

Agricultural Marketing Service, USDA

§ 927.47

handler who fails to pay any assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Control Committee may impose an additional charge in the form of interest on such outstanding amount. The amount of such late payment charge and rate of interest, shall be prescribed by the Control Committee, with the approval of the Secretary.

(d) In order to provide funds to carry out the functions of the Control Committee prior to commencement of shipments in any season, handlers may make advance payments of assessments, which advance payments shall be credited to such handlers and the assessments of such handlers shall be adjusted so that such assessments are based upon the quantity of each variety of pears handled by such handlers during such season. Further, payment discounts may be authorized by the Control Committee upon the approval of the Secretary to handlers making such advance assessment payments.

[51 FR 30627, Aug. 28, 1986, as amended at 61 FR 17554, Apr. 22, 1996]

§ 927.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carryover such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve 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

§ 927.50

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.

(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

7 CFR Ch. IX (1-1-05 Edition)

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 modification 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