

Agricultural Marketing Service, USDA

§ 1209.73

(b)(1) Five years after the date on which this subpart becomes effective, the Secretary shall conduct a referendum among producers and importers to determine whether they favor continuation, termination, or suspension of this subpart.

(2) Effective beginning three years after the date on which this subpart becomes effective, the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to determine whether producers and importers favor termination or suspension of this subpart.

(3) Whenever the Secretary determines that suspension or termination of this subpart is favored by a majority of the mushroom producers and importers voting in a referendum under paragraphs (b) (1) or (2) who, during a representative period determined by the Secretary, have been engaged in producing and importing mushrooms and who, on average, annually produced and imported more than 50 percent of the volume of mushrooms produced and imported by all those producers and importers voting in the referendum, the Secretary shall:

(i) Suspend or terminate, as appropriate, collection of assessments within six months after making such determination; and

(ii) Suspend or terminate, as appropriate, all activities under this subpart in an orderly manner as soon as practicable.

(4) Referenda conducted under this subsection shall be conducted in such manner as the Secretary may prescribe.

§ 1209.72 Proceedings after termination.

(a) Upon the termination of this subpart, the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of, or under the control of the Council, including any claims unpaid or property not de-

livered, or any other claim existing at the time of such termination.

(b) The trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Council under any contract or agreement entered into by it under this subpart;

(3) From time to time account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered under this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information, or industry information programs, plans, or projects authorized under this subpart.

§ 1209.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any rule and regulation issued under this subpart, or the issuance of any amendment to such provisions, shall not:

(a) Affect or waive any right, duty, obligation, or liability that shall have arisen or may hereafter arise in connection with any provision of this subpart or any such rules or regulations;

(b) Release or extinguish any violation of this subpart or any such rules or regulations; or

(c) Affect or impair any rights or remedies of the United States, the Secretary, or any person with respect to any such violation.