

handlers, and importers to determine if watermelon producers, handlers, and importers favor termination or suspension of this Plan. The Secretary shall suspend or terminate this Plan at the end of the marketing year whenever the Secretary determines that the suspension or termination is favored by a majority of the watermelon producers, handlers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons and who produced, handled, or imported more than 50 percent of the combined total of the volume of watermelons produced, handled, or imported by those producers, handlers, and importers voting in the referendum. For purposes of this section, the vote of a person who both produces and handles watermelons will be counted as a handler vote if the producer purchased watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or the combined total volume of watermelon handled by the producer from the producer's own production and purchases from other producer's production is more than 50 percent of the producer's own production. *Provided*, That the vote of a person who both imports and handles watermelons will be counted as an importer vote if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. Any such referendum shall be conducted by mail ballot.

[54 FR 24545, June 8, 1989, as amended at 60 FR 10799, Feb. 28, 1995]

§ 1210.364 Proceedings after termination.

(a) Upon the termination of this Plan, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other

claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to § 1210.328(d);

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to person or persons as the Secretary may direct; and

(4) Upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person or persons full title and right to all the funds, property, and claims vested in the Board or the trustees pursuant to this section.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) A reasonable effort shall be made by the Board or its trustees to return to producers, handlers and importers any residual funds not required to defray the necessary expenses of liquidation. If it is found impractical to return such remaining funds to producers, handlers and importers such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

[54 FR 24545, June 8, 1989, as amended at 60 FR 10799, Feb. 28, 1995]

§ 1210.365 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this Plan or any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this Plan or any regulation issued thereunder; or

(b) Release or extinguish any violation of this Plan or any regulation issued thereunder; or

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(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person with respect to any such violation.

§ 1210.366 Separability.

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

§ 1210.367 Patents, copyrights, inventions, and publications.

Any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this Plan shall be the property of the United States government as represented by the Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board. Upon termination of this part, §1210.364 shall apply to determine the disposition of all such property.

Subpart B—Nominating Procedures

SOURCE: 54 FR 38205, Sept. 15, 1989, unless otherwise noted.

PRODUCER AND HANDLER MEMBERS

§ 1210.400 Terms defined.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart—Watermelon Research and Promotion Plan.

§ 1210.401 District conventions.

(a) Except for the initial district convention in each district, which will be called and opened by a representative of the Secretary, the Board shall call and open all district conventions.

(b) District conventions are to be held to nominate producers and handlers as candidates for membership on the National Watermelon Promotion

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Board. Each district, as defined in §1210.501, is entitled to two producer and two handler members on the Board.

(c) There shall be two individuals nominated for each vacant position. In multi-State districts, no one State shall have nominees for more than three of the four district positions on the Board.

(d) All producers and handlers within each district may participate in that district's convention: *Provided*, That they meet the eligibility provisions set forth in §1210.402 of this subpart.

(e) The convention chairperson shall be elected as provided in §1210.403(b) of this subpart.

(f) The Board member nomination process shall be conducted by the chairperson in conformance with the provisions of §1210.321 of the Plan and §1210.403 of this subpart. At the conclusion of the district convention for the initial term of office, the chairperson will provide the Secretary with:

(1) The identification of that district's two nominees for each producer and handler position on the Board, and

(2) A typed copy of the district convention's minutes.

This information must be provided by the chairperson to the Board staff in a manner that will ensure receipt, at the address specified in the call for the district convention, within 14 calendar days of the district convention's completion, but not later than July 8 for appointments to become effective on the following January 1. The Board staff must forward such information to the Secretary, in a manner that will ensure receipt, within 21 calendar days of completion of the district convention, but not later than July 15 for appointments to become effective on the following January 1. Further, the chairperson will immediately arrange for completion of qualification statements and other specified information by each nominee, and each nominee shall qualify by forwarding such information to the Board's office within 14 calendar days of completion of the district convention, but not later than July 8 for appointments to become effective on the following January 1. The Board staff must forward the completed qualification statements and