



TEXAS DEPARTMENT OF AGRICULTURE COMMISSIONER SID MILLER

Dear Processors:

The Texas Pecan Board (Board) was established through a referendum requested by Texas pecan producers in 1998. The Board, elected by and representing Texas pecan producers, administers the state assessment program, which includes creating, implementing, and administering programs of research, disease and insect control, education, and promotion designed to encourage the production, marketing, and use of Texas pecans. The Board is a Texas government entity overseen by the Texas Department of Agriculture (Department).

This letter is to inform all processors of pecans in Texas that, pursuant to Chapter 41 of the Texas Agriculture Code, the Board requires the collection and remittance of an assessment of one-half cent for every pound of pecans sold in the state. Under Chapter 41, "Processors" are defined as "an individual within this state [Texas] who: is a purchaser, warehouseman, processor, or other commercial handler of an agricultural commodity," and thus include those referred to as First Handlers or First Buyers within the pecan industry. Processors shall collect assessments by deducting the amount from the purchase price or from any funds advanced for that purpose. Processors must remit assessments to the Board no later than the tenth day of each month for assessments collected in the previous month. These assessments must be accompanied by the report form prescribed by the Board for each assessment collected.

If a processor is the same legal entity as the producer, the processor shall collect the assessment at the time its pecans are processed. Likewise, if a producer retains ownership after its pecans are processed, the processor shall collect the assessment directly from the producer at the time the producer's pecans are processed.

Failure to remit the assessment to the Board may result in actions pursuant to Chapter 41. These include, but are not limited to, the forwarding of a complaint involving the processor to the Department, who then may perform an investigation, audit, or inspection. Should the Department determine a processor failed to collect or remit an assessment to the Board, it may:

- Request a hearing to be conducted by the State Office of Administrative Hearings to determine the amount owed to the Board, and then issue an order requiring this amount be paid;
- Impose an appropriate administrative penalty; and
- Refer the matter to the Office of the Attorney General or county or district court having jurisdiction to bring an action for appropriate civil or criminal penalties or injunctive relief.

In addition, the Department may suspend, revoke, or deny any Department-issued license or permit for failing to remit assessments collected from pecans.

Pecan producers with less than fifteen acres and/or less than 500 trees are exempt from participation. Exempt producers must provide processors with a grower exemption form prescribed by the Board at the time of sale. Processors must submit these forms with their report forms.

All necessary forms may be found on the Texas Pecan Board's website at www.texaspecanboard.com.

Your support to ensure that Texas remains a leader in the pecan industry is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Dudley". The signature is stylized with a large initial "P" and a long, sweeping underline.

Patrick Dudley
Program Director for Agriculture Commodity Boards and Producer Relations