

## **INDUSTRY ANALYSIS AND JUSTIFICATION FOR NATURAL GRASS SOD PROMOTION, RESEARCH, AND INFORMATION ORDER**

The proposed Natural Grass Sod Promotion, Research and Information Order (the “Proposed Order”) is an industry-led effort to drive consumer demand for natural grass sod products through the development and implementation of programs, plans, and projects of research, information, and promotion, with funding for such efforts provided by the industry through assessments paid by natural grass sod producers involved in the production of monostands or blends or mixtures of Bentgrass, Bermudagrass, Buffalograss, Centipedegrass, Fine fescue, Kentucky bluegrass, Ryegrass, Seashore Paspalum, St. Augustinegrass, Tall fescue, Zoysiagrass, Bahiagrass, and other native or adapted grasses harvested and sold as sod, and products containing natural grass with artificial elements that are sold as sod (“natural grass sod products”).

### **I. Authorization and Process**

The Proposed Order is authorized by the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425) (the “Act”), which provides the U.S. Department of Agriculture (“USDA”) the authorization to establish research and promotion programs for agricultural commodities. Under the Act, “agricultural commodities” are defined to include agricultural products as well as “products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.”<sup>1</sup> The Act also includes provisions that authorize the Secretary to tailor programs to the specific characteristics of each different commodity, including Section 7413 that provides the USDA discretion in determining to whom the order should apply among the following: “(A) the producers of an agricultural commodity; (B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and (C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment...”<sup>2</sup>

Natural grass sod products fall within the Act’s definition of an agricultural commodity and natural grass sod producers, as defined in the Proposed Order, fall within the categories of “first handlers” and “other persons in the marketing chain.” The Proposed Order, which will establish a program of promotion, research, and information to promote consumer demand for natural grass sod products and strengthen the position of the natural grass sod industry in the marketplace, is consistent with the Congressional intent of the Act to maintain and expand existing markets as well as develop new markets and uses for agricultural commodities.<sup>3</sup> As such, USDA is authorized to establish the Natural Grass Sod Promotion, Research and Information program by approving the Proposed Order.

As part of the approval process set forth in the Act, the industry must formulate an Order and submit it to the USDA for review and final approval. Implementation of the Order, like all

---

<sup>1</sup> 7 U.S.C. §7412(1). The full text reads: “[t]he term “agricultural commodity” means: (A) agricultural, horticultural, viticultural, and dairy products; (B) livestock and the products of livestock; (C) the products of poultry and bee raising; (D) the products of forestry; (E) [organic products]; (F) other commodities raised or produced on farms, as determined appropriate by the Secretary; and (G) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.”

<sup>2</sup> 7 U.S.C. §7414.

<sup>3</sup> 7 U.S.C. §7413.

rulemaking, is subject to public notice and comment, and is subject to ongoing referenda where participants are given the opportunity to vote to determine whether the program shall continue to operate. If approved by the USDA and through the ongoing referenda, the Order becomes a regulation codified in the U.S. Code of Federal Regulations and carries the force of law.

## **II. Natural Grass Sod Industry Analysis**

### **A. U.S. Natural Grass Sod Industry**

The 2017 USDA-National Agricultural Statistics Survey (NASS) places the value of the U.S. natural grass sod industry at over \$1.1 billion, produced on 1,465 farms totaling 339,451 acres in 2017.<sup>4</sup> These farms exist nationwide with documented active natural grass sod farms in no less than 49 states. The widespread distribution of natural grass sod farms is due in part to the diversity of natural grass species, allowing them to adapt to different climates. Grass species such as Bentgrass, Fine fescue, Tall fescue, and Kentucky bluegrass thrive in USDA plant hardiness zones 1a through 6a, while Bermudagrass, Buffalograss, Centipedegrass, Seashore Paspalum, St. Augustinegrass, and Zoysiagrass perform well in zones 7a through 10a. There are also various species of native grasses and other adapted grasses that are gaining popularity in various regions. All of these products are produced by natural grass sod farmers throughout the United States and are included in the definition of natural grass products as indicated in this order.

The 2017 USDA-NASS figures for both farms and value differ slightly from the 2012 and 2007 agricultural census values. The number of farms decreased in 2017 to 1,465 from 1,881 in 2007 and 1,739 in 2012, but the acres grown and sod's value have both increased from the 2012 estimates.<sup>5</sup> The highest reported value of U.S. natural grass sod production in the last three (3) USDA-NASS agricultural censuses was \$1.3 billion in 2007. This equates to a 15% reduction in the value of U.S. sod production since 2007. However, the \$1.1 billion of natural grass sod produced in 2017 by U.S. natural grass sod farms enters the market where it contributes significantly to the green industry, as well as those industries that support it. These sectors include the home lawn care, sports field, golf course, roadside, and other markets that are essential components of local economies nationwide.

### **B. Natural Grass Sod Industry Participants**

The production of natural grass products on U.S. natural grass sod farms involves and impacts many other U.S. industries, including agricultural industries such as seed production, farming of other agricultural commodities where sod is part of a crop rotation, equipment manufacturing, and trucking. Seed industries, primarily in the Midwest and Pacific Northwest, supply seed for sod farms growing cool-season grasses including ryegrass, fescues, bluegrasses, and native or adapted mixtures. This industry produces over 600 million pounds of natural grass seed in Oregon alone, much of which is distributed to U.S. natural grass sod farms to produce sod that is then sold to other segments of the green industry. In addition to contributing to rural agricultural economies, natural grass sod also contributes significantly to urban economies. In

---

<sup>4</sup> See *2017 Census of Agriculture*, USDA National Agricultural Statistics Service <https://www.nass.usda.gov/Publications/AgCensus/2017/index.php> (last visited Nov. 16, 2020).

<sup>5</sup> *2012 Census of Agriculture*, USDA National Agricultural Statistics Service [https://www.nass.usda.gov/Publications/AgCensus/2012/Full\\_Report/Volume\\_1\\_Chapter\\_1\\_US/st99\\_1\\_041\\_042.pdf](https://www.nass.usda.gov/Publications/AgCensus/2012/Full_Report/Volume_1_Chapter_1_US/st99_1_041_042.pdf) (last visited Nov. 16, 2020).

states that track sod sales data, landscape contractors in urban and suburban areas purchase between 39.2% and 68.2% of total sales, followed by sales to athletic complexes and golf courses that make up between 18.2% and 44.5% of total sales.<sup>6</sup> The supply chain that moves much of this natural grass sod further contributes to local economies through home improvement centers, lawn and landscaping services, equipment and materials purchases, and more. It is estimated that the U.S. lawn care industry alone was worth up to \$105.1 billion in 2018, employed more than 1 million people, and represented 604,163 businesses.<sup>7</sup>

### C. Stakeholder Collaboration

Since at least 1996, U.S. natural grass sod producers have been considering the implementation of a natural grass sod research and promotion program (aka “checkoff”). Although state and local sod associations have explored the option of establishing voluntary checkoff programs in previous years, they were deemed impractical and unsustainable without the administration and enforcement provided by USDA’s Agricultural Marketing Service (“AMS”) through the authority provided in the Act. In 2017, Turfgrass Producers International (“TPI”), a 501c(6) trade association representing natural grass sod farmers, equipment manufacturers, seed producers, and other industry participants with members located in almost every U.S. state and over 30 countries, decided to formally investigate USDA Research and Promotion programs. From 2017 to 2019, TPI spoke with representatives at the American Farm Bureau Federation, the USDA AMS, a public policy consultant, and legal counsel to determine if a checkoff program for the U.S. natural grass sod industry was feasible. After much deliberation and interest from U.S. natural grass sod producers, the industry, led by TPI, decided that the time was right for the natural grass sod industry to pursue a national checkoff program.

In 2020, a drafting committee comprised of fourteen (14) natural grass sod producers from throughout the United States was formed to collaborate and consider the specific details of a draft order for the Natural Grass Sod Research and Promotion Program. The fourteen (14) natural grass sod producers on the drafting committee represent a wide range of U.S. natural grass sod farms, not only in their geographic distribution, but also with respect to their farm size, years in business, and experience with other industry checkoff programs. The drafting committee also contains producers who are or have been members and/or elected officers of state or regional sod associations, with an awareness of what issues are relevant in various states and how a checkoff program could assist in local issues. After spending several months considering the various provisions of a checkoff order, the drafting committee has determined that the Proposed Order attached hereto will best serve the interests of the natural grass sod industry and, as such, will have broad scale industry support.

---

<sup>6</sup> Waltz, Clint, *2018 Sod Producers Report, Annual Survey Examines Inventory and Price*. UAC WINTER MAGAZINE, Winter 2018, at 44. See also Miller, Grady, *2018 Sod Producers Report for North Carolina*, TURFFILES.NCSU.EDU, <https://www.turffiles.ncsu.edu/2018/04/2018-sod-producers-report-for-north-carolina/> (last visited Jun. 9, 2021); Richards, Steve. *2018 SC Sod Producers Survey Results (2018, Clemson University)*.

<sup>7</sup> National Association of Landscape Professionals (NALP), *Landscape Industry Statistics*, LANDSCAPEPROFESSIONALS.ORG, <https://www.landscapeprofessionals.org/LP/About/Industry-Statistics/LP/Media/landscape-industry-statistics.aspx> (last visited Jun. 9, 2021).

### III. JUSTIFICATION

#### A. Market trends supporting the need for a checkoff program

The need for a national checkoff is evidenced by many concerning trends. Natural grass sod producers in many areas of the United States are experiencing social and market trends that are increasingly impacting consumer perception and the value of natural grass. These trends stem primarily from a lack of understanding of the value of natural grass lawns and athletic fields in urban and suburban environments and have resulted in consumers reducing the amount of grass they manage and/or replacing it with other products. The most common alternative for athletic fields in schools, municipal parks, and open grounds is often plastic, artificial turf. However, in home lawns or public spaces, these alternative products also include patios, decks, mulch, concrete or brick pavers, and rubberized playgrounds. Data from the 2020 Synthetic Turf Council Market Report for North America, which is the primary competitor for natural grass in public spaces, school grounds, and parks, indicates that the synthetic turf industry has grown 15% since 2017 with a current value of \$2.7 billion. It also states that it will continue to grow at a rate of 5.7% through 2022, with sports fields representing 63% of the market and rapid growth in landscape applications.<sup>8</sup> As discussed in section IIB above, the landscape and sports field markets represent the two largest customer segments for natural grass sod producers for those who report data on customers.

#### B. Causes of Market Trends

The causes of the negative market trends are rooted in the following three main areas:

##### 1. Public perception of natural grass

Many consumers, public policy advocates, and local officials do not fully recognize the value that plants, including natural grass, impart on urban and suburban areas. They are often viewed as requiring substantial amounts of inputs from water, fertilizer, and chemicals with few valuable outputs. As a result, when balancing natural grass systems on inputs alone with no recognition or assessment of outputs, the resulting analysis does not reflect their full value. However, when considering new technologies in drought-tolerant grasses, irrigation, and reduced mowing, as well as the many ecosystem services (carbon sequestration, oxygen production, groundwater recharge, filtering of pollutants, stormwater and runoff reduction) that are provided by lawns, parks, and roadsides, a more accurate characterization is that managed landscapes, including natural grass sod, provide many benefits in urban and suburban areas.

##### 2. Regulatory Codes and Standards

The aforementioned perception of natural grass is embedded in language used by many regulatory bodies that produce building codes and standards for private and public spaces. These codes provide incentives to reduce or remove natural grass from residential, business, and public spaces with the intent of reducing inputs. However, many regulations do not factor in the many benefits that plants, including natural grasses, provide to these areas or recognize that eliminating them from the system is not a sustainable approach for urban and suburban construction.

---

<sup>8</sup> Synthetic Turf Council, *2020 Synthetic Turf Market Report for North America*, SYNTHETICTURFCOUNCIL.ORG, <https://www.syntheticurfCouncil.org/news/512350/Synthetic-Turf-Council-STC-Releases-2020-Synthetic-Turf-Market-Report-for-North-America.htm> (last visited Nov. 16, 2020).

### **3. Artificial Turf**

Artificial turf is the primary competitor to natural grass for athletic fields on school grounds, public parks, and collegiate or professional sports venues. The growth of the artificial turf market is increasingly reducing the market for natural grass sports fields.

#### **C. What alternatives to checkoff program were considered and why were they rejected?**

As noted above, the natural grass sod production industry has been discussing a checkoff since at least 1996. In 2019, after visiting with the American Farm Bureau Federation and the USDA AMS, the industry decided to host a webinar to get feedback from natural grass sod producers regarding their interest in developing a national grass sod checkoff program. On May 19<sup>th</sup>, 2020, U.S. sod producers participated in a 2-hour online seminar to learn more about USDA Research and Promotion programs. After this webinar, attendees were polled to determine their interest in developing a national checkoff program for the natural grass sod industry and 64% stated they were very interested, 20% stated they were interested, 13% stated they were interested in learning more, and only 3% stated they were not interested. Attendees in this webinar were also polled to determine their interest in serving on the sod checkoff drafting committee, of which 14 sod producers were selected.

This drafting committee, along with experienced legal counsel in developing checkoff programs, has finalized the Proposed Order contained herein for submission to the USDA. The Proposed Order contains all of the relevant information on checkoff programs, including the proposed assessment rate that was determined through an analysis of U.S. natural grass sod production farm and acreage data from the 2017 USDA-NASS Census of Agriculture along with internal data from TPI. A wide range of farm sizes, annual acres harvested, and assessment rates were assembled for analysis in order to determine an assessment rate that would 1) be amenable to sod producers; 2) not be overly burdensome; and 3) result in enough funds to have an impact on the market. At the end of these discussions, the entire formation committee of 14 members of different farm sizes, regions, and products all agreed that the proposed assessment rate met each of those conditions.

#### **D. How a National Checkoff Program Could Address Marketplace issues**

After careful analysis and discussions, the drafting committee has determined that the checkoff program would be best positioned to have the greatest industry impact with the broadest level of industry support if it is implemented as follows:

- Funding for program activities will be provided through assessments on “natural grass sod products”, which include natural grass commodities produced for retail, wholesale, or commercial sale, including monostands or blends or mixtures of Bentgrass, Bermudagrass, Buffalograss, Centipedegrass, Fine fescue, Kentucky bluegrass, Ryegrass, Seashore Paspalum, St. Augustinegrass, Tall fescue, Zoysiagrass, Bahiagrass, other native or adapted grasses harvested and sold as sod, and products containing natural grass with artificial elements that are sold as sod. Natural grass sod products do not include artificial and synthetic turf or grass products, natural grass seed, sprigs, or plugs.

- The assessment rate will be one-tenth (1/10th) of one penny (\$0.01) per square foot, or the equivalent thereof, of all “natural grass sod products” that a natural grass sod producer sells in the United States. All assessments will be paid by natural grass sod producers to the program’s Board of Directors (“Board”) on a quarterly basis.
- Two years after the Proposed Order is approved, the Board will review the assessment rate and may recommend a change in rate to the Secretary if approved by 2/3 of the Board. The assessment rate may not exceed one-eighth (1/8th) of one penny (\$0.01) per square foot of natural grass sod products without approval by a majority of natural grass sod producers in a referendum.
- The Proposed Order does not exempt any natural grass sod producers from assessment.
- The proposed checkoff program shall be governed by the Board of Directors, which will oversee the operations of the natural grass sod checkoff program, including developing and approving all programs, plans, or projects developed and executed to promote demand for natural grass sod products.
- The Board will be comprised of thirteen (13) natural grass sod producers, with seats on the Board being apportioned based on the geographical distribution of the quantity of natural grass sod products sold in the United States. Under the Proposed Order, four (4) Board members shall be appointed from the **North/Cool-Season Region** (comprised of Alaska, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming); five (5) board members shall be appointed from the **South/Warm-season Region** (comprised of Alabama, Arizona, Florida, Georgia, Hawaii, Louisiana, Mississippi, Nevada, New Mexico, South Carolina, Texas, and all territories and possessions of the United States, including but not limited to, the Commonwealth of Puerto Rico); and four (4) members shall be appointed from the **Transition Zone/California Region** (comprised of Arkansas, California, the District of Columbia, Kansas, Kentucky, Maryland, Missouri, North Carolina, Oklahoma, Tennessee, Virginia, and West Virginia).
- At least once every five (5) years but not more frequently than every three (3) years, the Board will review the geographical distribution of the square footage of natural grass sod products sold within the United States and, if warranted, recommend to the Secretary that the membership, geographical regions, and/or size of the Board be adjusted to reflect changes.
- Natural grass sod producers seeking nomination on the Board must produce and sell natural grass sod products in the region for which they seek nomination. Nominees that produce and sell in multiple regions may seek nomination in one region of their choice. The Secretary shall select the Board members from the nominations submitted by the Board.
- With exception of the initial Board, for which the terms of Board members will be staggered for one (1), two (2) and three (3) years, all Board members will serve for a term of three (3) years or until the Secretary selects a successor.

- Each Board member is entitled to one (1) vote on any matter put to a vote, and the motion carries if supported by one (1) vote more than 50 % of the votes cast at a meeting where a quorum exists. The Board has the authority to organize and select officers, committees, and subcommittees, develop bylaws, and hire staff.
- USDA provides oversight of the program through its Agricultural Marketing Service (“AMS”). AMS must approve Board contracts for program activities and the annual budget for the Board, and AMS has various rights set forth in the Order to ensure compliance with the provisions of the Orders. The Board may not lobby, conduct false or misleading advertising, or conduct advertising disparaging another commodity.

The primary goals of the Proposed Order for a natural grass sod checkoff program are to: 1) educate consumers, customers, and public policy decision-makers on the value of natural grass products; 2) market and promote the benefits of natural grass on a national scale; 3) provide U.S. sod farmers with marketing tools they can use at the local scale; and 4) provide information to regulatory bodies regarding the value of natural grass for their use in developing model codes and standards for building codes. Each of these goals are only attainable through a national research and promotion program for natural grass sod. Although there has been sporadic success attempting to fund these efforts at the local level with pooled resources of producers and/or associations, research and promotion efforts at the national level have historically been less successful due to the lack of funds available to undertake larger programs. Through the collection of an assessment on natural grass sod products on a national scale, the checkoff will be able to leverage pooled assessment funds and have a more consistent and wide-scale industry impact.

In addition, the proposed checkoff program will allow the industry to leverage funds from other sources to fund research on natural grass products, thereby bringing even more value to assessments. For example, the Foundation for Food and Agriculture (FFAR) develops public-private partnerships to fund innovative agricultural science to benefits farmers, consumers, and the environment. TPI has been in discussions with FFAR and has confirmed that checkoff dollars can be used as a match for FFAR programs to fund research on the consumer and environmental benefits of natural grass. The USDA has also funded over \$29 million in natural grass research since its inclusion in the 2008 Farm Bill. Research and Promotion program funds could be used as a match for future grants like these as well. In addition to these two examples, natural grass sod checkoff funds will be used to leverage other programs at the state, regional, and federal level to fund research on issues affecting natural grass products.

## **E. Funding**

### **1. How much income could the program expect to generate at the optimum assessment rate?**

The program will be funded by the industry through assessments paid by natural grass sod producers, as defined in the Proposed Order. Based on the proposed assessment rate and an analysis of industry statistics provided by USDA and maintained by TPI, publically available farm statistics as well as TPI, the program is estimated to collect \$14,000,000.00 in assessments and will conduct research, marketing and promotion programs that will benefit the entire



industry.<sup>9</sup> The benefits of such programs are expected to outweigh the costs of the program. Evaluations of similar research and promotion programs by independent economists, required to be conducted every five (5) years, have shown positive financial benefits with benefit-cost ratios in the range of \$2.14 to \$17.40 for every dollar invested in the programs.<sup>10</sup> After reviewing and considering all relevant information, the drafting committee determined that the assessments collected from the natural grass sod producers will be relatively small in comparison to their revenue.

**2. How much would it cost to administer the program, including Government reimbursements (user fees)?**

As outlined in Section 7414(e)(5) of the Act, the administrative costs for any program authorized under the Act may not exceed fifteen percent (15%) of the total assessments and other income collected for the fiscal year, beginning three (3) years after the program is established.<sup>11</sup> For purposes of the cap, the administrative costs do not include the reimbursements that each program is required to pay the USDA for their incurred expenses related to implementation, administration, and supervision of the program.<sup>12</sup> Although the Proposed Order adopts this fifteen percent (15%) cap on administrative costs beginning three (3) years after the program is established,<sup>13</sup> the industry intends to adhere to the cap prior to the required date and estimates that the administrative costs will be closer to ten percent (10%) of total assessments and USDA reimbursements would be five percent (5%) of total assessments.

See Table III(E)(3) below.

**3. After program administration costs are paid, how much funding would remain to finance the program?**

See Table III(E)(3) below.

**TABLE III(E)(3)<sup>14</sup>**

<i>Sales volume</i>	<i>Low</i>	<i>Average</i>	<i>High</i>
<i>USDA costs 1%</i>	\$XXX	\$125,000.00	\$XXX
<i>Admin/compliance 7%</i>	\$XXX	\$968,163.00	\$XXX
<i>Promotion 43%</i>	\$XXX	\$6,000,000.00	\$XXX
<i>Research 24%</i>	\$XXX	\$3,400,000.00	\$XXX
<i>Information 25%</i>	\$XXX	\$3,500,000.00	\$XXX

<sup>9</sup> This number is based on a total of 1,395 farms, which represents the mean between the TPI estimate of natural grass sod farms (1,328) and the 2017 USDA-NASS Agriculture Census estimate of natural grass sod farms (1,465). This number also factors in a distribution of farm sizes collected by TPI membership data, where 68% of farms are < 300 acres and 32% are >300 acres.

<sup>10</sup> See US Gov't Accountability Off., GAO-18-54, *Agricultural Promotion Programs: USDA Could Build on Existing Efforts to Further Strengthen Its Oversight* (Nov. 2017).

<sup>11</sup> 7 U.S.C. §7414(e)(5).

<sup>12</sup> 7 U.S.C. §7414(e).

<sup>13</sup> See §12XX of the Proposed Order.

<sup>14</sup> The estimates contained herein are based upon the proposed assessment rate.



## **F. Feasibility**

The assessments to be collected under the Proposed Order will enable the natural grass sod industry to establish an effective research and promotion program. Impactful program results have been accomplished with much less funding on a voluntary basis through TPI as well as small, local industry organizations and collaborations. There are several entities that fund natural grass research and promotion efforts at state and regional levels, but none of which have the capacity to fund these efforts on a large scale. For instance, many state sod associations fund research and promotion at levels under \$10,000 annually. TPI funds research and promotion through its foundation, The Lawn Institute, at up to \$50,000 to \$100,000 annually. However, these types of funds are raised through voluntary contributions and fundraising efforts such as auctions, raffles, activities, etc., and, while they have successfully been able to impact natural grass research and promotion on a small scale, none of these efforts can achieve what is proposed through a natural grass sod checkoff. A natural grass sod checkoff would not only be able to raise significant funds for these efforts, but the checkoff could also respond to changing needs in research and promotion. The proposed natural grass sod checkoff board, like other checkoff boards, would have the flexibility to modify how assessment funds are administered to various research and promotion projects. At the direction of the industry and through USDA approval, they would also be able to modify the program as needed within the guidelines of the Act and the oversight of USDA-AMS staff.

## **IV. Objectives**

The main objectives of the natural grass sod industry in establishing this new checkoff include the aforementioned goals in section III(D), including the education of consumers, customers, and public policy decision-makers on the value of natural grass products; the marketing and promotion of the benefits of natural grass on a national scale; the development of tools for U.S. natural grass sod producers to use at the local scale; and the ability to educate regulatory bodies so that their model codes and standards accurately reflect the value of natural grass in building codes.

In addition to these goals, the checkoff will offer the natural grass sod industry several added benefits that their current structure does not provide, such as ensuring that benefits to the entire industry are paid for by the entire sector and stabilizing funding to allow for better planning and to maximize the utilization of funds.

## **V. Impact on Small Business**

The proposed assessment rate of 1/10<sup>th</sup> of one penny per square foot was decided upon by the 14 sod-producing members of the drafting committee in part because it was determined that rate would not create any undue burdens to sod farms of any size, including small businesses. Data from the National Quarterly Sod Report; 2020 Summer Quarter indicate a range of natural grass sod prices across the United States from \$0.16 to \$0.50 per square foot.<sup>15</sup> These data are supported by various regional sod associations who also voluntarily report pricing information on a monthly, quarterly, or annual basis. As such, an assessment rate of 1/10<sup>th</sup> of one penny per square foot results in additional costs of between 0.62% and 0.2% when using the range of prices

---

<sup>15</sup> US Dept. Agr. Marketing Serv., *National Quarterly Sod Report, Summer Quarter 2020*, AMS.USDA.GOV, <https://www.ams.usda.gov/content/usda-introduces-new-national-quarterly-sod-report> (last visited Nov. 16, 2020).

reported in the USDA National Quarterly Sod Report. Furthermore, when evaluating the prices based on weighted averages instead of ranges, the additional costs incurred are between 0.42% and 0.24%.

This level of assessment should have minimal impact on sod farms of any size, large or small, and was part of the consideration for the drafting committee in supporting the proposed rate. For instance, a sod farm that is considered a small business may harvest as little as 10 acres annually. At the proposed assessment rate and pricing data from the National Sod Report, the annual contribution of that farm to the checkoff would be \$435.00 per year, while generating sales revenue between \$69,696 and \$217,800. Furthermore, it is the intent of the drafting committee the checkoff would provide marketing tools to small farms for promoting their product that would greatly exceed their costs of \$435.00 per year. This type of model is only possible when pooling funds through a national checkoff program to share the cost of developing large-scale deliverables that benefit farms of any size, including small ones.

No particular skills or training is required. The transactional documentation will be added to documents already generated and maintained by natural grass sod producers.

All assessment payments and reports will be submitted to the checkoff Board on a quarterly basis. A late payment charge shall be imposed on any producer who fails to remit to the board, the total amount for which any such producer is liable on or before the due date established by the Board. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the producer is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

There are no known federal rules that duplicate, overlap, or conflict with the Proposed Order.

## **VI. INDUSTRY SUPPORT**

As noted herein, the Proposed Order has resulted from the collaborative efforts of the natural grass sod producers as key industry stakeholders. Over the last few years, TPI has conducted extensive industry engagement, providing educational outreach to local organizations and individual producers and soliciting input on interest in a national checkoff program. When it was determined that there was substantial interest in moving forward with a national program, a drafting committee was organized from a cross-section of industry participants, including natural grass sod producers from businesses and farms of varying sizes and located in geographically diverse locations. The members of the drafting committee participated in several meetings to discuss the many aspects of the Proposed Order, offering their unique perspective and opinions in order to come to agreement on the terms now captured in the Proposed Order, which has broad industry support as evidenced by the numerous letters of support from key industry groups and individual businesses.<sup>16</sup>

## **VII. Referendum**

The Proposed Order is subject to a referendum to ensure that natural grass sod producers participating in the program favor its operation. After carefully considering the referendum

---

<sup>16</sup> See Attachment A [letters of support-forthcoming].

options, the Drafting Committee has decided that it would be best to conduct an initial referendum to confirm industry support for the checkoff.

As part of the referendum, natural grass sod producers will be given the opportunity to vote to determine whether they favor the proposed program. The Proposed Order will be approved only if it is approved by a simple majority (50% + 1 vote) of natural grass producers that have been engaged in the production of natural grass sod products during a representative period determined by the Secretary.

Subsequent referenda requiring the same thresholds for approval will occur every seven (7) years, or at the request of ten percent (10%) of more of persons eligible to vote in a referendum, or as determined by the Secretary.

## **VIII. TEXT OF PROPOSED ORDER**

[Forthcoming]

DRAFT

**Attachment A**  
Letters of Support

[Forthcoming]

DRAFT