

## Agricultural Marketing Service, USDA

## § 931.66

### MISCELLANEOUS PROVISIONS

#### § 931.61 Compliance.

Except as provided in this part, no person shall handle pears the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle pears except in conformity with the provisions and the regulations issued under this part.

#### § 931.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, 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. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

#### § 931.63 Effective time.

The provisions of this part and of any amendments thereto shall become effective at such time as the Secretary may declare above his signature, and shall continue in force until terminated in one of the ways specified in § 931.64.

#### § 931.64 Termination.

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

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds 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 he finds by a referendum or otherwise that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production

area in the production of pears for market in fresh form: *Provided*, That such majority has produced for market during such period more than 50 percent of the volume of pears produced for fresh market in the production area; but such termination shall be effective only if announced on or before June 30 of the then current fiscal period: *Provided further*, That the Secretary shall conduct such a referendum not later than 5 years from the effective date of this part.

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

#### § 931.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) 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 committee or the trustees pursuant thereto.

(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 committee and upon the trustees.

#### § 931.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which

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shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

### § 931.67 Duration of immunities.

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

### § 931.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

### § 931.69 Derogation.

Nothing contained in the provisions of 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 (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

### § 931.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, 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, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

### § 931.71 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 of this part or the applica-

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bility thereof to any other person, circumstance, or thing shall not be affected thereby.

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g., sections .300 through .399) 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—Rules and Regulations

SOURCE: 56 FR 65800, Dec. 19, 1991, unless otherwise noted.

### DEFINITIONS

#### § 931.100 Terms.

Each term used in this subpart, unless otherwise defined, shall have the same meaning as when used in the marketing agreement and order.

#### § 931.101 Marketing agreement.

*Marketing agreement* means Marketing Agreement No. 147, as amended, regulating the handling of Bartlett pears grown in Oregon and Washington.

#### § 931.102 Order.

*Order* means Order No. 931, as amended (§§ 931.1 to 931.71), regulating the handling of Bartlett pears grown in Oregon and Washington.

### COMMUNICATIONS

#### § 931.110 Communications.

Unless otherwise specifically prescribed in this subpart, or in the marketing agreement and order, or unless otherwise required by the Committee, all reports, applications, submittals, requests, inspection certificates, and communications in connection with the marketing agreement or order shall be forwarded to: Northwest Fresh Bartlett Pear Marketing Committee 4382 SE International Way, Suite A, Milwaukie, OR 97222-4635.

[65 FR 65255, Nov. 1, 2000]