

## Agricultural Marketing Service, USDA

## § 1206.62

misleading or disparaging to another agricultural commodity. Mangos of all origins shall be treated equally.

### § 1206.51 Independent evaluation.

The Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board pursuant to the Act. The Board shall submit to the Department, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

### § 1206.52 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government, as represented by the Board, 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 Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Department. Upon termination of this subpart, § 1206.73 shall apply to determine disposition of all such property.

#### REPORTS, BOOKS, AND RECORDS

### § 1206.60 Reports.

(a) Each first handler will be required to provide to the Board periodically such information as may be required by the Board, with the approval of the Department, which may include but not be limited to the following:

- (1) Number of pounds of domestic mangos handled;
- (2) Number of pounds of domestic mangos on which an assessment was paid;
- (3) Name and address of the producers from whom the first handler has received mangos;

(4) Date that assessment payments were made on each pound of domestic mangos handled;

(5) Number of pounds of domestic mangos exported;

(6) The first handler's tax identification number;

(b) Each importer may be required to provide to the Board periodically such information as may be required by the Board, with the approval of the Department, which may include but not be limited to the following:

(1) Number of pounds of mangos imported;

(2) Number of pounds of mangos on which an assessment was paid;

(3) Name, address, and tax identification number of the importer; and

(4) Date that assessment payments were made on each pound imported.

### § 1206.61 Books and records.

Each first handler and importer shall maintain and make available for inspection by the Department such books and records as are necessary to carry out the provisions of this part, any regulations issued under this part, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

### § 1206.62 Confidential treatment.

All information obtained from books, records, or reports under the Act and this part shall be kept confidential by all persons, including all employees and former employees of the Board, 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 Board members, first handlers, or importers. 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

**§ 1206.70**

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 part, together with a statement of the particular provisions of this part violated by such person.

MISCELLANEOUS

**§ 1206.70 Right of the Secretary.**

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

**§ 1206.71 Referenda.**

(a) *Initial Referendum.* The Order shall not become effective unless:

(1) The Department 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 the first handlers and importers voting, who, during a representative period determined by the Department, have been engaged in the handling or importation of mangos.

(b) *Subsequent referenda.* Every five years, the Department shall hold a referendum to determine whether first handlers and importers of mangos favor the continuation of the Order. The Order shall continue if it is favored by a majority of the first handlers and importers voting who, during a representative period determined by the Department, have been engaged in the handling or importation of mangos. The Department will also conduct a referendum if 10 percent or more of all non-exempt, first handlers and importers of mangos request the Department to hold a referendum. In addition, the Department may hold a referendum at any time.

**§ 1206.72 Suspension and termination.**

(a) The Department shall suspend or terminate this part or subpart or a provision thereof if the Department finds that the subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Department determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Department shall suspend or terminate this subpart at the end of the marketing year whenever the Department determines that its suspension or termination is approved or favored by a majority of the first handlers and importers voting who, during a representative period determined by the Department, have been engaged in the handling or importation of mangos.

(c) If, as a result of a referendum the Department determines that this subpart is not approved, the Department 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.

**§ 1206.73 Proceedings after termination.**

(a) Upon the termination of this subpart, the Board shall recommend not more than five of its members to the Department to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Department, shall become trustees of all of the funds and property then in the possession or under control of the Board, 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 Department;

(2) Carry out the obligations of the Board 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