

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) Prohibition

The Board shall not engage in any action to, nor shall any funds received by the Board under this chapter be used to—

(1) influence legislation or governmental action, other than recommending to the Secretary amendments to the plan;

(2) engage in any action that would be a conflict of interest; or

(3) engage in any advertising that may be false or misleading.

(h) Books and records

(1) In general

The plan shall require that each first handler, grower-sheller, or importer shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this chapter; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this chapter, including such records as are necessary to verify any required reports.

(2) Time requirement

The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) Disclosure

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

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit 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; and

(iii) the information relates to this chapter.

(C) Misconduct

Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this chapter.

(D) General statements

Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the plan or statistical data collected therefrom, which 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 the plan, together with a statement of the particular provisions of the plan violated by such person.

(4) Availability of information

(A) Exception

Except as provided in this chapter, information obtained under this chapter 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.

(B) 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.

(5) Withholding information

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(i) Use of assessments

The plan shall provide that the assessments collected under section 6007 of this title shall be used for payment of the expenses in implementing and administering this chapter, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this chapter, except for the salaries of Government employees incurred in conducting referenda.

(j) Other terms and conditions

The plan also shall contain such terms and conditions, not inconsistent with this chapter, as determined necessary by the Secretary to effectuate this chapter.

(Pub. L. 101-624, title XIX, §1910, Nov. 28, 1990, 104 Stat. 3841; Pub. L. 102-237, title VIII, §802(2), Dec. 13, 1991, 105 Stat. 1882.)

Editorial Notes

AMENDMENTS

1991—Subsec. (b)(8)(G). Pub. L. 102-237 substituted “subparagraphs (A), (B), and (C) of paragraph (3),” for “paragraph 3(A), (B), and (C),” and “subparagraphs (D) and (E) of paragraph (3)” for “paragraph (3)(D) and (E)”.

§ 6006. Permissive terms in plans

(a) In general

A plan issued pursuant to this chapter may contain one or more of the terms and conditions contained in this section.

(b) Exemptions

The plan may provide authority to exempt from the plan pecans used for nonfood uses and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) Different payment and reporting schedules

The plan may provide authority to designate different payment and reporting schedules for growers, grower-shellers, first handlers and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) Promotion

The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

- (1) any such program or project shall be directed toward increasing the general demand for pecans; and
- (2) such promotional activities shall comply with other restrictions on the use of funds that are established under this chapter.

(e) Research and information

The plan may provide for establishing and carrying on research, consumer information, and industry information projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) Reserve funds

The plan may provide authority to accumulate reserve funds from assessments collected pursuant to this chapter, to permit an effective and continuous coordinated program of research, consumer information, industry information and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the plan for 2 years.

(g) Foreign markets

The plan may provide authority to use funds collected under this chapter, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(Pub. L. 101-624, title XIX, §1911, Nov. 28, 1990, 104 Stat. 3847.)

§ 6007. Assessments**(a) In general**

During the effective period of a plan issued pursuant to this chapter, assessments shall be—

- (1) levied on all pecans produced in, and all pecans imported into, the United States and marketed; and
- (2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) Limitation on assessments

No more than one assessment may be assessed under subsection (a) on a grower (as remitted by a first handler), grower-sheller, or importer, for any lot of pecans handled or imported.

(c) Remitting assessments**(1) In general**

Assessments required under subsection (a) shall be remitted to the Board by—

- (A) a first handler; and
- (B) an importer.

(2) Times to remit assessment**(A) First handlers**

Each first handler who is not a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed by such first handler.

(B) Grower-shellers

Each first handler who is a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on January 31, March 31, and May 10, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested.

(C) Importers

Importers of pecans into the United States shall pay the assessment at the time the pecans enter the United States and shall remit such assessment to the Board.

(d) Assessment rate**(1) In general**

Except as provided in paragraph (2), assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

- (A) during the period commencing on the effective date of the issuance of a plan and ending on the date the referendum is conducted under section 6011(a) of this title, one-half cent per pound for in-shell pecans as determined by the Board and approved by the Secretary; and
- (B) after such period, 2 cents per pound for in-shell pecans.

(2) Adjusting rate for shelled pecans

The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans pursuant to paragraph (1).

(3) Special State assessment**(A) In general**

Notwithstanding any other provision of this chapter, with the approval of the Secretary and if authorized by State law and requested by such State, a special assessment of one-quarter cent per pound for in-shell pecans, and an appropriate per-pound assessment for shelled pecans as adjusted under paragraph (2), shall be remitted to the Board for the purpose of utilizing such funds by a State pecan marketing board for research projects to promote pecans pursuant to State law.