

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.

[30 FR 9800, Aug. 6, 1965]

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

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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 70 FR 30613, May 27, 2005, § 993.65 was suspended indefinitely.

### 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.

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.72 was suspended indefinitely.

#### § 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.

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.73 was suspended indefinitely.

#### § 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.

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EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.74 was suspended indefinitely.

#### § 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 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]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.75 was suspended indefinitely.

### 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.