

Agricultural Marketing Service, USDA

§ 1218.53

end of the fiscal year to which it applies.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.52 Assessments.

(a) The funds to cover the Council's expenses shall be paid from assessments on producers and importers, donations from any person not subject to assessments under this Order, and other funds available to the Board including those collected pursuant to § 1218.56 and subject to the limitations contained therein.

(b) The collection of assessments on domestic blueberries will be the responsibility of the first handler receiving the blueberries. In the case of the producer acting as its own first handler, the producer will be required to collect and remit its individual assessments.

(c) Such assessments shall be levied at a rate of \$12 per ton on all blueberries. The assessment rate will be reviewed, and may be modified with the approval of the Secretary, after the first referendum is conducted as stated in § 1218.71(b).

(d) Each importer of fresh and processed blueberries shall pay an assessment to the USACBC on blueberries imported for marketing in the United States, through the U.S. Customs Service.

(1) The assessment rate for imported fresh and processed blueberries shall be the same or equivalent to the rate for fresh blueberries produced in the United States.

(2) The import assessment shall be uniformly applied to imported fresh and frozen blueberries that are identified by the numbers 0810.40.0028 and 0811.90.2028, respectively, in the Harmonized Tariff Schedule of the United States or any other numbers used to identify fresh and frozen blueberries. Assessments on other types of imported processed blueberries, such as dried blueberries, puree, and juice, may be added at the recommendation of the USACBC with the approval of the Secretary.

(3) The assessments due on imported fresh and processed blueberries shall be paid when they enter or are withdrawn for consumption in the United States.

(e) All assessment payments and reports will be submitted to the office of the USACBC. All final payments for a crop year are to be received no later than November 30 of that year. A late payment charge shall be imposed on any handler who fails to remit to the USACBC, the total amount for which any such handler is liable on or before the due date established by the USACBC. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the handler is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(f) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(g) The USACBC may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.53 Exemption procedures.

(a) Any producer who produces less than 2,000 pounds of blueberries annually who desires to claim an exemption from assessments during a fiscal year as provided in § 1218.42 shall apply to the USACBC, on a form provided by the USACBC, for a certificate of exemption. Such producer shall certify that the producer's production of blueberries shall be less than 2,000 pounds for the fiscal year for which the exemption is claimed. Any importer who imports less than 2,000 pounds of fresh and processed blueberries annually who desires to claim an exemption from assessments during a fiscal year as provided in § 1218.52 shall apply to the USACBC, on a form provided by the USACBC, for a certificate of exemption. Such importer shall certify that the importer's importation of fresh and processed blueberries shall not exceed 2,000 pounds, for the fiscal year for which the exemption is claimed.

(b) On receipt of an application, the USACBC shall determine whether an exemption may be granted. The USACBC then will issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. Each producer who is exempt from

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assessment must provide an exemption number to the first handler in order to be exempt from the collection of an assessment on blueberries. First handlers and importers, except as otherwise authorized by the USACBC, shall maintain records showing the exemptee's name and address along with the exemption number assigned by the USACBC.

(c) Importers who are exempt from assessment shall be eligible for reimbursement of assessments collected by the U.S. Customs Service and shall apply to the USACBC for reimbursement of such assessments paid. No interest will be paid on assessments collected by the U.S. Customs Service. Requests for reimbursement shall be submitted to the USACBC within 90 days of the last day of the year the blueberries were actually imported.

(d) Any person who desires an exemption from assessments for a subsequent fiscal year shall reapply to the USACBC, on a form provided by the USACBC, for a certificate of exemption.

(e) The USACBC may require persons receiving an exemption from assessments to provide to the USACBC reports on the disposition of exempt blueberries and, in the case of importers, proof of payment of assessments.

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§ 1218.54 Programs, plans, and projects.

(a) The USACBC shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including producer and consumer information, with respect to fresh and processed blueberries; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of fresh and processed blueberries, and the creation of new products thereof, to the end that the mar-

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keting and use of blueberries may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of fresh and processed blueberries.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the USACBC shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the USACBC to ensure that it contributes to an effective program of promotion, research, or information. If it is found by the USACBC that any such program, plan, or project does not contribute to an effective program of promotion, research, or information, then the USACBC shall terminate such program, plan, or project.

(d) No program, plan, or project including advertising shall be false or misleading or disparaging another agricultural commodity. Blueberries of all origins shall be treated equally.

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§ 1218.55 Independent evaluation.

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

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§ 1218.56 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 USACBC under this subpart shall be the property of the U.S. Government as represented by the USACBC and shall, along with any rents, royalties, residual payments, or other income from