

and information activities undertaken under the order.

**(i) Books and records of persons covered by order**

**(1) In general**

Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

**(2) Time requirement**

Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

**(3) Other information**

The Secretary may use, and may authorize the board to use under this subchapter, information regarding persons subject to an order that is collected by the Department under any other law.

**(4) Confidentiality of information**

**(A) In general**

Except as otherwise provided in this subchapter, all information obtained under paragraph (1) or as part of a referendum under section 7417 of this title shall be kept confidential by all officers, employees, and agents of the Department and of the board.

**(B) Disclosure**

Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed 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 Department is a party.

**(C) Other exceptions**

This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

**(D) Penalty**

Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both.

**(5) Withholding information**

This subsection shall not authorize the withholding of information from Congress.

(Pub. L. 104-127, title V, §515, Apr. 4, 1996, 110 Stat. 1036.)

**§ 7415. Permissive terms in orders**

**(a) Exemptions**

An order issued under this subchapter may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

**(b) Different payment and reporting schedules**

An order issued under this subchapter may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

**(c) Activities**

An order issued under this subchapter may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 7414(e) of this title shall apply with respect to activities authorized under this subsection.

**(d) Reserve funds**

An order issued under this subchapter may contain authority to reserve funds from assessments collected under section 7416 of this title to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 7414(e) of this title by the Secretary for any 2 fiscal years.

**(e) Credits**

**(1) Generic activities**

An order issued under this subchapter may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

**(2) Branded activities**

**(A) In general**

The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assess-

ment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subchapter.

**(B) Election by cooperative**

A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

**(f) Assessment of imports**

An order issued under this subchapter may contain authority for the board established under the order to assess under section 7416 of this title an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

**(g) Other authority**

An order issued under this subchapter may contain authority to take any other action that—

- (1) is not inconsistent with the purpose of this subchapter, any term or condition specified in section 7414 of this title, or any rule issued to carry out this subchapter; and
- (2) is necessary to administer the order.

(Pub. L. 104-127, title V, §516, Apr. 4, 1996, 110 Stat. 1041.)

**§ 7416. Assessments**

**(a) Assessments authorized**

While an order issued under this subchapter is in effect with respect to an agricultural commodity, assessments shall be—

- (1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and
- (2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 7415(f) of this title.

**(b) Collection**

Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

**(c) Limitation on assessments**

Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

**(d) Assessment rates**

The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 7417 of this title.

**(e) Late-payment and interest charges**

**(1) In general**

Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

**(2) Rate**

The rate for the charges shall be specified by the Secretary.

**(f) Investment of assessments**

Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

- (1) obligations of the United States or any agency of the United States;
- (2) general obligations of any State or any political subdivision of a State;
- (3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or
- (4) obligations fully guaranteed as to principal and interest by the United States.

**(g) Refund of assessments from escrow account**

**(1) Escrow account**

During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 7417(b)(1) of this title with respect to the order, the board established under the order shall—

- (A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and
- (B) deposit funds in the account in accordance with paragraph (2).

**(2) Amount to be deposited**

The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

**(3) Right to receive refund**

Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

- (A) the assessments were remitted on behalf of the person; and
- (B) the order is not approved in the referendum.

**(4) Form of demand**

The demand for a refund shall be made at such time and in such form as specified by the order.

**(5) Payment of refund**

A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

**(6) Proration**

If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

**(7) Closing of escrow account**

If the order is approved in a referendum conducted under section 7417(b)(1) of this title—