carrots. With the approval of the Department, the Board may expend money, enter into contracts with qualified research agencies, and do all things necessary and proper to the conduct of a carrot research and development and survey program, limited only by the provisions of Sections 58892 and 58892.1 of the Act.

Section B. DISSEMINATION OF RESEARCH INFORMATION The Advisory Board, with the approval of the Department, may release, distribute and disseminate the results of research studies, surveys and information obtained as a result of research, to appropriate parties.

ARTICLE V

GENERAL PROVISIONS

Section A. PROHIBITION OF ACTIVITIES NOT AUTHORIZED UNDER THIS PROGRAM This Program does not authorize and expressly prohibits as activities under this Program, any control or regulation of the volume, quantity, grade, size or quality of carrots which may be marketed during any marketing season.

Section B. ADMINISTRATIVE RULES AND REGULATIONS Upon the recommendation of the Board, the Department is authorized to issue and make effective such administrative rules and regulations and interpretations of terms as may be necessary to carry out the purposes and attain the objectives of this Program.

Section C. COORDINATION WITH OTHER STATE OR FEDERAL MARKETING ORDERS Insofar as may be practicable, the administration of this Program may be coordinated with any other marketing order or agreement or Program that may be effective or made effective for carrots under either State or Federal statutes, or may be coordinated with State or Federal marketing orders or agreements or programs for any other commodity.

ARTICLE VI

BUDGETS AND RATES OF ASSESSMENT

Section A. RECOMMENDATIONS OF BUDGET AND RATES OF ASSESSMENT BY THE BOARD At the beginning of each fiscal year hereunder and as may be necessary thereafter, the Board shall recommend to the Department a budget or budgets of estimated income, expenditures and reserves for the administration and enforcement of this Program and the activities authorized hereunder. The Board shall also recommend a rate or rates of assessment to be levied upon handlers of California carrots upon a uniform basis, sufficient to provide adequate funds to defray the proposed expenditures and reserves as set forth in said budget or budgets, as follows:

1. During the 1987 marketing season, such rate or rates shall not exceed a total of one and one half cents per fifty pounds (0.015 per 50 lbs.) or an equivalent basis on all carrots prepared for market and marketed by handlers.

2. During the 1988 marketing season, such rate or rates shall not exceed a total of two cents per fifty pounds (\$0.02 per 50 lbs.) or an equivalent basis on all carrots prepared for market and marketed by handlers.

3. During the 1989 marketing season and thereafter, such rate or rates shall not exceed a total of three cents per fifty pounds (\$0.03 per 50 lbs.) or an equivalent basis on all carrots prepared for market and marketed by handlers.

Section B. APPROVAL OF BUDGETS AND FIXING OF RATES OF ASSESSMENT BY THE DEPARTMENT

If the Department finds that the recommended budgets and rates of assessment are proper and equitable and calculated to provide such funds as may be necessary to properly carry out the provisions of this Program, it may approve such budgets and rates; provided, however, that in no event shall said rates of assessment exceed the maximum rates authorized by the act.

Section C. INACTIVE PROGRAM

1. Should the Advisory Board fail to recommend to the Department an assessment rate or budget for a new marketing season, the Department shall declare the Program inoperative until such time as the existing Board should meet and recommend an assessment rate. In no event shall the Department make such assessment rate effective prior to the beginning of a new marketing season.

2. Should the Program remain inactive for a period of three consecutive marketing seasons, the Department may terminate the Program pursuant to Section 59087 of the Act.

Section D. PAYMENT AND COLLECTION OF ASSESSMENTS The obligation to pay assessments under this Program shall apply to handlers on all carrots prepared for market or marketed by said handlers. Each handler of carrots shall pay the entire applicable assessment, at the rates approved by the Department pursuant to the provisions of this Program, on all carrots prepared for market or marketed by said handler. The Department may verify that proper assessment payments have been made by handlers. Any assessments levied hereunder shall constitute a personal debt of every person so assessed and shall be due and payable upon demand. In any event of failure of any person to pay any assessment payable hereunder, the Department may file a complaint against such persons in a State court of competent jurisdiction for the collection thereof, pursuant to the provisions of Section 58929 of the Act. The Department may add to any unpaid assessment a collection expense penalty not to exceed ten percent (10%) of such unpaid assessment.

Section E. At least once each year, the Board shall cause to be conducted an audit of its revenues and expenditures by a certified public accounting firm.

Section F. REFUNDS Any money collected as assessments during the marketing season and not expended in connection with this Program may, at the discretion of the Department, be refunded after the close of any marketing season upon a pro rata basis to all persons from whom assessments were collected; or all or a portion of such money, as may be recommended by the Board and approved by the Department, may be carried over into the next marketing season if the Department finds that such money may be required in defraying the cost of this Program in such succeeding season.

ARTICLE VII

BOOKS AND RECORDS

Section A. BOOKS AND RECORDS Any and all persons subject to the provisions of this Program shall maintain books and records reflecting their operations under this Program and shall furnish to the Department or its duly authorized or designated representatives such information as may be, from time to time, requested by the Department relating to their operations under this Program, and shall permit the inspection by said Department or its duly authorized or designated representatives of such portions of their books and records as relate to operations under this Program.

Section B. REPORTS TO THE ADVISORY BOARD Upon request of the Advisory Board, made with the approval of the Department, each person shall furnish to the Board in such manner and at such times as the Board prescribes, and in addition to such other reports as are specifically provided for herein, such other information as will enable the Board to perform its duties and to exercise its powers in the proper administration and enforcement of this Program.

Section C. CONFIDENTIAL INFORMATION Any information obtained by any person pursuant to the provisions of this Article shall be confidential and shall not be disclosed by him/her to any other person, save to a person with like right to obtain same, or any attorney employed by the Department to give legal advice thereupon, or by court order.

Section D. IMMUNITY No person shall be excused from attending and testifying or from producing documentary evidence before the Department in obedience to the subpoena of the Department on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him/her tends to incriminate him/her or subjects him/her to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify or produce evidence, documentary or otherwise, before the Department in obedience to a subpoena issued by it.

ARTICLE VIII

APPEALS

Section A. APPEALS Any person regulated by this Program may petition the Department to review any order or decision of the Advisory Board. Any such petition must be filed in writing setting forth the facts upon which is acts and transactions and which minute books and records shall at any time be subject to the examination of the Department.

8. To prepare a budget covering the anticipated expenses of the Board and to submit same to the Department.

9. To assist the Department in the collection of such information and data as the Department may deem necessary to the proper administration of this Marketing Order.

10. To receive complaints of, and to investigate and report to the Department

ARTICLE IX

RELATION TO OTHER LEGISLATION

Section A. ANTITRUST LAWS In any civil or criminal action or proceeding for violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act (Sections 16700 et seq. of the Business and Professions Code), or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this Program and in furtherance of the purposes and provisions of the Act shall be a complete defense to such action or proceeding.

ARTICLE X

DURATION OF IMMUNITIES

Section A. DURATION OF IMMUNITIES The benefits, privileges and immunities conferred by virtue of the provisions hereof shall cease upon its termination except with respect to acts done under and during the time the provisions hereof are in force and effect.

ARTICLE XI

AGENTS

Section A. AGENTS The Department may, by a designation in writing, name any person, including any officer or employee of the State or any branch or division in the California Department of Food and Agriculture, to act as its agent or representative in connection with any of the provisions hereof.

ARTICLE XII

DEROGATION

Section A. DEROGATION Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Department or of the State to exercise any powers granted by the Act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE XIII

SEPARABILITY

Section A. SEPARABILITY If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

ARTICLE XIV

EFFECTIVE TIME AND TERMINATION

Section A. EFFECTIVE TIME This Program shall become effective on the date specified by the Department and shall continue in effect until suspended or terminated by the Department or by operation of law in accordance with the provisions of the Act; provided, that within five (5) years of the effective date of this Program and at least once each five (5) years thereafter, the Department shall conduct a referendum of handlers to determine whether or not the Program should be continued or terminated. The Program may be continued if a majority of the handlers voting in the referendum favor continuation.

Section B. TERMINATION

1. Pursuant to the provisions of Sections 59081 and 59085 of the Food and Agricultural Code, the Department shall suspend or terminate or submit for reapproval this Program or any provision thereof whenever he (she) finds, after a public hearing duly noticed and held in accordance with provisions of Article 6, Chapter 1, Division 21 of said Food and Agricultural Code, that this Program or any provision thereof is opposed by a substantial number of handlers or is contrary to or does not tend to effectuate the declared purposes or provisions of the Act within the standards and subject to the limitations and restrictions therein imposed; provided, that such suspension or termination shall not become effective until expiration of the then current marketing season.

2. The Department shall also terminate this Program if he finds that the termination of the Program has been duly requested in writing, within a 90 day period, by at least 51 percent of those handlers affected who have handled 51 percent of all carrots handled in this State. Such written request shall be filed in accordance with the procedures set forth in the Act.

3. If at least 15 percent of the handlers of carrots who represent at least 15 percent of all carrots handled in this State request, within a 90 day period, that this Program shall be submitted for reapproval, the Department shall hold a hearing on the question of the reapproval and whether such reapproval shall be by assent or referendum. Such written request shall be filed in accordance with the procedures set forth in the Act.

Section C. EFFECT OF TERMINATION, SUSPENSION OR AMENDMENT Unless otherwise expressly provided for in the notice of amendment, suspension or termination, no amendment, suspension or termination of this Program issued by the Department shall either (a) affect, waive or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any other provisions of this Program not so amended, suspended or terminated; (b) release, condone, or dismiss any violation of this Program occurring prior to the effective time of such amendment, suspension or termination; (c) affect or impair any right or remedy of the Department or of any person with respect to such violation; or (d) affect any liabilities pursuant to the provisions of this Program.