

a deficiency with salable prunes, he shall compensate the committee in an amount computed by multiplying the pounds of natural condition prunes so deficient by the applicable values established by the committee: *Provided*, That the remedies prescribed herein shall be in addition to, and not exclusive of, any of the remedies or penalties prescribed in the act with respect to noncompliance. The determination of any such deficiency shall include application of any tolerance allowance for shrinkage in weight, increase in the number of prunes per pound, and normal and natural deterioration and spoilage which may then be in effect.

(d) *Excess delivery of prunes to the committee.* In the event a handler delivers to the committee as reserve prunes a quantity of prunes in excess of his holding requirement for reserve prunes, the committee shall make such practical adjustments as are consistent with this part and this may include compensating the handler for such excess (nonreserve prunes) by paying to him the proceeds received by the committee for such excess.

(e) *Holding reserve prunes on other than a handler's premises.* No handler shall hold reserve prunes on the premises of another handler, or in approved commercial storage other than on his own premises, unless prior thereto he notifies the committee in a certified report on Form PMC 5.1 "Notice of Proposed Intent to Store Reserve Prunes" which shall contain at least the following information: (1) The date and the name and address of the handler; (2) the name and address of the person on whose premises the reserve prunes will be stored for the handler; (3) the approximate quantity to be so stored and the exact location and description of the storage facilities; and (4) the proposed date that such storage will begin. The report shall be accompanied by a signed statement by the persons on whose premises the reserve prunes are to be stored agreeing to hold such prunes under conditions of proper storage and further agreeing to permit access to such premises by the committee at any time during business hours for the purpose of examining or taking delivery of such prunes in ac-

cordance with the provisions of this part. No handler shall be permitted to hold reserve prunes on any premises outside the area.

(f) *Exchange of salable prunes for reserve prunes.* No handler shall exchange salable prunes for reserve prunes unless he has entered into a sales agreement authorized pursuant to §993.65(b) whereby the value of any such exchange, and payment therefor to the committee, shall be determined.

(g) *Delivery by nonsignatory handlers.* Any handler not signing the sales agreement authorized pursuant to §993.65(b), shall deliver to the Committee, upon demand, the total weight of his reserve obligation by such variety, grade, and size categories, and at the count per pound for each size category as is required by the reserve control regulation of the applicable crop year. Such deliveries of prunes may be either graded prunes or any lot of ungraded prunes, or portion thereof, identifiable to the satisfaction of the committee as being in the same form as when received: *Provided*, That the percent of standard prunes in each lot shall be taken into account but with respect to any lot of graded prunes, no credit shall be given to the standard obligation of the handler if in a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes exceeds the count per pound of 10 ounces of the largest prunes by more than 45 prunes per pound.

[33 FR 19162, Dec. 24, 1968; 48 FR 57261, Dec. 29, 1983]

§993.158 Deferment of reserve withholding.

Any handler who desires to defer withholding pursuant to the provisions of §993.58 shall notify the committee on Form PMC 9.1, "Notification of Desire for Deferment of Reserve Withholding", containing at least the following information: (a) The date and the name and address of the handler; (b) the total salable prunes acquired or under contract with producers and dehydrators; (c) the period for which deferment is requested; and (d) the tonnage of reserve prunes, by categories, on which deferment is requested. The notification shall be accompanied by

the undertaking and bond or bonds required by § 993.58. No handler shall defer withholding of reserve prunes until he has filed the required undertaking and bond or bonds with the committee and has received its acceptance.

[30 FR 13311, Oct. 20, 1965; 48 FR 57261, Dec. 29, 1983]

§ 993.159 Schedule of payments and conditions.

(a) *Rate of payment for necessary services.* Each handler shall, with respect to reserve prunes held by him for the account of the committee pursuant to § 993.57, be paid at the rate of \$25 per ton (natural condition weight) for necessary services rendered by him in connection with such prunes so held during all or any part of the crop year in which the prunes were received from producers or dehydrators. Such amount shall, together with the additional payments, as applicable, provided in this section, be in full payment for the costs incurred in connection with but not being limited to, the following services: Inspection, receiving, storing, grading, and fumigation. The costs include, but are not limited to:

(1) Acquisition costs, which include those for salaries, commission, or brokerage fees, transportation and handling between plants and receiving stations, inspection, and other costs, including container expense, incidental to acquisition or storage;

(2) Direct labor costs, which include those for receiving, grading, preliminary sorting and storing (including that performed by the handler at the receiving station), and loading for shipment or other delivery to the committee or its designee; and

(3) Plant overhead costs, which include those for superintendence, indirect labor, fuel, power and water, taxes and insurance on facilities, depreciation and rent, repairs and maintenance, factory supplies and expense, and employee benefits (payroll taxes, compensation insurance, and other such costs).

(b) *Reimbursement for required insurance costs.* Each handler holding reserve prunes for the account of the Committee shall maintain proper insurance thereon, including fire and ex-

tended coverage, in valuations (according to grade and/or size) established by, or acceptable to, the Committee for the particular crop year. The Committee shall reimburse the handler for the actual costs of such insurance. Prior to the receipt of reserve prunes at the beginning of each crop year, the handler shall certify to the Committee and the Secretary, on Form PMC 4.5, that he has a fire and extended coverage policy fully insuring all reserve prunes received by him during such crop year. Such certification shall contain the following information: (1) The name and address of the handler; (2) the location(s) where reserve prunes will be held for the account of the Committee and the premium rate per \$100 value per annum at each location; (3) the value per ton at which the reserve prunes are insured; and (4) the name and address of the insurance underwriter.

(c) *Certain additional payments in connection with the holding of reserve prunes for the account of the Committee.* (1) Whenever a handler is directed by the committee to move and dump containers or reserve prunes held by him for the account of the committee for the purpose of causing an inspection to be made of the prunes, as provided in § 993.75, but without taking delivery of the prunes at that time, the handler shall be paid for such services at the rate of \$2.50 per ton (natural condition weight).

(2) Commencing with 1968-69 crop year reserve prunes, each handler holding reserve prunes for the account of the committee beyond the end of the crop year in which such prunes were received from producers or dehydrators shall be paid as follows:

(i) For storage and necessary fumigation:

(a) \$2 per ton during all or any part of the first 3 months of the succeeding crop year;

(b) \$1 per ton during all or any part of the second 3 months of the succeeding crop year;

(c) 25 cents per ton during all or any part of the third 3 months of the succeeding crop year; and

(d) 25 cents per ton during all or any part of the fourth 3 months of the succeeding crop year.