

§ 4011. Functions and powers of Secretary

(a) Duties of the Secretary

In addition to the duties prescribed under section 4009 of this title, the Secretary shall—

(1) review, for consistency with the provisions of this chapter and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) issue orders and amendments to such orders that are necessary to implement quality standards under section 4010(c) of this title;

(4) promulgate regulations necessary to carry out the purposes of this chapter;

(5) enforce the provisions of this chapter, as provided under section 4016 of this title; and

(6) make all appointments to councils in accordance with section 4009(f) of this title.

(b) Assistance

The Secretary may provide, on a reimbursable or other basis, such administrative or technical assistance as a council may request for purposes of the initial organization and subsequent operation of the council.

(Pub. L. 99-659, title II, §212, Nov. 14, 1986, 100 Stat. 3726.)

§ 4012. Assessments

(a) Authority

A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this chapter.

(b) Method of imposition

(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector, or both, as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector shall be—

(A) except for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 4009(b)(3) of this title when purchased by such participants from fish harvesters; and

(B) for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 4009(b)(3) of this title and harvested by such a vessel that is no less than the value of such fish, if such fish had been purchased by a receiver other than an owner of such a vessel.

(3) An assessment on sector participants in the importing sector shall be in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 4009(b)(3) of this title when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(c) Prohibition on assessment

A council may not impose an assessment on any person that was not eligible to vote in the

referendum establishing the council under section 4009(e) of this title by reason of failure to meet the requirements specified under section 4009(b)(6) of this title, unless such person, after the date on which such referendum is held, meets the requirements of section 4009(b)(6) of this title.

(d) Voluntary payments

Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) Deposit of funds

All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) Information

(1) Sector participants shall make available to the Secretary such information and data as is necessary for the effectuation, administration or enforcement of this chapter or any order or regulation issued pursuant to this chapter. Except as provided in paragraphs (2) and (3) of this subsection, any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the Department of Commerce, independent accountants and other persons who have access to such information.

(2) If the Secretary or an employee of the United States Government is a party to a suit or administrative action involving an assessment, order, or regulation issued under this chapter, the Secretary may disclose information obtained under paragraph (1) of this subsection to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this chapter which do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating a requirement relating to an assessment imposed under subsection (a) of this section or to quality standards implemented by the Secretary under section 4010(c) of this title, and a statement of the particular provisions of the requirement violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the Department of Commerce.

(Pub. L. 99-659, title II, §213, Nov. 14, 1986, 100 Stat. 3727.)