

**§927.112**

size, or quality regulations in effect, from shipping as large a percentage of the particular variety of his pears as the percentage of all pears of that particular variety permitted to be shipped from his district as determined by the Control Committee. In the event any member or alternate member of the Control Committee shall himself apply for an exemption certificate he shall be disqualified to serve as a member of the exemption committee to act upon the application.

**§927.112 Issuance of exemption certificate.**

In the event such exemption committee finds and determines from proof, satisfactory to the committee, that the applicant is entitled to an exemption certificate, such exemption certificate shall be issued so as to permit the applicant to ship or have shipped the requisite quantity of his pears. Each exemption certificate shall be signed by the secretary or assistant secretary of the Control Committee and one copy thereof shall be delivered to the grower, one copy shall be delivered to each shipper designated by the grower to receive a copy, and one copy shall be retained in the files of the Control Committee. In the event the secretary of the Control Committee has reason to believe that any such finding or determination by an exemption committee is improper or not in accordance with the facts, he may disapprove the same, and shall make or cause to be made such further investigation as he may determine to be necessary or advisable, and may request or obtain such information as he may deem necessary to enable him to determine whether or not and to what extent an applicant is entitled to an exemption certificate.

**§927.113 Appeal to Control Committee.**

Any grower, whose application is denied in whole or in part by the appropriate exemption committee or by the secretary of the Control Committee, may file a written appeal with the Control Committee within fifteen (15) days after the date of the notice to such grower of the decision involved. Upon receipt of such appeal, the secretary of the Control Committee shall submit

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the same, together with all applicable information and data, including the report of the exemption committee on that grower's application to the members of the Control Committee, who thereafter shall review the same and shall determine whether and to what extent the applicant is entitled to an exemption certificate. Thereupon the secretary of the Control Committee shall issue to that grower such exemption certificate as the Control Committee shall determine to be proper.

**§927.114 Appeal to Secretary.**

Any grower who is dissatisfied with the Control Committee's determination with respect to any appeal by that grower from a decision by an exemption committee or by the Secretary of the Control Committee with respect to that grower's application for an exemption certificate, may appeal from such determination by the Control Committee to the Secretary of Agriculture. Any such appeal shall be made by filing with the secretary of the Control Committee a written notice of appeal within fifteen (15) days after notice to that grower of the aforesaid determination by the Control Committee. Promptly upon receipt of notice of an appeal signed by the applicant, the secretary of the Control Committee shall forward to the Secretary of Agriculture, or to his designated representative, a true and correct copy of all information pertaining to that grower's application for an exemption certificate and the action taken thereon by the Control Committee, together with such written information and proof as was submitted to or obtained by the Control Committee with regard to said application, and a true copy of the appellant grower's notice of appeal.

**EXEMPTIONS AND SAFEGUARDS**

**§927.120 Pears for charitable or by-product purposes.**

Pears which do not meet the requirements of the then effective grade, size, or quality regulations shall not be shipped or handled for consumption by any charitable institution or for distribution by any relief agency or for conversion into any by-product, unless there first shall have been delivered to

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the manager of the Control Committee a certificate executed by the intended receiver and user of said pears showing, to the manager's satisfaction, that said pears actually will be used for one or more of the aforesaid purposes.

### § 927.121 Pears for gift purposes.

There are exempted from the provisions of the marketing agreement and order any and all pears which, in individual gift packages, are shipped directly to, or which are shipped for distribution without resale to, an individual person as the consumer thereof, and any and all pears which, in individual gift packages are shipped directly to, or are shipped for distribution without resale to, a purchaser who will use these pears solely for gift purposes and not for sale.

### § 927.122 Shipments to designated storages.

(a) Pears may be shipped without prior inspection and certification to any public warehouse in Yakima, Zillah, Wenatchee, or Grandview in the State of Washington; in Portland, Klamath Falls, or Medford in the State of Oregon; or in Tulelake or Yuba City in the State of California, for storage therein in transit: *Provided*, That any pears so shipped shall be inspected, and a certificate issued with respect thereto, as provided in § 927.60 of the marketing agreement and order, prior to such pears being removed from such warehouse. At the time any pears are so shipped into such public storage warehouse and again when such pears are shipped out of such warehouse, the handler shall, on his "Handler's Statement of Pear Shipments," report each such shipment as prescribed in § 927.125(b).

(b) Any pears shipped to one of the aforesaid storage warehouses pursuant to this section which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations may be (1) repacked at such warehouse so as to meet such requirements, (2) sold and delivered within the state where such warehouse is located for processing or conversion into by-products, or (3) returned to the state where the pears were produced for repacking or for sale within such

state: *Provided*, That there first shall have been submitted to the manager of the Control Committee proof, satisfactory to the manager, that the pears will not be handled contrary to the provisions of the marketing agreement and order; such proof shall include, in the case of sale and delivery for by-products purposes, a written certificate, executed by both the handler and the intended receiver, stating that the pears will be processed or converted into by-products within the state where such warehouse is located.

[16 FR 10926, Oct. 27, 1951. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 32 FR 13181, Sept. 16, 1967; 40 FR 42851, Sept. 17, 1975; 58 FR 34691, June 29, 1993]

### § 927.123 Interest and late payment charges.

Payments received more than 45 days after the date on which they are due shall be considered delinquent and subject to a late payment charge of \$25.00 or 2 percent of the total due, whichever is greater. Payments received more than 60 days after the date on which they are due shall be subject to a 1½ percent interest charge per month, until final payment is made and interest shall be applied to the total unpaid balance, including the late payment charge and any accumulated interest. Any amount paid shall be credited when the payment is received in the Control Committee office.

[58 FR 34691, June 29, 1993]

## REPORTS

### § 927.125 Reports.

(a) Each shipper handling pears covered by an exemption certificate shall keep an accurate record, in the manner provided on such certificate, of all shipments of such pears. Such shipper, after having shipped as many pears as authorized by the particular exemption certificate, shall promptly mail to the Secretary of the Control Committee, such handler's copy of the exemption certificate containing an accurate record of such shipments.

(b) Each handler shall furnish to the Control Committee, as of every other Friday, a report containing the following information on Form 1 "Handlers' Statement of Pear Shipments":