

NOTICES

DEPARTMENT OF AGRICULTURE

Pennsylvania Peach and Nectarine Research Program 2014 Order as Amended

[44 Pa.B. 6559]

[Saturday, October 11, 2014]

Article I—Declaration.

In accordance with the requirements of the Agricultural Commodities Marketing Act, as amended, the Secretary of Agriculture finds that this program effectuates the purposes of said Act.

Article II—Definitions.

As used in this research program, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

1. "Act" means the Act of March 24, 1998 (P. L. 217, No. 39) (3 Pa.C.S.A. §§ 4501—4513), as amended, known as the Agricultural Commodities Marketing Act.

2. "Affected Producer" means a person who produces, grows, or causes to be grown 500 or more peach and/or nectarine trees, of all ages, for the production of peaches and/or nectarines for sale or marketing.

3. "Department" means the Department of Agriculture of the Commonwealth of Pennsylvania.

4. "Research Contract" means any contract or agreement between the Commodity Research Board and a person for the performance of services relating to advertising, marketing, promotion, or research, or other objectives in furtherance of this research program.

5. "Marketing Season" means the period beginning July 1 of any year and extending through June 30 of the following year.

6. "Peaches and Nectarines" (*prunus persica*) means all peaches and nectarines produced in Pennsylvania for the purpose of sale by a producer as herein defined.

7. "Person" means an individual, partnership, firm, corporation, association, or any other business unit.

8. "Producer" means a person who produces or causes to be produced peaches and/or nectarines as herein defined.

9. "Research Board" or "Board" means the persons who are appointed by the Secretary of Agriculture from among affected producers.

10. "Secretary" means the Secretary of Agriculture, of the Commonwealth of Pennsylvania.

Article III—Scope of Program.

The area affected by this program shall be the Commonwealth of Pennsylvania. The program shall apply to all persons who produce, grow or cause to be grown 500 or more peach and/or nectarine trees, of all ages, for the production of peaches and/or nectarines for sale or marketing.

Article IV—Research Board.

Section A. Establishment and Members.

The Research Board shall consist of ten (10) members, one of whom shall be the Secretary or his designee, and shall have the primary decision making authority in the administration of this research program as provided in the Act.

The nine (9) producer members of the Research Board shall consist of affected producers from four or more counties in the Commonwealth.

Section B. Term of Office.

1. The term of office of each appointed member shall be for three (3) years, beginning July 1 and ending June 30.

2. The Secretary, or his designee, will be a member of the Research Board, and the other nine (9) members shall be appointed by the Secretary from among the affected producers. In making these appointments, the Secretary shall consider nominations submitted by the affected producers.

3. Successor members to fill the expired terms of members of the Research Board shall be appointed in the same manner as the initial Research Board. Members shall

serve in such capacities for the portion of the term of office for which they are appointed and until their respective successors are appointed and qualified.

4. Any person appointed as a member of the Research Board shall be and remain an affected producer while a member of the Board and shall qualify by filing a written acceptance with the Secretary within fifteen (15) days of being notified.

5. To fill any vacancy occasioned by the failure of any person appointed as a member of the Research Board, a successor for the unexpired term of such member shall be appointed by the Secretary from among the affected producers.

6. The regular meetings of the Board will be held twice each calendar year. A special meeting of the Board may be called by the Board Chairman or the Secretary.

Section C. Powers and Duties of the Board.

The Research Board shall have the primary decision-making authority relative to research contracts and other projects in furtherance of the research program and includes the following powers and duties:

1. To determine all matters pertaining to the research program.
2. To hire and employ personnel which the Board deems necessary for the proper administration of the research program and to fix the compensation and terms of employment of such personnel.
3. To adopt written procedures for acquiring and disposing of property, and subject to these procedures, to acquire, own, use, hire, lease, operate, and dispose of personal property, real property, and interests in real property.
4. To make and enter into all contracts and agreements, in accordance with the provisions of the law, which the Board deems necessary or incidental to the furtherance of the research program or performance of duties and powers pursuant to the Act. The Board shall adopt written procurement procedures for all research contracts.
5. To receive, account for and disburse all monies collected pursuant to this research program.
6. To prepare a budget for the administration, operating costs and expenses of this research program.

7. To receive and report to the Secretary complaints or violations of this research program and to assist and cooperate with the Secretary in the enforcement thereof.

8. To establish committees or sub-committees to carryout assigned duties and functions, and to designate Board members and non-Board members to serve on such committees and subcommittees.

9. To collect and gather information and data relevant to the proper administration of this research program.

10. To charge fees and to assist the Secretary in the imposition of fees and the collection of fees and revenues pursuant to the Act.

11. To issue an annual report on the operation of the research program.

12. To recommend amendments to the research program and amendments to the Act and regulations issued pursuant thereto.

Section D. Expenses and Compensation.

No member of the Board shall receive a salary, but each shall be entitled to his actual expenses incurred while engaged in performing duties authorized herein. In addition, a per diem payment may be made to each Board member or subcommittee member for each day in which a Board member or subcommittee member is performing a duty necessary to the functions of the Board. The per diem payment shall not exceed the maximum sum allowable under the Act.

Article V—Powers and Duties of the Secretary.

Subject to the provisions contained in the Act, the Secretary shall administer and enforce the provisions of the Act, and shall have and shall exercise all administrative powers necessary to effectuate the purposes of the Act, including the issuance of research programs, the appointment of members to commodity research boards and the providing of personnel, staff, legal counsel, and office facilities required for the administration and enforcement of this research program.

Article VI—Purpose.

This program is to provide funds to be used exclusively for peach and nectarine production research. The Secretary and the Board may cooperate with any other state or federal agency or other organization whose activities may be deemed beneficial to the purpose of this Act.

Article VII—Budget, Rate of Assessment, Collection of Assessment, and Disbursement of Funds.

Section A. Budget and Assessment.

A budget shall be prepared and established for the administration and enforcement of this program and for carrying out duly authorized programs and activities of research, as herein provided. The rate of assessment shall be \$8.00 per acre for each affected producer.

Section B. Collection of Assessment.

1. Each affected producer shall be responsible for payment of the proper assessment upon acreage on which he produces or causes to be produced peaches and/or nectarines for sale.
2. All affected producers shall make remittance and accounting of the proper assessment to the Secretary or his designated fiscal agent by October 1 of each year.
3. Any delinquent affected producer may be assessed interest penalties at the rate of one percent per month plus costs connected with necessary proceedings to collect late payments.

Section C. Disbursement of Funds.

Disbursement of funds shall be made in the manner described in the Act and in any regulations promulgated by the Secretary to effectuate the provisions and intent thereof, and in accordance with the provisions of this program.

Article VIII—Effecting Research Program.

This research program, or amendment thereto, shall not become effective unless and until the Secretary determines by a referendum whether or not the affected producers assent to the proposed action. The Secretary shall conduct the referendum among affected producers and the affected producers shall be deemed to have assented to the proposed program if, of those voting, not less than a majority by number and a majority by volume (acreage) assent to the proposed program.

Article IX—Amending Research Program.

The Secretary shall call for a referendum on amendments to the research program within a reasonable period of time, upon the request of the Board or with written

request of fifteen percent of the producers in a commodity group of less than two thousand affected producers. In voting on an amendment to the research program, the vote shall be only on the amendment, and shall not terminate the program.

Article X—Terminating Research Program.

Subject to approval of the Board, the Secretary shall suspend or terminate this research program or any provisions thereof whenever he finds that such provisions or program does not tend to effectuate the purpose of the Act within the standards and subject to the limitations and restrictions imposed in the Act: provided that such termination or suspension shall not be effective until the expiration of the current marketing season.

If the Secretary finds that the termination of the research program is requested in writing, by more than thirty-three and one-third percent of the affected producers who produce for market more than fifty percent of the acreage of peaches and nectarines produced within the designated production area for market, he shall terminate or suspend for a specified period, the program or provisions thereof; provided that such termination shall be effective only if announced on or before the first day of July in any calendar year. If fifteen percent of the producers in a commodity group of less than two thousand affected producers request, in writing, that a referendum be held on the question of terminating the program, the Secretary must announce and conduct a referendum within a reasonable period of time. The program shall be terminated if so voted by a majority of those voting.

Article XI—Research Program Reviewed.

Every five (5) years the Secretary shall call a referendum of the affected producers of peaches and nectarines to determine whether or not a majority of those voting still desire the program.

Article XII—Interpretation.

Applicable provisions of this research program shall be interpreted consistent with the Act and the Act shall take precedence in the event of any conflict with this research program.

Article XIII—Effective Date.

This research program shall be effective on the twenty-first day following publication of the notice of issuance as required in Section 9 of the Act.

GEORGE D. GREIG,
Secretary

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