

**§ 1210.340**

**7 CFR Ch. XI (1-1-05 Edition)**

research and promotion and submission of such evaluation to the Secretary. If the Board or the Secretary finds that a program or project does not further the purposes of the Act, then the Board or the Secretary shall terminate such program or project; and

(f) The Board to enter into contracts or make agreements for the development and carrying out of research and promotion and pay for the costs of such contracts or agreements with funds collected pursuant to § 1210.341.

**EXPENSES AND ASSESSMENTS**

**§ 1210.340 Budget and expenses.**

(a) Prior to the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of this Plan, including probable costs of research, development, advertising, and promotion. The Board shall also recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in § 1210.344.

(b) The Board is authorized to incur such expenses for research, development, advertising, or promotion of watermelons, such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, and any referendum and administrative costs incurred by the Department of Agriculture. The funds to cover such expenses shall be paid from assessments received pursuant to § 1210.341.

[54 FR 24545, June 8, 1989, as amended at 60 FR 10798, Feb. 28, 1995]

**§ 1210.341 Assessments.**

(a) During the effective period of this subpart, assessments shall be levied on all watermelons produced and first handled in the United States and all watermelons imported into the United States for consumption as human food. No more than one assessment on a producer, handler, or importer shall be made on any lot of watermelons. The handler shall be assessed an equal amount on a per unit basis as the producer. If a person performs both pro-

ducing and handling functions on any same lot of watermelons, both assessments shall be paid by such person. In the case of an importer, the assessment shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer at the time of entry of the watermelons into the United States.

(b) Assessment rates shall be fixed by the Secretary in accordance with section 1647(f) of the Act. No assessments shall be levied on watermelons grown by producers of less than 10 acres of watermelons.

(c) Each handler, as defined, is responsible for payment to the Board of both the producer's and the handler's assessment pursuant to regulations issued hereunder. The handler may collect producer assessments from the producer or deduct such assessments from the proceeds paid to the producer on whose watermelons the assessments are made. The handler shall maintain separate records for each producer's watermelons handled, including watermelons produced by said handler. In addition, the handler shall indicate the total quantity of watermelons handled by the handler, including those that are exempt under this Plan, and such other information as may be prescribed by the Board.

(d) Each importer shall be responsible for payment of the assessment to the Board on watermelons imported into the United States through the U.S. Customs Service or in such other manner as may be established by rules and regulations approved by the Secretary.

(e) Producer-handlers and handlers shall pay assessments to the Board at such time and in such manner as the Board, with the Secretary's approval, directs, pursuant to regulations issued under this part. Such regulations may provide for different handlers or classes of handlers and different handler payment and reporting schedules to recognize differences in marketing practices or procedures used in any State or production area.

(f) There shall be a late payment charge imposed on any handler or importer who fails to remit to the Board the total amount for which any such

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handler or importer is liable on or before the payment due date established by the Board under paragraph (e) of this section. The amount of the late payment charge shall be set by the Board subject to approval by the Secretary.

(g) There shall also be imposed on any handler or importer subject to a late payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the handler or importer is liable. The rate of such interest shall be prescribed by the Board subject to approval by the Secretary.

(h) The Board is hereby authorized to accept advance payment of assessments by handlers and importers that shall be credited toward any amount for which the handlers and importers may become liable. The Board shall not be obligated to pay interest on any advance payment.

(i) The Board is hereby authorized to borrow money for the payment of administrative expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

(j) The Board may authorize other organizations to collect assessments in its behalf with the approval of the Secretary. Any reimbursement by the Board for such services shall be based on reasonable charges for services rendered.

[54 FR 24545, June 8, 1989, as amended at 60 FR 10798, Feb. 28, 1995]

### § 1210.342 Exemption from assessment.

(a) The Board may exempt watermelons used for nonfood purposes from the provisions of this Plan and shall establish adequate safeguards against improper use of such exemptions.

(b) Importers of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is equal to the rate of assessment paid by domestic producers.

(c) The Secretary may adjust the quantity of the weight exemption specified in paragraph (b) of this section on the recommendation of the Board after an opportunity for public notice and comment to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.

(d) The Board shall have the authority to establish rules, with the approval of the Secretary, for certifying whether a person meets the definition of a producer under section 1210.306.

[54 FR 24545, June 8, 1989, as amended at 60 FR 10799, Feb. 28, 1995]

### § 1210.343 [Reserved]

### § 1210.344 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established; *Provided*, That funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used to defray any expenses authorized under this subpart.

## REPORTS, BOOKS, AND RECORDS

### § 1210.350 Reports.

(a) Each handler shall maintain a record with respect to each producer for whom watermelons were handled and for watermelons produced and handled by the handler. Handlers shall report to the Board at such times and in such manner as the Board may prescribe by regulations whatever information as may be necessary in order for the Board to perform its duties. Such reports may include, but shall not be limited to, the following information:

(1) Total quantity of watermelons handled for each producer and by the handler, including those which are exempt under this Plan;

(2) Total quantity of watermelons handled for each producer and by the handler, on which the producer assessment was collected;

(3) Name and address of each person from whom an assessment was collected, the amount collected from each person, and the date such collection was made; and

(4) Name and address of each person claiming exemption from assessment and a copy of each such person's claim of exemption.

(b) Each importer of watermelons shall maintain a separate record that includes a record of:

(1) The total quantity of watermelons imported into the United States that