

§ 993.59

the committee of a written undertaking that on or prior to the desired date he will have fully satisfied his holding requirement. Such undertaking shall be secured by a bond or bonds to be filed with and acceptable to the committee in the amount or amounts specified, conditioned upon full compliance with such undertaking.

(b)(1) Each bond shall be provided by and at the handler's expense, with a surety or sureties acceptable to the committee, and shall be in an amount computed by multiplying the pounds of natural condition prunes for which deferment is desired by the bonding rate. Such bonding rate shall be established by the committee at a level sufficient to achieve the objectives of this part.

(2) In case a handler defaults in meeting his deferred withholding requirement, any funds collected by the committee from the bonding company through such default shall be used by the committee to purchase from handlers a quantity of natural condition prunes, up to but not exceeding the quantity on which default occurred. Purchases shall be made from prunes with respect to which the reserve obligation has been met, and shall be of grades, varieties, or sizes and in such containers as the committee specifies in consideration of available reserve prune outlets. Purchases shall be at prices determined to be appropriate by the committee and if more prunes are offered than required by the committee, it shall make the purchases from various handlers as nearly as practicable in proportion to the quantity of their respective offerings at the same price. The committee shall dispose of the prunes acquired as soon as practicable in the most favorable reserve prune outlets and shall deposit the proceeds from such sales, less committee expenses in connection with such transaction, with reserve pool funds for distribution to equity holders.

(3) If for any reason the committee is unable to purchase a quantity of prunes as large as the quantity of reserve prunes in default by the handler, any remaining balance of funds received because of the default less expenses of the committee, shall be de-

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posited with reserve pool funds for distribution to equity holders.

(c) A handler who has defaulted on his bond shall be credited on his reserve obligation with, and his holding requirement reduced by, that quantity of prunes represented by the sums collected but not more than the extent of his default.

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.58 was suspended indefinitely.

§ 993.59 Payment to handlers for services.

The committee shall pay handlers for necessary services rendered by them in connection with reserve prunes including, but not limited to, inspection, receiving, storing, grading, and fumigation, in accordance with a schedule of payments and conditions established by the Secretary after recommendation by the committee.

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.59 was suspended indefinitely.

PRODUCER DIVERSION

§ 993.62 Diversion privileges.

(a) *Prune plums.* The words *prune plums* as used in this section mean plums of a variety used in the production of prunes.

(b) *Voluntary principle.* No producer shall be required to divert all or any portion of the prune plums produced by him.

(c) *Authorization.* If, on the basis of a committee recommendation for diversion operations, the availability of governing rules and procedures established by the Secretary after recommendation of the committee, and other information, the Secretary concurs that diversion operations should be permitted, he shall authorize such operations.

(d) *Diversion certificates.* After diversion operations are authorized, and subject to the applicable rules and procedures, any producer may divert prune plums of his own production for eligible purposes and receive from the committee a diversion certificate therefor: *Provided*, That diversion certificates for prune plums diverted by producer members of a cooperative marketing association shall be issued by the committee to the association if it so requests. To the extent permitted

by the rules and procedures, the certificate may be submitted to any handler in lieu of reserve prunes and to the same extent the certificate shall entitle the handler to satisfy his reserve obligation. Only to the extent permitted by the rules and procedures, diversion certificates may be transferable among producers and handlers.

(e) *Eligible diversions.* Within such restrictions as may be prescribed in rules and procedures, diversion may be authorized for such dispositions as are not competitive with the normal marketing of prunes and prune products. Such eligible diversions may include: (1) Disposal of prune plums for nonhuman use; (2) leaving prune plums unharvested; and (3) such other methods of diversion as may be authorized. No diversion certificate shall be issued by the committee for prune plums which would not, under normal producer practices, be dried and delivered to a handler.

(f) *Nonparticipation in pool proceeds.* Any prune plums diverted pursuant to this section shall not be included in any reserve pool.

(g) *Payment of costs.* Prior to the issuance of a diversion certificate to a producer or a cooperative marketing association, the producer or association shall pay to the committee fees established to cover costs pertaining to the diversion.

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EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.62 was suspended indefinitely.

DISPOSITION OF RESERVE PRUNES

§ 993.65 Disposition of reserve prunes.

(a) *Committee's right of disposition.* The committee shall have the power and authority to sell or dispose of any and all reserve prunes (1) to meet demand either (i) as domestic trade demand, or (ii) as foreign trade demand, or (2) for use in any outlet, defined in rules and procedures, established by the Secretary after recommendation of the committee, noncompetitive with normal outlets for salable prunes.

(b) *Methods of disposition.* The committee may, for any of the purposes of § 993.65(a), offer to sell and sell reserve prunes to handlers for disposition or sale by them in specified outlets. Sale

of reserve prunes by the committee to any handler for resale in such outlets or for resale to other persons for sale in such outlets shall be governed by the provisions of a sales agreement, executed by the handler with the committee. The committee may refuse to sell reserve prunes to any handler if 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