(3) Availability of information for law enforcement

Information obtained under this subchapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) Penalty

Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) Withholding of information

Nothing in this subchapter authorizes the withholding of information from Congress.

(i) Use of assessments

The order shall provide that the assessments collected under section 7445 of this title shall be used for payment of the expenses in implementing and administering this subchapter, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subchapter.

(j) Other terms and conditions

The order shall contain such other terms and conditions, not inconsistent with this subchapter, as are determined necessary by the Secretary to effectuate this subchapter.

(Pub. L. 104–127, title V, §535, Apr. 4, 1996, 110 Stat. 1051.)

§ 7445. Assessments

(a) In general

(1) First purchasers

During the effective period of an order issued pursuant to this subchapter, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) Direct processing

The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 7444(b)(6) of this title, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) Limitation on assessments

No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) Remitting of assessments

(1) In general

Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent producers under section 7444(b)(6) of this title to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) Times to remit assessment

Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) Assessment rate

(1) Initial rate

The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) Increase

The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 7446(a) of this title, the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 7446(b) of this title.

(3) Credit

A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 7444(b)(6) of this title shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) Late payment charge

(1) In general

There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) Amount of charge

The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) Refund of assessments from escrow account

(1) Establishment of escrow account

During the period beginning on the date on which an order is first issued under section 7443(b)(3) of this title and ending on the date on which a referendum is conducted under section 7446(a) of this title, the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) Placement of funds in account

The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) Right to receive refund

The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subchapter; and

(C) the producer demands the refund prior to the conduct of the referendum under section 7446(a) of this title.

(4) Form of demand

The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) Making of refund

The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) Proration

If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 7446(a) of this title;

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) Program approved

If the plan is approved pursuant to the referendum conducted under section 7446(a) of this title, all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subchapter.

(Pub. L. 104–127, title V, § 536, Apr. 4, 1996, 110 Stat. 1056.)

§ 7446. Referenda

(a) Initial referendum

(1) Requirement

During the period ending 30 months after the date on which an order is first issued under section 7443(b)(3) of this title, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) Advance notice

The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county cooperative extension offices and county Consolidated Farm Service Agency[1] offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) Approval of order

The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) Disapproval of order

If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) Additional referenda

(1) In general

(A) Requirement

After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) Representative group of producers

An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) Eligible producers

Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) Disapproval of order

If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

(3) Opportunity to request additional referenda

(A) In general

Beginning on the date that is 5 years after the conduct of a referendum under this sub-

[1] See Change of Name note below.