

Agricultural Marketing Service, USDA

§ 1218.62

under this subpart shall be the property of the U.S. Government as represented by the USABC 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 USABC; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the USABC; 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.

REPORTS, BOOKS, AND RECORDS

§ 1218.60 Reports.

(a) Each first handler subject to this subpart may be required to provide to the USABC periodically such information as may be required by the USABC, 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 USABC 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 USABC periodically such information as may be required by the USABC, 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 USABC 30 days after the end of the crop year.

§ 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 USABC, 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 USABC members, producers, importers, exporters, or first handlers. Only those persons having a specific need for such information to 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.

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 USABC shall be submitted to the Secretary for approval.

§ 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 blueberry 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 USABC shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the USABC. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the USABC, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the USABC under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the USABC and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all funds, property and claims vested in the USABC or the trustees pursuant to the Order.