

§ 986.93

§ 986.93 Effective time.

The provisions of this part and of any amendment thereto shall become effective at such time as the Secretary may declare, and shall continue in force until terminated in one of the ways specified in § 986.94.

§ 986.94 Termination.

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

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever he or she finds that such operation obstructs or does not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this part applicable to pecans for market or pecans for handling at the end of any fiscal year whenever the Secretary finds, by referendum or otherwise, that such termination is favored by a majority of growers; *Provided*, That such majority of growers has produced more than 50 percent of the volume of pecans in the production area during such fiscal year. Such termination shall be effective only if announced on or before the last day of the then current fiscal year.

(d) The Secretary shall conduct a referendum within every five-year period beginning from the implementation of this part, to ascertain whether continuance of the provisions of this part applicable to pecans are favored by two-thirds by number or volume of growers voting in the referendum. The Secretary may terminate the provisions of this part at the end of any fiscal year in which the Secretary has found that continuance of this part is not favored by growers who, during an appropriate period of time determined by the Secretary, have been engaged in the production of pecans in the production area: *Provided*, That termination of this part shall be effective only if announced on or before the last day of the then current fiscal year.

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

§ 986.95 Proceedings after termination.

(a) Upon the termination of this part, the Council members serving shall con-

7 CFR Ch. IX (1-1-25 Edition)

tinue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time accounting for all receipts and disbursements; delivering all funds and property on hand, together with all books and records of the Council and of the joint trustees to such person as the Secretary shall direct; and, upon the request of the Secretary, executing such assignments or other instruments necessary and appropriate to vest in such person full title and right to all of the funds, property, or claims vested in the Council or in said joint trustees.

(c) Any funds collected pursuant to this part and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties under this subpart, as soon as practicable after the termination hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the Council, upon direction of the Secretary, as provided in this part, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon said joint trustees.

§ 986.96 Amendments.

Amendments to this part may be proposed from time to time by the Council or by the Secretary.

§ 986.97 Counterparts.

Handlers may sign an agreement with the Secretary indicating their support for this marketing order. This agreement may be executed in multiple counterparts by each handler. If more than fifty percent of the handlers, weighted by the volume of pecans handled during an appropriate period of time determined by the Secretary, enter into such an agreement, then a

Agricultural Marketing Service, USDA

§ 986.175

marketing agreement shall exist for the pecans marketing order. This marketing agreement shall not alter the terms of this part. Upon the termination of this part, the marketing agreement has no further force or effect.

§ 986.98 Additional parties.

After this part becomes effective, any handler may become a party to the marketing agreement if a counterpart is executed by the handler and delivered to the Secretary.

§ 986.99 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order for regulating the handling of pecans in the same manner as is provided for in this agreement.

Subpart B—Administrative Provisions

§ 986.161 Assessment rate.

On and after October 1, 2021, assessment rates of \$0.01 per pound for pecans classified as improved, \$0.00 per pound for pecans classified as native and seedling, and \$0.00 per pound for pecans classified as substandard pecans are established.

[87 FR 22110, Apr. 14, 2022]

§ 986.162 Inter-handler transfers.

(a) Inter-handler transfers of inshell pecans, pursuant to § 986.62, shall be reported to the Council on APC Form 4. Handlers shall file reports by the tenth day of the month following the first transfer between two handlers. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. This report must be renewed each fiscal year. The report shall contain the following information:

(1) The fiscal year covered by the report;

(2) The names and signatures for both the transferring and receiving handler; and

(3) Handler assuming the reporting and assessment obligations on the pecans transferred.

(b) [Reserved]

[85 FR 19654, Apr. 8, 2020]

§ 986.175 Handler inventory.

(a) Handlers shall submit to the Council a year-end inventory report following August 31 each fiscal year. Handlers shall file such reports by September 10. Should September 10 fall on a weekend, reports are due by the first business day following September 10. Such reports shall be reported to the Council on APC Form 5 and include:

(1) The name and address of the handler;

(2) The total weight and type of inshell pecans in inventory, regardless of country of origin;

(3) The total weight and type of shelled pecans in inventory, regardless of country of origin;

(4) The total weight and type of inshell pecans committed, not shipped, for export and domestic shipments, and any uncommitted inventory, regardless of country of origin;

(5) The total weight and type of shelled pecans committed, not shipped, for export and domestic shipments, and any uncommitted inventory, regardless of country of origin;

(6) The combined total inventory for inshell and shelled pecans calculated on an inshell basis, and combined weight committed, not shipped, for exports and domestic shipments, and any uncommitted inventory;

(7) Total weight and type of domestic pecans handled for the fiscal year;

(8) Total assessments owed, assessments paid to date, and remaining assessments due to be paid by the due date of the year-end inventory report for the fiscal year;

(9) The average price paid for all inshell pecans purchased during the fiscal year regardless of how the pecans are handled, including pecans from outside the production area; and

(10) The average yield of shelled pecans per pound of inshell pecans shelled during the fiscal year.

(b) [Reserved]

[82 FR 56155, Nov. 28, 2017, as amended at 84 FR 8411, Mar. 8, 2019; 85 FR 19654, Apr. 8, 2020]