

## Agricultural Marketing Service, USDA

## § 987.82

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.

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(b) *Suspension or termination*—(1) *Failure to effectuate policy of act.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this part, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(2) *When favored by growers.* The Secretary shall terminate the provisions of this part at the end of any crop year whenever he finds that such termination is favored by a majority of the growers of dates who, during that crop year, have been engaged in the production for market of dates in the area of production: *Provided,* That such majority have, during such period, produced for market more than 50 percent of the volume of such dates produced for market within said area; but such termination shall be effective only if announced on or before August 1 of the then current crop year.

(3) *If enabling legislation is terminated.* The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination*—(1) *Designation of trustees.* Upon the termination of the provisions hereof, the members of the Committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Committee, of all funds and property then in the possession or under the control of the Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) *Duties of trustees.* Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and the joint trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all funds, property, and claims vested in the Committee or the joint trustees pursuant hereto.

(3) *Obligations of persons other than Committee members and trustees.* Any person to whom funds, property, or claims have been transferred or delivered by the Committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said Committee and upon the said joint trustees.

[27 FR 6818, July 19, 1962, as amended at 36 FR 15039, Aug. 12, 1971]

**§987.83 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not—

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued hereunder, or

(b) Release or extinguish any violation of this part or of any regulation issued hereunder, or

(c) Affect or impair any rights or remedies of the Secretary or of any other person, with respect to any such violation.

**§987.84 Amendments.**

Amendments hereto may be proposed, from time to time by any person or by the Committee.

**Subpart—Administrative Rules**

SOURCE: 37 FR 23325, Nov. 2, 1972, unless otherwise noted.

DEFINITIONS

**§987.101 Lot.**

*Lot* means the aggregate quantity of dates of the same variety, style, type and grade in like containers with like identification either (a) packed as a continuous production segment, or (b) offered for inspection as a shipping, storage, or other unit.