

§ 983.75

committee at the end of such production year as credit for such person, toward the committee's fiscal operations of the following production year;

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent production years as a reserve: *Provided*, That funds already in the reserve do not exceed approximately two production years' budgeted expenses. In the event that funds exceed two production years' budgeted expenses, future assessments will be reduced to bring the reserves to an amount that is less than or equal to two production years' budgeted expenses. Such reserve funds may be used:

(i) To defray expenses, during any production year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any production year when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended; and

(iv) To cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned *pro rata* to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements for which that member was personally responsible, deliver all committee property and funds in the possession of such member to the committee, and execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full

7 CFR Ch. IX (1–1–10 Edition)

title to all of the committee property, funds, and claims vested in such member pursuant to this part.

[69 FR 17850, Apr. 4, 2004. Redesignated and amended at 74 FR 56540, Nov. 2, 2009]

§ 983.75 Implementation and amendments.

The Secretary, upon the recommendation of a majority of the committee, may issue rules and regulations implementing or modifying §§ 983.64 through 983.74 inclusive.

[74 FR 56540, Nov. 2, 2009]

MISCELLANEOUS PROVISIONS

§ 983.80 Compliance.

Except as provided in this part, no handler shall handle pistachios, the handling of which has been prohibited or otherwise limited by the Secretary in accordance with provisions of this part; and no handler shall handle pistachios except in conformity to the provision of this part.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.81 Right of the Secretary.

The members of the committee (including successors or alternates) and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension at the discretion of the Secretary, at any time. Each and every decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.82 Personal liability.

No member or alternate member of the committee, nor any employee, representative, or agent of the committee shall be held personally responsible to any handler, either individually, or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of

Agricultural Marketing Service, USDA

§ 983.89

dishonesty, willful misconduct, or gross negligence.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.83 Separability.

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

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.84 Derogation.

Nothing contained in this part 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.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.85 Duration of immunities.

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

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.86 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any service, division or branch in the United States Department of Agriculture, to act as agent or representative of the Secretary in connection with any of the provisions of this part.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.87 Effective time.

The provisions of this part, as well as any amendments, 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 § 983.88 or § 983.89.

[74 FR 56540, Nov. 2, 2009]

§ 983.88 Suspension or termination.

The Secretary shall terminate or suspend the operation of any or all of the provisions of this part, whenever he/she finds that such provisions do not tend to effectuate the declared policy of the Act.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

§ 983.89 Termination.

(a) The Secretary may at any time terminate the provisions of this part.

(b) The Secretary shall terminate or suspend the operations of any or all of the provisions of this part whenever it is found that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever it is found that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of pistachios: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such pistachios produced for market, but such termination shall be announced at least 90 days before the end of the current fiscal period.

(d) Within six years of the effective date of this part the Secretary shall conduct a referendum to ascertain whether continuance of this part is favored by producers. Subsequent referenda to ascertain continuance shall be conducted every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by a two thirds ($\frac{2}{3}$) majority of voting producers, or a two thirds ($\frac{2}{3}$) majority of volume represented thereby, who, during a representative period determined by the Secretary, have been engaged in the production for market of pistachios