

Agricultural Marketing Service, USDA

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the handler violates the terms and conditions of the agreement or other provisions of this part. The committee may sell reserve prunes into any outlet in which direct selling is determined to be more appropriate.

(c) *Offers to sell reserve prunes.* No offer to sell reserve prunes either to handlers or to other persons shall be made by the committee until 5 days (exclusive of Saturdays, Sundays, and holidays) have elapsed from the time it files with the Secretary complete information as to the terms and conditions of the proposed offer including the basis for determining the handlers' shares: *Provided,* That at any time prior to the expiration of the 5-day period the offer may be made upon the committee receiving from the Secretary notice that he does not disapprove it.

(d) *Transfer of shares.* No handler may transfer a reserve obligation. However, any handler who is authorized by the committee to dispose of reserve prunes may arrange with another handler to dispose of his share of reserve prunes through such other handler. In that event, credit for the reserve disposition shall go to the handler whose reserve prunes are used.

(e) *Distribution of proceeds.* Expenses incurred by the committee for the receiving, handling, holding, or disposing of any quantity of reserve prunes shall be charged against the proceeds of sales of such prunes. Net proceeds from the disposition of reserve prunes shall be distributed by the committee either directly, or through handlers as agents of the committee, under safeguards to be established by the committee, to persons in proportion to their contributions thereto, or to their successors in interest, with appropriate grade and size differentials as established by the committee. Progress payments may be made by the committee as sufficient funds accumulate. Distribution of the proceeds in connection with the reserve prunes contributed by a cooperative marketing association shall be made to such association, if it so requests.

[30 FR 9800, Aug. 6, 1965]

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, § 993.65 was suspended, effective Aug. 1, 2003, through July 31, 2008.

REPORTS AND BOOKS AND OTHER RECORDS

§ 993.71 Confidential information.

All reports and records furnished or submitted by handlers to the committee which include data or information constituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received shall be received by, and at all times kept in the custody and under the control of one or more employees of the committee, who shall disclose such information to no person except the Secretary. Notwithstanding the above provisions of this section, information may be disclosed to the committee when reasonably necessary to enable the committee to carry out its functions under this subpart.

§ 993.72 Reports of acquisitions, sales, uses, and shipments.

Each handler shall file such reports of his acquisitions, sales, uses, and shipments of prunes, as may be requested by the committee.

§ 993.73 Other reports.

Upon the request of the committee, each handler shall furnish such other reports and information as are needed to enable the committee to perform its functions under this subpart.

§ 993.74 Records.

Each handler shall maintain such records of prunes received, held and disposed of by him, as are prescribed by the committee and needed by it to perform its functions under this subpart. Such records shall be retained for at least two years beyond the crop year of their applicability.

§ 993.75 Verification of reports.

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this subpart, the Secretary, and the Committee through its duly authorized agents, shall have access to any premises where prunes may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any prunes so held by such handler and any and all

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records of such handler with respect to the holding or disposition of all prunes which may be held or which may have been disposed of by him.

[37 FR 862, Jan. 20, 1972]

EXPENSES AND ASSESSMENTS

§ 993.80 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate.

§ 993.81 Assessments.

(a) Each handler shall pay to the committee, upon demand, with respect to all salable prunes handled by him as the first handler thereof, his pro rata share of all expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each crop year. Each handler's pro rata share shall be the rate of assessment per ton fixed by the Secretary. At any time during or after a crop year the Secretary may increase the rate of assessment to cover unanticipated expenses of the committee or a deficit in assessable tonnage.

(b) In order to provide funds to carry out the functions of the committee, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler.

(c) Any money collected as assessments during any crop year and not expended in connection with the committee's operations may be used by the committee for a period of five months subsequent to such crop year. At the end of such period the committee shall, from funds on hand, refund or credit to handler accounts the aforesaid excess. Each handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of the actual net expenses of the committee for the preceding crop year. Any money collected from assessments hereunder and remaining unexpended in the possession of the com-

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mittee at the termination of this part, shall be distributed in such manner as the Secretary may direct: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

[26 FR 476, Jan. 19, 1961, as amended at 30 FR 9800, Aug. 6, 1965]

§ 993.82 Funds.

All funds received by the committee pursuant to the provisions of this part shall be used solely for authorized purposes. The Secretary may, at any time, require the committee or its members and alternate members to account for all receipts and disbursements.

MISCELLANEOUS PROVISIONS

§ 993.83 Rights of the Secretary.

The members of the committee (including successors or alternates) and any agent or employee appointed or employed by the committee, shall be subject to the removal or suspension by the Secretary, in his discretion, at any time. Each and every decision, determination, or other acts of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void.

§ 993.84 Personal liability.

No member or alternate member of the committee, or any employee, representative, or agent thereof shall be 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 commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 993.85 Separability.

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