

Agricultural Marketing Service, USDA

§ 927.50

do not exceed approximately one fiscal period's expenses. Such reserve may be used (1) to cover any expense authorized under this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. Any such excess not retained in a reserve or applied to any outstanding obligation of the person from whom it was collected shall be refunded proportionately to the persons from whom it was collected. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

[27 FR 93, Jan. 5, 1962]

§ 927.43 Use of funds.

From the funds acquired pursuant to § 927.41 the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

§ 927.44 Collection of unpaid assessments.

The Control Committee, with the approval of the Secretary, may institute and maintain, in its own name or in the names of its members, legal proceedings against any handler assessed for the collection of such handler's pro rata share of the aforesaid expenses.

§ 927.45 Contributions.

The Control Committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to section 927.47. Furthermore, such contributions shall be free from any encumbrances by the donor

and the Control Committee shall retain complete control of their use.

[61 FR 17555, Apr. 22, 1996]

RESEARCH AND DEVELOPMENT

§ 927.47 Research and development.

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to §§ 927.41 and 927.45. Expenditures for a particular variety of pears shall approximate the amount of assessments and voluntary contributions collected for that variety of pears.

[61 FR 17555, Apr. 22, 1996]

REGULATION OF SHIPMENTS

§ 927.50 Recommendation by the Control Committee.

(a) It shall be the duty of the Control Committee to investigate, from time to time, supply and demand conditions relative to pears and each grade, size, and quality of each variety thereof. Such investigations by the Control Committee shall be with respect to the following: (1) Estimated production of each variety of pears and of each grade, size, and quality thereof; (2) prospective supplies and prices of Bartlett pears and other fruits, both in fresh and processed form, which are competitive to the marketing of pears; (3) prospective exports of pears and imports of pears from other producing areas; (4) probable harvesting period for each variety of pears; (5) the trend and level of consumer income; (6) general economic conditions; and (7) other relevant factors.

(b) On or before August 1 of each year, the Control Committee shall recommend regulations to the Secretary if it finds, on the basis of the foregoing investigations, that such regulation as is provided in § 927.51 will tend to effectuate the declared policy of the act.

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(c) In the event the Control Committee at any time finds that by reason of changed conditions any regulation issued pursuant to §927.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

§927.51 Issuance of regulations; and modification, suspension, or termination thereof.

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that regulation, in the manner specified in this section, of the shipment of pears would tend to effectuate the declared policy of the act, he shall so limit the shipment of pears during a specified period or periods. Such regulation: (1) May limit the total quantity of any grade, size, quality, or combinations thereof, of any variety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets; or (2) may prescribe minimum standards of quality for any variety of pears and limit the shipment thereof to those meeting such minimum standards.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of pears grown in any district in order to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation. If the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate such modification or suspension.

§927.52 Prerequisites to Control Committee recommendations.

(a) Decisions of the Control Committee with respect to any recommendations to the Secretary pursuant to the establishment or modifica-

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tion of a supplemental rate of assessment for an individual variety of pears shall be made by affirmative vote of not less than 75 percent of the applicable total number of votes, computed in the manner hereinafter described in this section, of all committee members. Decisions of the Control Committee pursuant to the provisions of §927.50 shall be made by an affirmative vote of not less than 80 percent of the applicable total number of votes, computed in the manner hereinafter prescribed in this section, of all committee members.

(b) With respect to a particular variety of pears, the applicable total number of votes shall be the aggregate of the votes allotted to the members of the committee in accordance with the following: Each member shall have one vote as an individual and, in addition, shall have an equal share of the vote of the district represented by such member; and such district vote shall be computed by the Control Committee as soon as practical after the beginning of each fiscal period on either—

(1) The basis of one vote for each 25,000 boxes (except 2,500 boxes for Forelle and Seckel varieties) of the average quantity of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods; or

(2) Such other basis as the Control Committee may recommend and the Secretary may approve.

The votes so allotted to a member of the committees may be cast by such member on each recommendation relative to the variety of pears on which such votes were computed.

[51 FR 30627, Aug. 28, 1986, as amended at 61 FR 17555, Apr. 22, 1996]

§927.53 Notification.

(a) The Control Committee shall give prompt notice to growers and handlers of each recommendation to the Secretary pursuant to the provisions of §927.50.

(b) The Secretary shall immediately notify the Control Committee of the issuance of each regulation and of each modification, suspension, or termination of a regulation and the Control