

## Agricultural Marketing Service, USDA

## § 1215.72

Act, this subpart, and the rule and regulations issued thereunder shall be kept confidential by all persons, including all employees, agents, and former employees and agents of the Board; all officers, employees, agents, and former officers, employees, and agents of the Department; and all officers, employees, agents, and former officers, employees, agents, and former of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or processors. Only those persons having a specific need for such information to administer effectively the provisions of this part 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 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 United States is a party, and involving this part.

(b) No information obtained under the authority of this part may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of the Act and any investigatory or enforcement action necessary for the implementation of the Act.

(c) Nothing in paragraph (a) of this section may be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this part or statistical data collected therefrom, which statements do not identify the information furnished by any person;

(2) The publication, by direction of the Secretary, of the name of any person who has violated this part, together with a statement of the particular provisions of this part violated by such person.

(d) Any person who knowingly violated the provisions of this section, 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, or if the person is an officer, employee, or agent of the Board or the Department, that person shall be removed from office or terminated from employment as applicable.

### MISCELLANEOUS

#### § 1215.70 Right of the Secretary.

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

#### § 1215.71 Suspension or termination.

(a) Whenever the Secretary finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall terminate or suspend the operation of this subpart or such provision thereof.

(b) The Secretary may conduct additional referenda to determine whether processors favor termination or suspension of this subpart three years after the effective date, on the request of a representative group comprising 30 percent or more of the number of processors who have been engaged in processing during a representative period as determined by the Secretary.

(c) Whenever the Secretary determines that suspension or termination of this subpart is favored by two-thirds or more of the popcorn processors voting in a referendum under paragraph (b) of this section who, during a representative period determined by the Secretary, have been engaged in the processing, the Secretary shall:

(1) Suspend or terminate, as appropriate, collection of assessments within six months after making such determination; and

(2) Suspend or terminate, as appropriate, all activities under this subpart in an orderly manner as soon as practicable.

(d) Referenda conducted under this subsection shall be conducted in such manner as the Secretary may prescribe.

#### § 1215.72 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees

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of all the funds and property owned, in the possession of, or under the control of the Board, including any claims unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The trustees shall:

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

(2) Carry out the obligations of the Board under any contract or agreement entered into by it under this subpart;

(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 Board and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such other persons full title and right to all of the funds, property, and claims vested in the Board or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered under this subpart shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information or industry information programs, plans, or projects authorized under this subpart.

**§ 1215.73 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any rule and regulation issued under this subpart, or the issuance of any amendment to such provisions, shall not:

(a) Affect or waive any right, duty, obligation, or liability that shall have arisen or may hereafter arise in connection with any provision of this subpart or any such rules or regulations;

(b) Release or extinguish any violation of this subpart or any such rules or regulations; or

(c) Affect or impair any rights or remedies of the United States, the Sec-

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retary, or any person with respect to any such violation.

**§ 1215.74 Personal liability.**

No member or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts of either commission or omission of such member or employee under this subpart, except for acts of dishonesty or willful misconduct.

**§ 1215.75 Patents, copyrights, inventions, publications, and product formulations.**

Any patents, copyrights, inventions, publications, or product formulations developed through the use of funds received by the Board under this subpart shall be the property of the United States Government as represented by the Board and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, publications, or product formulations inure to the benefit of the Board and be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board. Upon termination of this subpart, § 1215.72 shall apply to determine disposition of all such property.

**§ 1215.76 Amendments.**

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary.

**§ 1215.77 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.