

## 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

## § 983.90

in the production area. Such termination shall be announced on or before the end of the production year.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease.

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

### § 983.90 Procedure upon termination.

Upon the termination of this part, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such persons 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 the funds, properties, and claims vested in the committee or the joint trustees, pursuant to this part. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon said joint trustees.

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

### § 983.91 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of 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 provisions of this part or any regulation issued there under,

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(b) Release or extinguish any violation of this part or any regulation issued there under, or

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

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

### § 983.92 Exemption.

Any handler may handle pistachios within the production area free of the requirements in §§ 983.50 through 983.58 and § 983.71 if such pistachios are handled in quantities not exceeding 5,000 dried pounds during any production year. The Secretary, upon recommendation of the committee, may issue rules and regulations changing the 5,000 pound quantity applicable to this exemption.

[74 FR 56540, Nov. 2, 2009]

## Subpart—Rules and Regulations

### § 983.150 Aflatoxin regulations.

(a) *Maximum level.* No handler shall ship for domestic human consumption, pistachios that exceed an aflatoxin level of 15 ppb; *Provided*, That the provisions of this section pertaining to aflatoxin levels, sampling, testing, and certification shall apply to handlers in District 4 on or after October 30, 2009. All shipments must also be covered by an aflatoxin inspection certificate. Pistachios that fail to meet the aflatoxin requirements shall be disposed in such manner as described in the Failed Lots/Rework Procedure of this part (§ 983.152).

(b) *Change in level.* The committee may recommend to the Secretary changes in the aflatoxin level specified in this section. If the Secretary finds, on the basis of such recommendation or other information, that such an adjustment of the aflatoxin level would tend to effectuate the declared policy of the Act, such change shall be made accordingly.

(c) *Transfers between handlers.* Transfers between handlers within the production area are exempt from the aflatoxin regulation of this section.

(d) *Aflatoxin testing procedures.* To obtain an aflatoxin inspection certificate,