

**PART 924—FRESH PRUNES GROWN
IN DESIGNATED COUNTIES IN
WASHINGTON AND IN UMATILLA
COUNTY, OREGON**

Subpart—Order Regulating Handling

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**Subpart—Order Regulating
Handling**

DEFINITIONS

§ 924.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 924.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 924.3 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

§ 924.4 Production area.

Production area means the Counties of Okanogan, Chelan, Kittitas, Yakima, and Klickitat in the State of

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Washington and all counties in Washington lying east thereof and Umatilla County in the State of Oregon.

§ 924.5 Prunes

Prunes means all varieties of plums, classified botanically as *Prunus domestica*, grown in the production area, except those of the President variety.

§ 924.6 Varieties.

Varieties means and includes all classifications or subdivisions of prunes.

§ 924.7 Fiscal period.

Fiscal period is synonymous with fiscal year and means the 12-month period ending on March 31 of each year or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

§ 924.8 Committee.

Committee means the Washington-Oregon Fresh Prune Marketing Committee established pursuant to § 924.20.

§ 924.9 Grade.

Grade means any one of the officially established grades of prunes as defined and set forth in the United States Standards for Fresh Plums and Prunes (§§ 51.1520 through 51.1537 of this title) or amendments thereto, or modifications thereof, or variations based thereon.

§ 924.10 Size.

Size means the shortest dimension, measured through the center of the prune, at right angles to a line running from the stem to the blossom end, or such other specifications as may be established by the committee with the approval of the Secretary.

§ 924.11 Grower.

Grower is synonymous with producer and means any person who produces prunes for market and who has a proprietary interest therein.

§ 924.12 Handler.

Handler is synonymous with shipper and means any person (except a common or contract carrier transporting

prunes owned by another person) who handles prunes.

§ 924.13 Handle.

Handle or *ship* means to sell, consign, deliver, or transport prunes within the production area or between the production area and any point outside thereof: *Provided*, That the term “handle” shall not include the transportation within the production area of prunes from the orchard where grown to a packing facility located within such area for preparation for market.

§ 924.14 District.

District means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 924.31(m):

(a) *District 1* shall include all of the production area except Walla Walla, Columbia, Garfield, and Asotin Counties in the State of Washington, and Umatilla County in the State of Oregon.

(b) *District 2* shall include the County of Umatilla in the State of Oregon and the Counties of Walla Walla, Columbia, Garfield, and Asotin in the State of Washington.

§ 924.15 Export.

Export means to ship prunes to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

§ 924.16 Pack.

Pack means the specific arrangement, size, weight, count, or grade of a quantity of prunes in a particular type and size of container, or any combination thereof.

§ 924.17 Container.

Container means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of prunes.

ADMINISTRATIVE BODY

§ 924.20 Establishment and membership.

There is hereby established a Washington-Oregon Fresh Prune Marketing Committee consisting of 9 members,

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each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Six of the members and their respective alternates shall be growers or officers or employees of corporate growers. Three of the members and their respective alternates shall be handlers, or officers or employees of handlers. The 6 members of the committee who are growers or employees or officers of corporate growers are hereinafter referred to as "grower members" of the committee; and the 3 members of the committee who shall be handlers, or officers or employees of handlers, are hereinafter referred to as "handler members" of the committee. Four of the grower members and their respective alternates shall be producers of prunes in District 1, and 2 of the grower members and their respective alternates shall be producers of prunes in District 2. Two of the handler members and their respective alternates shall be handlers of prunes in District 1, and 1 of the handler members and his respective alternate shall be handlers of prunes in District 2.

§ 924.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31: *Provided*, That the term of office of one-half the initial grower members and alternates from each district and one handler member and alternate from District 1 shall end March 31, 1961. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 924.22 Nominations.

(a) *Initial members.* Nominations for each of the initial members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of group meetings of the growers and handlers concerned in each district. Such nominations, if made, shall be filed with the Secretary no

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later than the effective date of this part. In the event nominations for initial members and alternate members of the committees are not filed pursuant to, and within the time specified in, this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 924.20.

(b) *Successor members.* (1) Except as may otherwise be prescribed pursuant to paragraph (b)(3) of this section, the committee shall hold or cause to be held, not later than March 1 of each year, a meeting or meetings of growers and handlers in each district for the purpose of designating nominees for successor members and alternate members of the committee. At each such meeting a chairman and a secretary shall be selected by the growers and handlers eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces prunes. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of prunes, such person may vote either as a grower or as a handler but not as both.

(3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates: *Provided*, That, in the event the committee determines that attendance at such nomination meetings is not representative of handlers generally, it

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may, with the approval of the Secretary, obtain nominations for handler members and their alternates by mail ballot. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles prunes, which vote shall be weighted by the volume of prunes handled by such handler during the then current fiscal year. No handler shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of prunes, such person may vote either as a grower or as a handler but not as both.

§ 924.23 Selection.

From the nominations made pursuant to § 924.22, or from other qualified persons, the Secretary shall select the 6 grower members of the committee, the 3 handler members of the committee, and an alternate for each such member.

§ 924.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 924.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 924.20.

§ 924.25 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 924.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 924.22 and 924.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such va-

cancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 924.20.

§ 924.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate member from the same district and group (handler or grower) to serve in such member's place and stead.

§ 924.30 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;
- (c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ 924.31 Duties.

The committee shall have, among others, the following duties:

- (a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;
- (b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties of each;
- (c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

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(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent accountant at least once each fiscal year and at such time as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to prunes;

(i) To submit to the Secretary such available information as he may request;

(j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

(k) To give the Secretary the same notice of meetings of the committee as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation of any district on the committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in prune production within the districts and the production area.

§ 924.32 Procedure.

(a) Six members of the committee, including alternates acting for members, shall constitute a quorum; and any action of the committee shall require the concurring vote of at least 6 members: *Provided*, That any action relating to regulations authorized by §§ 924.52 and 924.53 which would be effective in District 2 shall require the concurring vote of at least 2 members from District 2.

(b) The committee may provide for simultaneous meetings of groups of its members assembled at two or more

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designated places: *Provided*, That such meetings shall be subject to the establishment of communication between all such groups and the availability of loud speaker receivers for each group so that each member may participate in the discussions and other actions the same as if the committee were assembled in one place. Any such meeting shall be considered as an assembled meeting.

(c) The committee may vote by telegraph, telephone, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

§ 924.33 Expenses and compensation.

The members of the committee, and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and may also receive compensation, as determined by the committee, which shall not exceed \$10 per day or portion thereof spent in performing such duties: *Provided*, That at its discretion the committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses and compensation, as aforesaid.

§ 924.34 Annual report.

The committee shall, prior to the last day of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal period; (b) an appraisal of the effect of such regulatory operations upon the prune industry; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ 924.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds

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are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 924.41.

§ 924.41 Assessments.

(a) Each person who first handles prunes shall, with respect to the prunes so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds will be incurred by the committee during each fiscal period. Each such person's share of such expenses shall be equal to the ratio between the total quantity of prunes handled by him as the first handler thereof during the applicable fiscal period and the total quantity of prunes so handled by all persons during the same fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all prunes handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 924.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in paragraphs (a) (2) and (3) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal period unless such person demands repayment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve in an amount not to exceed approximately one fiscal year's operational expenses. Funds in such reserve shall be available for use by the committee for all expenses authorized pursuant to § 924.40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

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RESEARCH

§ 924.45 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fresh prunes. The expense of such projects shall be paid from funds collected pursuant to § 924.41.

[39 FR 33306, Sept. 17, 1974]

REGULATIONS

§ 924.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 924.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to:

- (1) The estimated total production of prunes within the production area;
- (2) The expected general quality and size of prunes in the production area and in other areas;
- (3) The expected demand conditions for prunes in different market outlets;
- (4) The expected shipments of prunes produced in the production area and in areas outside the production area;
- (5) Supplies of competing commodities;
- (6) Trend and level of consumer income;
- (7) Other factors having a bearing on the marketing of prunes; and
- (8) The type of regulations expected to be recommended during the season.

(b) In the event it becomes advisable, because of changes in the supply and demand situation for prunes, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report, including each revised marketing policy report, and copies thereof shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 924.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of prunes in the manner provided in § 924.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for prunes during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 924.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of prunes whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

- (1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack or any combination thereof, of any variety or varieties of prunes grown in any district or districts: *Provided*, That whenever any regulation under this paragraph prescribes a specific maturity requirement applicable to the handling of any variety of prunes, such maturity requirement shall apply uniformly to all prunes of such variety grown in both districts;
- (2) Limit the shipment of prunes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;
- (3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of prunes;

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(4) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of prunes which are different from those applicable to the handling of the same variety to other destinations.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to growers and handlers.

§ 924.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 924.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of prunes in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such suspension.

§ 924.54 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 924.41, 924.52, 924.53, and 924.55, and the regulations issued thereunder, handle prunes (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to § 924.41, § 924.52, § 924.53, or § 924.55, the handling of prunes in such minimum quantities, or types of shipments, or for such speci-

fied purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 924.45) as the committee, with approval of the Secretary, may prescribe.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent prunes handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle prunes pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the prunes will not be used for any purpose not authorized by this section.

§ 924.55 Inspection and certification.

Whenever the handling of any variety of prunes is regulated pursuant to § 924.52 or § 924.53, each handler who handles prunes shall, prior thereto, cause such prunes to be inspected by the Federal or Federal-State Inspection Service, and certified by it as meeting the applicable requirements of such regulation: *Provided*, That inspection and certification shall be required for prunes which previously have been so inspected and certified only if such prunes have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such prunes. The committee may, with the approval of the Secretary, prescribe rules and regulations modifying the inspection requirements of this section as to time and place such inspection shall be performed whenever it is determined it would not be practical to perform the required inspection at a particular location: *Provided*, That all such shipments shall comply with all regulations in effect.

REPORTS

§ 924.60 Reports.

(a) Upon request of the committee made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part. Such reports may include, but are not necessarily limited to, the following: (1) The quantities of each variety of prunes received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such prunes; and (4) the destination of each shipment of such prunes.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers are authorized, subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the prunes received, and of prunes disposed of, by such handler as may be necessary to verify reports pursuant to this section.

MISCELLANEOUS PROVISIONS

§ 924.61 Compliance.

Except as provided in this part, no person shall handle prunes, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle prunes except in conformity with the provisions and the regulations issued under this part.

§ 924.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representa-

tives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 924.63 Effective time.

The provisions of this part and any amendments thereto shall become effective at such time as the Secretary may declare above his signature, and shall continue in force until terminated in one of the ways specified in § 924.64.

§ 924.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of prunes for market in fresh form: *Provided*, That such majority has produced for market during such period more than 50 percent of the volume of prunes produced for fresh market in the production area; but such termination shall be effective only if announced on or before March 31 of the then current fiscal period.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 924.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) 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 of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 924.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part 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 under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 924.67 Duration of immunities.

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

§ 924.68 Agents.

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

§ 924.69 Derogation.

Nothing contained in the provisions of 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 (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 924.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 924.71 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 thereof to any other person, circumstance, or thing shall not be affected thereby.

Subpart—Rules and Regulations**§ 924.101 Changes in district representation.**

Beginning with the 1970-71 fiscal period, the representation or membership on the Washington-Oregon Fresh Prune Marketing Committee is reapportioned as follows:

(a) Three (3) grower members and their respective alternates shall be producers of prunes in District 1;

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(b) Three (3) grower members and their respective alternates shall be producers of prunes in District 2;

(c) Two (2) handler members and their respective alternates shall be producers of prunes in District 1; and

(d) One (1) handler member and his alternate shall be handlers of prunes in District 2.

[35 FR 3798, Feb. 27, 1970]

§ 924.110 Waiver of inspection and certification.

(a) *Application.* Any handler (including a grower-handler packing and handling prunes of such handler's own production), whose packing facilities are located in an area where either a Washington State Plant Industry Division Inspection Office or Oregon State Plant Industry Inspection Office or Federal-State Inspector is not readily available to perform the required inspection may, prior to shipment, apply to the Committee for a permit authorizing a waiver of inspection. Applications shall be made on forms furnished by the Committee and shall contain such information as the Committee may require including: Name and address of applicant, location of packing facility, distance of packing facility from the nearest inspection office, period (approximate beginning and ending dates) during which the applicant expects to ship to fresh market during the period, manner in which the majority of applicant's fruit will be marketed (i.e., transported by applicant to market, sold at orchard to truckers, etc.), areas or markets to which the applicant expects to ship the majority of the prunes. The application shall also contain an agreement by applicant

(1) not to ship or handle any prunes unless such prunes meet the grade, size, maturity, container, and all other requirements of the marketing agreement and order in effect at time of handling;

(2) to report periodically to the Committee on reporting forms furnished by the Committee, the following information on each shipment: quantity, variety, grade, minimum size, container, date of shipment, destination, name and address of buyer or receiver, and such other information as the Committee may specify;

(3) to pay applicable assessments on each shipment;

(4) to have or cause to have each shipment of prunes inspected when such shipment is transported to a market or through a location enroute to market where an inspector is available; and

(5) to comply with such other safeguards as the Committee may prescribe.

(b) *Issuance of permit.* Whenever the Committee finds and determines from the information contained in the application or from other proof satisfactory to the Committee that the applicant is entitled to a waiver from the inspection requirements of the marketing agreement and order at time of shipment, the Committee shall issue a permit authorizing the applicant to ship prunes in accordance with these administrative regulations and the terms and conditions of such permit.

[44 FR 49416, Aug. 23, 1979]

§ 924.142 Reserve fund.

(a) The establishment of a reserve fund of an amount which shall not exceed approximately one fiscal year's operational expenses is appropriate and necessary to the maintenance and functioning of the Washington-Oregon Fresh Prune Marketing Committee. The committee is hereby authorized to carry forward in the aforesaid reserve \$4,863.46 which are excess assessment funds from the fiscal period ended March 31, 1961. Such reserve shall be used in accordance with the provisions of § 924.42 of said marketing agreement and order (§§ 924.1 to 924.71).

(b) Terms used in this section shall have the same meaning as given to the respective term in said marketing agreement and order.

[26 FR 8664, Sept. 16, 1961. Redesignated at 26 FR 12751, Dec. 30, 1961 and 44 FR 73011, Dec. 17, 1979]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g. sections .320 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which

appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart—Assessment Rate

§ 924.236 Assessment rate.

On or after April 1, 2004, an assessment rate of \$1.75 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

[69 FR 54201, Sept. 8, 2004]

Subpart—Grade and Size Requirements

§ 924.319 Prune Regulation 19.

(a) During the period beginning July 15 and ending September 30, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided*, That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

- (i) 10 percent for prunes which fail to meet the color requirement;
- (ii) 10 percent for prunes which fail to meet the minimum diameter requirement;
- (iii) 10 percent for prunes which fail to meet the remaining requirements of the grade: *Provided*, That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay; or

(2) Such prunes are handled in accordance with paragraph (b) of this section.

(b) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of the prunes, or 350 pounds net weight, of prunes of any variety other

than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term *U.S. No. 1* shall have the same meaning as when used in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 2851.1520 through 2851.1538); the term *purplish color* shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 29, 1978), and in the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term *diameter* means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

[46 FR 38668, July 29, 1981, as amended at 49 FR 27732, July 6, 1984; 61 FR 40958, Aug. 7, 1996]

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTH-EASTERN CALIFORNIA

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