

Agricultural Marketing Service, USDA

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need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed, and then only in a judicial proceeding or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this subpart shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected from such reports, if such statements do not identify the information furnished by any person; or

(2) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

(b) Any disclosure of any confidential information by any employee or agent of the Board shall be considered willful misconduct.

(c) No information on how a person voted in a referendum conducted under the Act shall be made public.

§ 1219.64 List of importers.

The administrative staff of the Board shall periodically review the list of importers of Hass avocados to determine whether persons on the list are subject to this subpart.

§ 1219.65 List of producers.

The administrative staff of the Board shall periodically review the list of producers of Hass avocados to determine whether the persons on the list of subject to this subpart. On the request of the Secretary or the Board, the Association shall provide to the Secretary or the administrative staff of the Board the list of producers of Hass avocados.

MISCELLANEOUS

§ 1219.70 Right of the Secretary.

All fiscal matters, programs, plans, and projects, contracts, rules or regulations, reports, or other substantive ac-

tions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1219.71 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that the part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this part or subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Order or the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of the producers and importers voting who, during a representative period determined by the Secretary, have been engaged in the production or importation of Hass avocados.

(c) If, as a result of a referendum, the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Suspend or terminate, as appropriate, the collection of assessments not later than 180 days after making such determination; and

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

§ 1219.72 Proceedings after termination.

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

(b) The said trustees shall:

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

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(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to the Order;

(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 Board and of the trustees, to such person or persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or, if not practicable, shall be turned over to the Secretary to be distributed to authorized Hass avocado producer and importer organizations in the interest of continuing Hass avocado promotion, research, and information programs.

§ 1219.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, 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 provision of this subpart or any such rule or regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or of any rule or regulation issued thereunder; or

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

§ 1219.74 Personal liability.

No member, alternate member, employee, or agent of the Board shall be

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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 Association or omission, as such member, alternate, employee, or agent, except for acts of dishonesty or willful misconduct.

§ 1219.75 Separability.

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

§ 1219.76 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary. Except for changes in the assessment rate, the provisions of the Act applicable to the Order are applicable to any amendment of the Order.

§ 1219.77 OMB control numbers.

The control numbers assigned to the information collection requirements in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, are OMB control numbers 0581-0197 and 0505-0001.

Subpart B—Referendum Procedures

§ 1219.100 General.

Referenda to determine whether eligible producers and importers of Hass avocados favor the issuance, amendment, suspension, or termination of the Hass Avocado Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

§ 1219.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or