

**§ 993.149**

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

than the following March 31. One nominee for member and one nominee for alternate member for each district shall be submitted to the Secretary by the Committee on the basis of those receiving the plurality of the mail ballots cast for the respective positions in the particular district. Returns shall be considered in light of the voting by each district separately.

(2) *Independent handler nominees.* (i) Prior to March 15 of each election year, the Committee shall notify each independent handler of record of the group of independent handlers in which he has been classified pursuant to the provisions of § 993.28(c) and of the number of independent handler positions on the Committee for the ensuing term of office pursuant to the provisions of § 993.24 (b) and (c). Prior to April 1 of each election year, each of the two independent handlers classified in the group specified in § 993.28(c)(1) shall notify the Committee in writing of his nominee for member and nominee for alternate member as prescribed therein.

(ii) In any election year in which four member positions and four alternate member positions are assigned to independent handlers for the ensuing term of office, the Committee shall, prior to April 1 of such year, cause to be held a meeting of the three independent handlers classified in the group specified in § 993.28(c)(2) and a separate meeting of all other independent handlers classified in the group specified in § 993.28(c)(3). Each group at its meeting shall, from among that group, elect one member nominee and one alternate member nominee by plurality vote. Each handler present at the meeting of his group shall be entitled to one vote for a candidate for each position assigned to that group.

(iii) In any election year in which only three member positions and three alternate member positions are assigned to independent handlers for the ensuing term of office, the Committee shall, prior to April 1 thereof, cause to be held a meeting of all independent handlers except those classified in the group specified in § 993.28(c)(1). At such meeting one member nominee and one alternate member nominee shall be

elected in accordance with the applicable provisions of § 993.28(c).

[47 FR 7389, Feb. 19, 1982, as amended at 55 FR 5571, Feb. 16, 1990; 59 FR 8518, Feb. 23, 1994; 64 FR 72912, Dec. 29, 1999]

**GRADE AND SIZE REGULATIONS**

**§ 993.149 Receiving of prunes by handlers.**

(a) *Receiving stations*—(1) *General.* Prunes shall be received by a handler at any receiving station so designated by the Committee. *Receiving station* shall mean any plant of a handler or a dehydrator's premises; this term shall also mean any other place where prunes are normally and usually received by a handler in any considerable volume as ranch deliveries, and at which there are adequate facilities to enable the inspection service to determine whether the prunes meet the applicable grade, size, and condition requirements.

(2) *Receiving at dehydrator.* Any handler may arrange with the committee and the inspection service for the incoming inspection and certification to be based on samples of prunes drawn as prune plums and dehydrated in the same manner as the prunes to which they are referable. Where such arrangement is acceptable to the Committee as permitting the inspection and certification of the prunes to be comparable to an inspection and certification when based on samples drawn as prunes, such certification shall be acceptable for the purposes of this section if the inspector further certifies that the dehydration process of the prunes being certified resulted in prunes eligible to be received under the terms and conditions of this part.

(b) *Inspection stations.* Prunes shall be inspected only at inspection stations established by the inspection service with the concurrence of the Committee. *Inspection station* shall mean a centralized station and any receiving station other than a handler's plant or a dehydrator's premises.

(c) *Incoming inspection*—(1) *General.* Upon any producer or dehydrator delivering prunes to a handler, the handler shall issue to the inspection service an identification tag showing the name

and address of such producer or dehydrator, the date of delivery, the county of production, the number and type of containers, the approximate net weight of the prunes, the place where the prunes are to be inspected, and any other information necessary to identify such prunes to the satisfaction of the inspector and the Committee. For each such delivery, the handler shall issue to the producer or dehydrator a door receipt or weight certificate showing the name and address of the producer or dehydrator, the weight of the delivery, and any other information necessary to identify the delivery. Such information shall be available to the inspector and the Committee. Each lot shall be sampled separately and as soon as practicable following delivery. The handler shall supply any necessary information together with any assistance needed by the inspector in drawing samples including the dumping of containers.

(2) *Certification.* Following inspection of a lot not returned to the producer or dehydrator, the handler shall require the inspection service to issue, in quintuplicate, a certificate containing at least the following information: (i) The place where samples were drawn and the date and place of inspection; (ii) the name and address of the producer or dehydrator, the handler, and the inspection service; (iii) the variety of the prunes, the county in which such prunes were produced, the number and type of the containers thereof, the net weight of the prunes as shown on the applicable door receipt or weight certificate, together with the number of such receipt or certificate, and the contract or account number under which the prunes were delivered; (iv) whenever applicable, the percentage by weight of undersized prunes in the lot; (v) with respect to the balance of the lot, the inspector's computation of the percentage, by screen size of prunes and in the aggregate, of each group or combination of groups of defects for which a maximum tolerance is in effect; (vi) whether the prunes in the lot, exclusive of any undersized prunes, are standard or substandard; (vii) the inspector's computation of the percentage of weight of each screen size and in the aggregate, of offgrade prunes (those

defective pursuant to § 993.97) necessary to be removed therefrom in order for the remainder in each screen size and in the aggregate to be standard prunes, and (viii) the average size count of prunes of each screen size and of the aggregate: *Provided*, That whenever an undersized prune regulation is in effect for the crop year, the average size count shall be of all prunes except undersized prunes in the lot, by screen size and in the aggregate. The handlers shall require the inspection service to furnish promptly the producer or dehydrator with one copy of the certificate and the handler with two copies.

(d) *Conditional provisions*—(1) *Wet or slack-dry prunes.* Any prunes delivered to a handler by a producer or dehydrator which an inspector determines have not been properly dried and cured in original natural condition, or which show evidence of the addition thereto of water, may be held by the handler for the account of the producer or dehydrator for conditioning by further drying or dehydration: *Provided*, That such prunes shall be identified and kept separate and apart from any other prunes in the handler's possession until resubmitted for inspection and certificated as properly dried and cured, or returned to the producer or dehydrator. The certificate shall show, in addition to other inspection requirements, that the conditioning was performed and indicate the net weight after conditioning.

(2) *Prunes with active insect infestation.* Any prunes delivered to a handler which an inspector determines are not free from active insect infestation, may be returned to the producer or dehydrator or may be held by the handler for the account of the producer or dehydrator for conditioning by fumigation: *Provided*, That such prunes shall be identified and kept separate and apart from any other prunes in the handler's possession until resubmitted for inspection and certificated to show, in addition to other inspection requirements, performance of fumigation and freedom from active infestation.

(3) *High moisture content prunes.* The delivery of any high moisture content prunes to a handler by a producer or dehydrator shall be reported promptly

by the handler to the inspection service. The inspection service shall be requested to submit a report to the committee of each such delivery which shall contain the following information: (i) The date and place of the delivery; (ii) the name and address of the producer or dehydrator, the handler, and the inspection service; and (iii) the variety of the high moisture content prunes, the county in which they were produced, and their net weight as shown on the door receipt or weight certificate, together with the number of such receipt or certificate. Any handler who, subsequent to delivery to him of high moisture content prunes, elects to dry or dehydrate them or any portion thereof to a point where they are capable of being received by such handler shall, prior to proceeding with such drying or dehydration, notify an inspector of the inspection service of his election, and the same procedure shall apply as set forth in paragraph (d)(1) of this section. For each day on which a handler processes and packages high moisture content prunes, he shall furnish promptly to the inspector a signed statement and one copy showing the handler's name and address and the net weight of the total tonnage of high moisture content prunes processed and packaged by him on that day. The handler shall furnish promptly to the inspector two copies of the shipping or disposition order or other documents which shall show the date of each shipment or disposition, the applicable reference number thereof, and an adequate description of the shipment or disposition. One copy of each document so furnished shall be required to be forwarded to the committee. Upon request of the committee a handler shall, within ten days thereafter, file with the committee a signed report on Form PMC 3.1 "Report of High Moisture Content Prunes" which shall contain the following information: (i) The date and the name and address of the handler; (ii) the total tonnage of high moisture content prunes delivered to the handler during the crop year to the date of the report; (iii) the total tonnage of high moisture content prunes shipped or otherwise disposed of by the handler during such period; (iv) the total tonnage of high

moisture content prunes delivered to the handler during such period which were dried or dehydrated and received as prunes by the handler; and (v) the total tonnage of high moisture content prunes in the handler's possession on the date of the report.

(4) *Return of prunes to producers and dehydrators.* Any lot of prunes delivered to a handler by a producer or dehydrator may be returned to the producer or dehydrator prior to an inspection thereof. Any lot of prunes so delivered whose identity has been maintained may be so returned following an inspection thereof, except prunes which have been size graded or sorted by the handler, resulting in a segregation of defects. Prunes which have been sorted for the producer or dehydrator, the identity of which have been maintained to the satisfaction of the inspector and the Committee, may be resubmitted for inspection in not more than three new lots, equal in weight to the original lot, and the applicable inspections shall supersede the original inspection.

[26 FR 8278, Sept. 2, 1961, as amended at 33 FR 11812, Aug. 21, 1968; 33 FR 12033, Aug. 24, 1968; 33 FR 14172, Sept. 19, 1968; 35 FR 11380, July 16, 1970; 37 FR 15980, Aug. 9, 1972; 39 FR 30343, Aug. 22, 1974; 43 FR 40199, Sept. 11, 1978; 48 FR 57261, Dec. 29, 1983]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.149 was suspended indefinitely.

#### § 993.150 Disposition of prunes by handlers.

(a) *Inspection stations.* An inspection station shall be any plant of a handler, and any other place where he handles prunes.

(b) *Outgoing inspection.* Except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes unless he has, prior to such shipment or final disposition, had them inspected and obtained a certificate showing that such prunes meet the effective minimum standards. Such inspection shall be made during that portion of the final preparation of the prunes for shipment or other final disposition as will permit proper sampling, whether in-line or floor inspection, and no handler shall perform such final preparation unless an inspector is present. The handler shall furnish