

Agricultural Marketing Service, USDA

§ 982.87

States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 982.86 Effective time, termination or suspension.

(a) *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in this section.

(b) *Suspension or termination.* (1) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) *Referendum.* The Board shall recommend to the Secretary during the first half of every 10-year period starting January 1, 1990, that a referendum be conducted to ascertain whether continuance of this subpart is favored by the producers.

(4) The Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever the Secretary finds that such termination is favored by a majority of the producers of hazelnuts who during the preceding marketing year have been engaged in the production for marketing of hazelnuts in the States of Oregon and Washington: *Provided*, That such majority have during such period produced for market more than 50 percent of the volume of such hazelnuts produced for market within said States; but such termination shall be effected only if announced 30 days or more before the end of the then current marketing year.

(5) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions of this subpart, the members of the

Board then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Board, of all funds and property then in the possession or under the control of the Board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, 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 the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant to this subpart.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Board or its members, pursuant to this section shall be subject to the same obligations imposed upon the members of the said Board and upon said joint trustees.

[24 FR 6185, Aug. 1, 1959. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at, 46 FR 26040, May 11, 1981; 51 FR 29550, Aug. 19, 1986]

§ 982.87 Effect of termination or amendment.

(a) Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (1) 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 subpart or any regulation issued under this subpart, or (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any right or remedies of the Secretary or of any other person, with respect to any such violation.

(b) All rules and regulations in this part which are in effect immediately

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prior to this amendment of this subpart and not inconsistent with such amendment shall continue in effect until otherwise prescribed pursuant to this subpart.

§ 982.88 Amendments.

Amendments to this subpart may be proposed, from time to time, by any person or by the Board.

Subpart—Grade and Size Regulation

§ 982.101 Grade requirements for shelled hazelnuts.

(a) Pursuant to § 982.45(a), no handler shall handle any shelled hazelnuts unless such hazelnuts meet the grade requirements for shelled hazelnuts as contained in exhibit A of this section.

(b) Pursuant to §§ 982.50(a) and 982.51(b), a handler may declare and withhold shelled hazelnuts in lieu of merchantable hazelnuts in satisfaction of the handler's restricted obligation. Shelled hazelnuts so declared and withheld shall, in lieu of the standards prescribed in § 982.50(a)(3), meet the grade requirements contained in exhibit A of this section.

EXHIBIT A

Grade Requirements for Shelled Hazelnuts

Hazelnut kernels or portions of hazelnut kernels shall meet the following requirements:

- (1) Well dried and clean;
- (2) Free from foreign material, mold, rancidity, decay or insect injury; and
- (3) Free from serious damage caused by serious shriveling, or other means.

Tolerances

In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are permitted as specified:

- (1) For Foreign Material: 0.02 of one percent, for foreign material.
- (2) For Defects: Five percent for kernels or portions of kernels which are below the requirements of this grade, including not more than the following: Two percent for mold, rancidity, decay or insect injury: *Provided*, That not more than one percent shall be for mold, rancidity, or insect injury.

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Definitions

(1) *Well dried* means that the kernels are firm and crisp, not containing more than 6 percent moisture.

(2) *Clean* means practically free from plainly visible adhering dirt or other foreign material.

(3) *Foreign material* means any substance other than the hazelnut kernels, or portions of kernels. (Loose skins, pellicles or corky tissue which have become separated from the kernels shall not be considered as foreign material, provided that this material does not exceed .02 of one percent by weight.)

(4) *Serious damage* means any specific defect described in this section, or any equally objectionable variation of any one of these defects, or any other defects, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of the kernel or of the lot as a whole. The following defects shall be considered as serious damage.

(i) *Serious shriveling* means when the kernel is seriously shrunken, wrinkled and tough.

(ii) *Mold* means that there is a visible growth of mold either on the outside or inside of the kernel.

(iii) *Rancidity* means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

(iv) *Decay* means that any portion of the kernel is decomposed.

(v) *Insect injury* means that the insect, frass or web is present, or the kernel or portion of kernel show definite evidence of insect feeding.

[47 FR 12611, Mar. 24, 1982, as amended at 48 FR 34015, July 27, 1983]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .300 through .399) and "Marketing percentage" regulations (e.g., sections .200 through .299) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart—Free and Restricted Percentages

§ 982.254 Free and restricted percentages—2006–2007 marketing year.

The final free and restricted percentages for merchantable hazelnuts for the 2006–2007 marketing year shall be