

Agricultural Marketing Service, USDA

§ 981.81

§ 981.74 Other reports.

Upon the request of the Board, made with the approval of the Secretary, every handler shall furnish to the Board in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in this part) such other information as will enable the Board to perform its duties and exercise its powers hereunder.

§ 981.75 Confidential nature of records and reports.

All information contained in handler records made available to the Board or the Secretary, or in reports to the Board, constituting a trade secret or disclosing the trade position, financial condition, or business operations of any handler shall be considered as confidential information. Such information received by the Board, shall be kept in the custody and under the control of one or more employees of the Board, who shall disclose such information to no person except the Secretary.

§ 981.76 Handler list of growers.

No later than December 31 of each crop year, each handler other than a cooperative handler (hereinafter, referred to as independent handler) governed by this subpart shall, upon request, submit to the Board a complete list of growers who have delivered almonds to such independent handler during that crop year.

[61 FR 32921, June 26, 1996]

EXPENSES AND ASSESSMENTS

§ 981.80 Expenses.

The Board is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the Board, including the accumulation and maintenance of an operating reserve fund, and for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the Board as to the expenses for each such year, together with all data supporting such recommendation, shall be submitted to the Secretary on or before August 1 of

the crop year in connection with which such recommendation is made.

[35 FR 11372, July 16, 1970, as amended at 37 FR, 3984, Feb. 25, 1972]

§ 981.81 Assessment.

(a) *Requirement for payment.* Each handler shall pay to the Board on demand by the Board, from time to time, such sum less any amounts credited pursuant to § 981.41, based on such rate per pound of almonds, kernel weight basis, received by him for his own account (except as to receipts from other handlers on which assessments have been paid) as the Secretary finds is necessary to provide funds to meet the authorized board expenses and the operating reserve requirements, and establishes for the crop year. Upon redetermination of the kernel weight of almonds received by handlers for their own account as provided in § 981.61, such redetermined kernel weight for each handler, adjusted for receipts on which assessments have been paid, shall be the basis upon which he shall pay assessments. At any time during or after a crop year, the Secretary may increase the rate of assessments to apply to all such almonds during such crop year to secure sufficient funds to cover the expenses authorized by § 981.80 or by any later finding by the Secretary relative to the expenses of the Board, and such additional assessments shall be paid to the Board by each handler on demand. The payment of assessments for the maintenance and functioning of the Board may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Refunds.* Any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's expenses of the first four months of the succeeding crop year. No later than the fifth month the amount not expended from assessments collected for administrative-research in the previous crop year shall be retained in the operating reserve fund. Any amounts, not credited pursuant to § 981.41 for a crop year may be used by

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the Board for its marketing promotion expenses of the succeeding crop year, and any unexpended portion of those amounts at the end of that crop year shall be retained in the marketing promotion portion of the operating reserve fund. Any funds in each portion of the operating reserve fund in excess of the level authorized pursuant to paragraph (c) of this section shall be refunded to handlers or used to reduce the assessment rate of the subsequent crop year, as the Board may determine. Each handler's share of a refund shall be the amount by which his payment of assessments exceeds his pro rata share of the two major classifications of Board expenses. For the purpose of computing any refund from the marketing promotion portion, each handler's payment of assessments shall include any amount credited to the handler pursuant to §981.41. In lieu of a refund, each handler may have the amount due him credited to his assessment obligation of the crop year in which the amount would be refunded.

(c) *Reserves.* The Board may maintain an operating reserve fund consisting of an administrative-research portion and a marketing promotion portion. The amount in each portion shall not exceed approximately six-months' budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary: *Provided*, That this limitation shall not restrict the temporary retention of excess funds for the purpose of stabilizing or reducing the assessment rate of a crop year. To the extent that funds from current crop year assessments are inadequate, funds in the operating reserve may be used for the authorized activities of the crop year. Funds so used, and not exceeding the six-month limitation, shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

(d) *Disposition of funds upon termination.* Any money collected from assessments hereunder and remaining unexpended in possession of the Board upon the termination of this part shall be distributed in such manner as the Secretary may direct.

(e) Any assessment not paid by a handler within a period of time prescribed by the Board may be subject to

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an interest or late payment charge or both. The period of time, rate of interest and late payment charge shall be as recommended by the Board and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed period of time shall be subject to an interest or late payment charge or both.

[35 FR 11372, July 16, 1970, as amended at 37 FR 3984, Feb. 25, 1972; 41 FR 26854, June 30, 1976; 61 FR 32921, June 26, 1996]

MISCELLANEOUS PROVISIONS

§981.85 Personal liability.

No member or alternate member of the Board, or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, agent, or employee, except for acts of dishonesty.

§981.86 Separability.

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

§981.87 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§981.88 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon its termination except with respect to acts done under and during its existence.

§981.89 Agents.

The Secretary may, by a designation in writing, name any person, including