

**§ 987.68**

custody of, one or more designated employees of the Committee and information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

**§ 987.68 Verification of reports and records.**

For the purpose of checking compliance with record keeping requirements and verifying reports filed by handlers, the Secretary and the Committee, through its duly authorized employees, shall have access to any premises where dates are held and, at any time during reasonable business hours, shall be permitted to examine any dates held and any and all records with respect to matters within the purview of this part. Handlers shall furnish labor necessary to facilitate such examinations at no expense to the Committee. All handlers shall maintain complete records establish and which accurately show the quantity of dates handled, disposed of, and withheld. The Committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than two years subsequent to the termination of each crop year.

[27 FR 6818, July 19, 1962, as amended at 36 FR 15039, Aug. 12, 1971; 43 FR 4253, Feb. 1, 1978]

**EXPENSES AND ASSESSMENTS**

**§ 987.71 Expenses.**

The Committee is authorized to incur such expenses, including maintenance of an operating reserve fund, as the Secretary may find are reasonable and are likely to be incurred by it during each crop year for the maintenance and functioning of the Committee and for such other purposes as he determines to be appropriate. The recommendation of the Committee as to total expenses and allocation thereof for each crop year, together with all data supporting such recommendation, shall be submitted to the Secretary within a reasonable time after the marketing policy for each crop year is recommended.

**7 CFR Ch. IX (1-1-08 Edition)**

**§ 987.72 Assessments.**

(a) *Requirement for payment.* Each handler shall pay to the Committee upon demand, on all dates he has certified as meeting the requirements for marketable dates and utility dates utilized in product outlets including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f), 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. Should the condition arise wherein the utility portion of dates handled in certain other outlets should not be, in the opinion of the Committee, subject to the payment of assessments on that portion, the Committee may recommend and the Secretary approve by rulemaking, such exclusion. Each handler's pro rata share shall be the rate of assessment per hundredweight fixed by the Secretary. At any time during or after a crop year the Secretary may increase such assessment rate to secure sufficient funds to cover unanticipated expenses or a deficit in assessable poundage. Any such increase shall apply to all assessable poundage of the crop year. The Committee may accept payments of assessments in advance and may borrow money in any amount not to exceed 10 percent of the estimated expenses set forth in its budget for the then crop year. The assessment weight of pitted dates shall be determined by dividing the weight of such dates by a divisor established by the Committee with the approval of the Secretary.

(b) *Surplus expenses.* The Committee is authorized to use temporarily funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in disposing of surplus dates. All such expenses shall be deducted from the proceeds obtained by the Committee from such disposal.

(c) *Operating reserve.* The Committee, with the approval of the Secretary, may establish and maintain during one or more crop years an operating monetary reserve in an amount not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years, except that

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an established reserve need not be reduced to conform to any recomputed average. Funds in reserve shall be available for use by the Committee for expenses authorized pursuant to § 987.71.

(d) *Refunds.* Funds held by the Committee at the conclusion of the crop year in excess of the crop year's expenses, including reserve requirements, may be used to defray expenses for no more than the ensuing four months, and thereafter within a reasonable time the Committee shall credit, or upon demand, refund the aforesaid excess to handlers who contributed to such excess: *Provided*, That the excess due any handler may be applied, in whole or in part, by the Committee to any outstanding obligation due the Committee from such handler. A handler's share of the excess funds shall be the amount of assessments he paid in excess of his actual pro rata share of the expenses, including reserve requirements, of the Committee for the preceding crop year. Upon termination of this subpart any money in possession of the Committee shall be distributed in such manner as the Secretary may direct: *Provided*, That, to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

[27 FR 6818, July 19, 1962, as amended at 29 FR 9707, July 18, 1964; 43 FR 4253, Feb. 1, 1978]

### MISCELLANEOUS PROVISIONS

#### § 987.76 Compliance.

No handler shall handle any dates (including dates for further processing) except in conformity with, and as authorized by or pursuant to, the applicable provisions of this part, including but not being limited to the regulations relating to grade, size, and volume; and no handler shall use or otherwise dispose of restricted dates or any other dates which have not been certified for handling or for further processing except in conformity with, and as authorized by or pursuant to, the applicable provisions of this part.

#### § 987.77 Personal liability.

No member or alternate member of the committee, or any employee or agent thereof, shall be held personally

responsible, either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

#### § 987.78 Separability.

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

#### § 987.79 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

#### § 987.80 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon its termination except with respect to acts done under and during its existence.

#### § 987.81 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

#### § 987.82 Effective time, suspension, or termination.

(a) *Effective time.* The provisions of this part, as well as any amendments hereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways hereinafter specified in this section.