

§ 982.51

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the Board until disposed of pursuant to this part.

(c) A handler having certified merchantable hazelnuts which have not been handled at the end of a marketing year may elect to have those hazelnuts bear the restricted and assessment obligations of that year or of the marketing year in which handled. The Board shall establish such procedures as are necessary to facilitate the administration of this option among handlers.

(d) Whenever the restricted percentage for a marketing year is reduced, each handler's restricted obligation shall be reduced to conform with the new restricted percentage. Any handler who, upon such reduction, is withholding restricted hazelnuts in excess of his new restricted obligation may have the excess freed from withholding by complying with such procedures as the Board may require to insure identification of the remaining hazelnuts withheld.

[40 FR 53227, Nov. 17, 1975, as amended at 46 FR 26039, May 11, 1981]

§ 982.51 Restricted credit for ungraded inshell hazelnuts and for shelled hazelnuts.

(a) A handler may withhold ungraded inshell hazelnuts in lieu of certified merchantable hazelnuts in satisfaction of that handler's restricted obligations, and the weight on which credit may be received shall be the shelled hazelnut equivalent weight as inspected by the Federal-State Inspection Service multiplied by 2.5. Any lot of ungraded hazelnuts not meeting the moisture requirements for certified merchantable hazelnuts shall not be eligible for credit. All determinations as to the shelled hazelnut equivalent weight shall be made by the Federal-State Inspection Service at the handler's expense. Hazelnuts so withheld shall be subject to the applicable requirements of § 982.50. The weight of all such lots for which a handler has received credit shall be adjusted by the Board when the lots are handled or disposed of so that the creditable weight is equal to the amount of certified merchantable inshell hazelnuts or certified shelled hazelnuts that are subsequently handled or disposed of from those lots. If this adjustment

causes the handler to no longer be in satisfaction of that handler's restricted obligation as required by § 982.50, the deficiency shall be satisfied in the subsequent marketing year. If this adjustment results in a handler disposing of, in restricted outlets, a quantity in excess of that handler's restricted obligation, such excess shall not be credited to such handler's restricted obligation during the subsequent marketing year.

(b) A handler may withhold, in accordance with § 982.50(a), certified shelled hazelnuts in lieu of merchantable hazelnuts in satisfaction of such handler's restricted obligation, subject to such terms and conditions as are recommended by the Board and established by the Secretary. The inshell equivalent of such hazelnuts shall be determined by multiplying the weight of the shelled hazelnuts by 2.5.

(c) The Secretary upon recommendation of the Board and other available data may modify these procedures, change the conversion factors, and specify factors for conversion for different varieties of hazelnuts.

[51 FR 29548, Aug. 19, 1986, as amended at 61 FR 17560, Apr. 22, 1996]

§ 982.52 Disposition of restricted hazelnuts.

Hazelnuts withheld from handling as inshell hazelnuts pursuant to §§ 982.50 and 982.51 may be disposed of as follows:

(a) *Shelling.* Any handler may dispose of such hazelnuts by shelling them under the direction or supervision of the Board or by delivering them to an authorized sheller. Any person who desires to become an authorized sheller in any marketing year may submit written application during such year to the Board. Such application shall be granted only upon condition that the applicant agrees:

(1) To use such restricted hazelnuts as he may receive for no purpose other than shelling;

(2) To dispose of or deliver such restricted hazelnuts, as inshell hazelnuts, to no one other than another authorized sheller;

(3) To comply fully with all laws and regulations applicable to shelling of hazelnuts; and

(4) To make such reports, certified to the Board and to the Secretary as to their correctness, as the Board may require.

(b) *Export.* Sales of certified merchantable restricted hazelnuts for shipment to destinations outside the continental United States and such other distribution areas as may be recommended by the Board and established by the Secretary shall be made only by the Board. Any handler desiring to export any part or all of that handler's certified merchantable restricted hazelnuts shall deliver to the Board the certified merchantable restricted hazelnuts to be exported, but the Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any hazelnuts so delivered for export which the Board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the Board only on execution of an agreement to prevent exportation into the area designated in §982.16. A handler may be permitted to act as an agent of the Board, upon such terms and conditions as the Board may specify, in negotiating export sales, and when so acting shall be entitled to receive a selling commission as authorized by the Board. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose certified merchantable restricted hazelnuts are so sold by the Board.

(c) *Other outlets.* In addition to the dispositions authorized in paragraphs (a) and (b) of this section, the Board may designate such other outlets into which such hazelnuts may be disposed which it determines are noncompetitive with normal market outlets for inshell hazelnuts. Such dispositions shall be made under the direction or supervision of the Board.

(d) *Restricted credits.* During any marketing year, handlers who dispose of a quantity of eligible hazelnuts in restricted outlets in excess of their restricted obligations, may transfer such excess credits to another handler or handlers. Upon a handler's written request to the Board during a marketing year, the Board shall transfer any or

all of such excess restricted credits to such other handler or handlers that the handler may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for the transfer of excess restricted credits.

[40 FR 53227, Nov. 17, 1975, as amended at 51 FR 29549, Aug. 19, 1986; 61 FR 17560, Apr. 22, 1996]

§982.53 Substandard hazelnuts.

The Board shall, with the approval of the Secretary, establish such reporting and disposition procedures as it deems necessary to insure that hazelnuts which do not meet the effective inshell or shelled hazelnut minimum standards do not enter normal market outlets for certified hazelnuts.

§982.54 Deferment of restricted obligation.

(a) *Bonding.* Compliance by any handler with the requirements of §982.50 when restricted hazelnuts may be withheld shall be temporarily deferred to any date requested by the handler, but not later than 60 days prior to the end of the marketing year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Board of a written undertaking before beginning to handle merchantable hazelnuts during the marketing year. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that on or prior to such date the handler will have fully satisfied the restricted obligation required by §982.50, subject to any adjustment pursuant to §982.51.

(b) *Bonding requirement.* Such bond or bonds shall, at all times during their effective period, be in such amounts that the aggregate thereof shall be no less than the total bonding value of the handler's deferred restricted obligation. The bonding value shall be the deferred restricted obligation multiplied by the applicable bonding rate. The cost of such bond or bonds shall be borne by the handler filing same.

(c) *Bonding rate.* Said bonding rate shall be an amount per pound as established by the Board. Such bonding rate shall be based on the estimated value