

## Agricultural Marketing Service, USDA

## § 982.61

such grower's ranch or orchard or at roadside stands and farmers' markets. The Board, with the approval of the Secretary, may establish such rules, regulations, and safeguards and require such reports, certifications, and other conditions, as are necessary to ensure that such hazelnuts are disposed of only as authorized. Mail order sales are not exempt sales under this part.

[51 FR 29549, Aug. 19, 1986, as amended at 61 FR 17560, Apr. 22, 1996]

### MARKET DEVELOPMENT

#### § 982.58 Research, promotion, and market development.

(a) *General.* The Board, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of hazelnuts. The Board may also provide for crediting the pro rata expense assessment obligations of a handler with such portion of such handler's direct expenditures for such marketing promotion including paid advertising as may be authorized. The expenses of such projects shall be paid from funds collected pursuant to § 982.61, § 982.63, or credited pursuant to paragraph (b) of this section.

(b) *Creditable expenditures.* The Board, with the approval of the Secretary, may provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of hazelnuts, hazelnut products, or their uses. No handler shall receive credit for any allowable direct expenditures that would exceed the total of the handler's assessment obligation which is attributable to that portion of the handler's assessment designated for marketing promotion including paid advertising.

(c) *Rules and regulations.* Before any projects involving marketing promotion, including paid advertising and the crediting of the pro rata expense assessment obligation of handlers is undertaken pursuant to this section, the Secretary, after recommendation

by the Board, shall prescribe appropriate rules and regulations as are necessary to effectively administer such projects.

[51 FR 29549, Aug. 19, 1986, as amended at 61 FR 17560, Apr. 22, 1996]

### EXPENSES AND ASSESSMENTS

#### § 982.60 Expenses.

The Board is authorized to incur such expenses including maintenance of an operating reserve fund as the Secretary may find are reasonable and likely to be incurred by it during each marketing year, for the maintenance and functioning of the Board 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 and size of the operating reserve for each such marketing year, together with all data supporting such recommendations, shall be submitted to the Secretary at the beginning of the fiscal year in connection with which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as provided in § 982.61.

#### § 982.61 Assessments.

(a) For each marketing year, the Secretary shall fix an assessment rate per pound of hazelnuts handled and withheld, including the creditable weight of ungraded restricted hazelnuts withheld pursuant to § 982.51 and, when subject to regulation pursuant to § 982.45, the inshell equivalent of shelled hazelnuts certified which are produced from other than restricted hazelnuts that will provide sufficient funds to meet the authorized expenses and reserve requirements of the Board. At any time during or after a marketing year when he determines, on the basis of a Board recommendation or other information, that a different rate is necessary, the Secretary may modify the assessment rate and the new rate shall be applicable to all such hazelnuts. Each handler shall pay to the Board on demand, assessments on all such assessable hazelnuts at the rate fixed by the Secretary, less any amounts credited pursuant to § 982.58. The Board shall impose a late payment charge on any handler who

## § 982.62

fails to pay his assessment within the time prescribed by the Board. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Board shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the Board, with the approval of the Secretary.

(b) In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the Board may accept the payment of assessments in advance, and may also borrow money for such purpose. Further, payment discounts may be authorized by the Board upon the approval of the Secretary to handlers making such advance assessment payments.

[24 FR 6185, Aug 1, 1959. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 37 FR 589, Jan. 14, 1972; 51 FR 29550, Aug. 19, 1986; 61 FR 17560, Apr. 22, 1996]

## § 982.62 Accounting.

(a) *Operating reserve.* The Board with the approval of the Secretary may establish and maintain an operating monetary reserve in an amount not to exceed approximately one marketing year's operational expenses or such lower limits as the Board with the approval of the Secretary may establish.

(b) *Refunds.* At the end of a marketing year funds in excess of the marketing year's expenses and reserve requirements shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments the handler paid in excess of the handler's pro rata share of expenses of the Board. However, excess funds may be maintained and used by the Board until December 1 following the end of any such marketing year: *Provided*, That the Board shall refund to each handler upon request, or credit to the handler's account with the Board, the handler's share of such excess prior to January 1.

(c) *Termination.* Upon termination of this subpart any money remaining unexpended in possession of the Board shall be distributed in such manner as

## 7 CFR Ch. IX (1-1-08 Edition)

the Secretary may direct: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

[24 FR 6185, Aug. 1, 1959, as amended at 46 FR 26040, May 11, 1981]

## § 982.63 Contributions.

The Board may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 982.58. Furthermore, such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use.

[61 FR 17560, Apr. 22, 1996]

## RECORDS AND REPORTS

## § 982.64 Creditable promotion and advertising reports.

Each handler shall file such reports of creditable promotion including paid advertising conducted pursuant to § 982.58 as recommended by the Board and approved by the Secretary.

[51 FR 29550, Aug. 19, 1986]

## § 982.65 Carryover reports.

As of January 1, May 1, and August 1, or such other dates as the Board may recommend and the Secretary approve, each handler shall report within 10 days to the Board the handler's inventory of inshell and shelled hazelnuts. Such reports shall be certified to the Board and the Secretary as to their accuracy and completeness and shall show, among other items, the following: (a) Certified merchantable hazelnuts on which the restricted obligation has been met; (b) merchantable hazelnuts on which the restricted obligation has not been met; (c) the merchantable equivalent of any hazelnuts intended for handling as inshell hazelnuts; and (d) restricted hazelnuts withheld.

[46 FR 26040, May 11, 1981]

## § 982.66 Shipment reports.

Each handler shall report to the Board the respective quantities of inshell and shelled hazelnuts handled by him during such periods and in such