

Agricultural Marketing Service, USDA

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misleading or disparaging another agricultural commodity. Blueberries of all origins shall be treated equally.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.55 Independent evaluation.

The Council shall, not less often than every five years, authorize and fund, from funds otherwise available to the Council, an independent evaluation of the effectiveness of the Order and other programs conducted by the Council pursuant to the Act. The Council shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.56 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Council under this subpart shall be the property of the U.S. Government as represented by the Council and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Council; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Council; and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1218.73 shall apply to determine disposition of all such property.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

REPORTS, BOOKS, AND RECORDS

§ 1218.60 Reports.

(a) Each first handler subject to this subpart may be required to provide to the Council periodically such information as may be required by the Council, with the approval of the Secretary, which may include but not be limited to the following:

- (1) Number of pounds handled;
- (2) Number of pounds on which an assessment was collected;
- (3) Name and address of person from whom the first handler has collected the assessments on each pound handled; and
- (4) Date collection was made on each pound handled. All reports are due to the Council 30 days after the end of the crop year.

(b) Each producer and importer subject to this subpart may be required to provide to the Council periodically such information as may be required by the Council, with the approval of the Secretary, which may include but not be limited to the following:

- (1) Number of pounds produced;
- (2) Number of pounds on which an assessment was paid;
- (3) Name and address of the producer;
- (4) Date collection was made on each pound produced. All reports are due to the Council 30 days after the end of the crop year.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.61 Books and records.

Each first handler, producer, and importer subject to this subpart shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least 2 years beyond the fiscal period of their applicability.

§ 1218.62 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Council, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Council members, producers, importers, exporters, or first handlers. Only those persons having a specific need for such information to

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effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

MISCELLANEOUS

§ 1218.70 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Council shall be submitted to the Secretary for approval.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.71 Referenda.

(a) *Initial referendum.* The Order shall not become effective unless:

(1) The Secretary determines that the Order is consistent with and will effectuate the purposes of the Act; and

(2) The Order is approved by a majority of producers and importers voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries.

(b) *Subsequent referenda.* Every five years, the Secretary shall hold a referendum to determine whether blue-

berry producers and importers favor the continuation of the Order. The Order shall continue if it is favored by a majority of producers and importers voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries. The Secretary will also conduct a referendum if 10 percent or more of all eligible blueberry producers and importers request the Secretary to hold a referendum. In addition, the Secretary may hold a referendum at any time.

§ 1218.72 Suspension and termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that the subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of producers and importers voting for approval who also represent a majority of the volume of blueberries represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1218.73 Proceedings after termination.

(a) Upon the termination of this subpart, the Council shall recommend not more than three of its members to the