

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Subpart—Order Regulating Handling

DEFINITIONS

- Sec.
- 987.1 Secretary.
- 987.2 Act.
- 987.3 Person.
- 987.4 Area of production.
- 987.5 Dates.
- 987.6 Crop year.
- 987.7 Producer.
- 987.8 Handler.
- 987.8a Repacker.
- 987.9 Handle.
- 987.10 Handler carry-over.
- 987.11 Trade demand.
- 987.12 Marketable dates.
- 987.13 Free dates.
- 987.14 Restricted dates.
- 987.15 Substandard dates.
- 987.16 Cull dates.
- 987.17 Graded dates.
- 987.18 Committee.
- 987.20 Part and subpart.

CALIFORNIA DATE ADMINISTRATIVE COMMITTEE

- 987.21 Establishment and membership.
- 987.23 Term of office.
- 987.24 Nomination and selection.
- 987.25 Qualification.
- 987.26 Vacancies.
- 987.27 Alternates.
- 987.28 Expenses.
- 987.29 Powers.
- 987.30 Duties.
- 987.31 Procedure.

MARKET DEVELOPMENT

- 987.33 Research and promotion.

MARKETING POLICY

- 987.34 Development.
- 987.35 Modifications.
- 987.36 Notice.
- 987.38 Handlers of record.

GRADE REGULATION

- 987.39 The establishment of minimum standards.
- 987.40 Additional grade or size regulations.
- 987.41 Inspection.

VOLUME REGULATION

- 987.43 Outlets and specifications for marketable dates.
- 987.44 Free and restricted percentages.
- 987.45 Withholding restricted dates.
- 987.46 Revisions of percentages.
- 987.47 Surplus.

CONTAINER REGULATION

- 987.48 Container regulation.

QUALIFICATIONS TO REGULATION

- 987.50 Application after end of crop year.
- 987.51 Interhandler transfers.
- 987.52 Exemption.
- 987.53 Application of regulations to repackers.

DISPOSITION OF OTHER THAN FREE DATES

- 987.55 Outlets for restricted dates.
- 987.56 Outlets for utility and cull dates.
- 987.57 Approved manufacturers or feeders.
- 987.58 Terminal date.
- 987.59 Safeguards.

REPORTS AND RECORDS

- 987.61 Reports of handler carryover.
- 987.62 Reports of dates shipped.
- 987.63 Reports on restricted dates withheld.
- 987.64 Reports on disposition of restricted, other marketable, utility, and cull dates.
- 987.65 Other reports.
- 987.66 Certification of reports.
- 987.67 Confidential information.
- 987.68 Verification of reports and records.

EXPENSES AND ASSESSMENTS

- 987.71 Expenses.
- 987.72 Assessments.

MISCELLANEOUS PROVISIONS

- 987.76 Compliance.
- 987.77 Personal liability.
- 987.78 Separability.
- 987.79 Derogation.
- 987.80 Duration of immunities.
- 987.81 Agents.
- 987.82 Effective time, suspension, or termination.
- 987.83 Effect of termination or amendment.
- 987.84 Amendments.

Subpart—Administrative Rules

DEFINITIONS

- 987.101 Lot.
- 987.102 Lot number.
- 987.104 Major marketing promotion.
- 987.105 Whole equivalent of pitted dates.

IDENTIFICATION AND OUTLET SPECIFICATIONS

- 987.112 Identification of dates.
- 987.112a Grade, size, and container requirements for each outlet category.

NOMINATIONS

- 987.124 Nomination and polling.
- 987.138 Handlers of record.

INSPECTION

- 987.141 Inspection and certification.

§ 987.1

7 CFR Ch. IX (1-1-07 Edition)

VOLUME REGULATION

987.145 Withholding obligation.

SURPLUS

987.147 Surplus.

QUALIFICATION TO REGULATION

987.151 Interhandler transfers.

987.152 Exemption from regulations.

987.157 Approved date product manufacturers.

REPORTS AND RECORDS

987.161 Handler carryover.

987.162 Handler acquisition and disposition.

987.164 Shipments of product dates and disposition of restricted dates in approved product outlets.

987.165 Other reports.

987.168 Handler records.

987.172 Adjustment of assessment obligation.

Subpart—Assessment Rates

987.339 Assessment rate.

AUTHORITY: 7 U.S.C. 601-674.

Subpart—Order Regulating Handling

SOURCE: 27 FR 6818, July 19, 1962, unless otherwise noted.

DEFINITIONS

§ 987.1 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.

§ 987.2 Act.

Act means Public Act No. 10, 73d Congress, as amended and as reenacted 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 *et seq.*).

§ 987.3 Person.

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

§ 987.4 Area of production.

Area of production means Riverside County, Calif.

[36 FR 15037, Aug. 12, 1971]

§ 987.5 Dates.

Dates means the Deglet Noor, Zahidi, Halawy, and Khadrawy varieties of domestic dates produced or packed in the area of production.

§ 987.6 Crop year.

Crop year means the 12-month period beginning October 1 of each year and ending September 30 of the following year.

[43 FR 4250, Feb. 1, 1978]

§ 987.7 Producer.

Producer is synonymous with grower and means any person engaged in a proprietary capacity in the production of dates for sale.

§ 987.8 Handler.

Handler means any person handling dates which have not been inspected and certified for handling in the hands of a previous holder and any repacker: *Provided*, That for the purposes of §§ 987.21 and 987.24 a person shall qualify as a handler only if he has acquired the dates directly from producers.

[32 FR 12595, Aug. 31, 1967, as amended at 43 FR 4250, Feb. 1, 1978]

§ 987.8a Repacker.

Repacker means any wholesaler or jobber who receives packed dates certified for handling pursuant to § 987.41(a), repackages them in containers other than those in which received, and handles such repackaged dates.

[32 FR 12595, Aug. 31, 1967]

§ 987.9 Handle.

Handle means to sell, consign, transport, or ship (except as a common or contract carrier of dates owned by another person) or in any way to put dates into the current of commerce including the shipment or delivery of utility dates or cull dates into nonhuman consumption outlets, except that sales or deliveries, by producers,

Agricultural Marketing Service, USDA

§ 987.15

of other than cull dates, to a handler within the area of production, or the movement of dates by a handler to storage for his account within the area of production, or counties adjoining the area of production, shall not be considered handling. The Committee, with the approval of the Secretary, may establish monitoring procedures for storage of dates in Orange, San Diego, and Yuma Counties.

[36 FR 15037, Aug. 12, 1971, as amended at 43 FR 4250, 4251, Feb. 1, 1978]

§ 987.10 Handler carry-over.

Handler carry-over means, as of any date, all marketable dates then held by a handler or for his account (whether or not sold), plus the estimated quantity of marketable dates in ungraded or unprocessed lots then held by said handler.

§ 987.11 Trade demand.

Trade demand means those quantities of marketable dates which the Committee finds are required to satisfy the need for dates in specific outlets in which marketable dates are handled.

[43 FR 4250, Feb. 1, 1978]

§ 987.12 Marketable dates.

Marketable dates means those dates which are certified as equal to or higher than the applicable minimum grade and size requirements in effect pursuant to § 987.39, and any additional applicable requirements in effect pursuant to § 987.40. Marketable dates shall include but not be limited to the following:

(a) *DAC dates*. DAC dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety for handling in the United States and Canada.

(b) *Dates for further processing*. Dates for further processing (FP) are marketable whole dates acquired by one handler from another handler that are certified as meeting the same grade and size requirements for DAC dates, with the exception of moisture requirements, and such identification require-

ments applicable to FP dates that are established by the Committee, with the approval of the Secretary, for any specific variety.

(c) *Export dates*. Export dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety, to be handled in export to any country or group of countries with the exception of Canada. The Committee may establish different requirements for different countries.

(d) *Product dates*. Product dates are marketable dates that are inspected and certified as meeting the applicable grade and size requirements for dates to be handled in such forms as rings, chunks, pieces, butter, macerate, paste, or any other forms which the Committee deems appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates.

[43 FR 4250, Feb. 1, 1978]

§ 987.13 Free dates.

Free dates means dates of any variety that are at the time of certification destined for consumption in whole or pitted form in the United States and Canada (and such other countries as the Committee determines are likely to acquire them at prices reasonably comparable with prices received domestically) and which are free to be handled pursuant to any free percentage established by the Secretary in accordance with § 987.44.

[43 FR 4251, Feb. 1, 1978]

§ 987.14 Restricted dates.

Restricted dates means those dates which must be withheld by handlers pursuant to any restricted percentage established by the Secretary in accordance with § 987.44.

§ 987.15 Substandard dates.

Utility dates means those dates which fail to meet the requirements for marketable dates but are not cull dates.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4251, Feb. 1, 1978]

§ 987.16

§ 987.16 Cull dates.

Cull dates means dates which fail to meet the requirements (with respect to freedom from defects) prescribed in title 3, group 4, article 24, section 24, section 1434 of the Food and Agricultural Code of California for dates for use in products or by-products other than alcohol, brandy, and products not intended for human consumption and any dates residual from field or packinghouse grading operations.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4251, Feb. 1, 1978]

§ 987.17 Graded dates.

Graded dates means those dates which are eligible for certification as marketable dates.

§ 987.18 Committee.

Committee means the California Date Administrative Committee established pursuant to § 987.21.

[36 FR 15037, Aug. 12, 1971]

§ 987.20 Part and subpart.

Part means the order regulating the handling of domestic dates produced or packed in Riverside County, Calif., and all rules, regulations, and supplementary orders issued thereunder. The aforesaid order shall be a *subpart* of such part.

[36 FR 15037, Aug. 12, 1971]

CALIFORNIA DATE ADMINISTRATIVE
COMMITTEE

§ 987.21 Establishment and membership.

A California Date Administrative Committee consisting of nine members is hereby established to administer the terms and conditions of this part. For each member there shall be an alternate member, and the provisions of this part applicable to the number, nomination, qualification and selection of members shall apply in like manner to alternate members. Three of the members, referred to in this part as "producer members", shall be producers or officers or employees of producers, and shall not be handlers, or directors, officers, or employees exercising a supervisory or managerial

function of a handler. The six remaining members, referred to in this part as "producer-handlers", shall be selected from (a) handlers, or directors, officers or employees of a handler, or (b) producers who are also handlers or directors, officers or employees exercising a supervisory or managerial function of a handler. The Committee, with the approval of the Secretary, may issue rules and regulations covering matters of eligibility for producer members, or revising the composition of the Committee prescribed in this section if it no longer is representative following a substantial change in the industry.

[43 FR 4251, Feb. 1, 1978]

§ 987.23 Term of office.

The term of office for members and alternate members shall be 2 years beginning August 1, except such term may be shorter if the Committee composition is changed in the interim pursuant to § 987.21. Each member and alternate member shall, unless otherwise ordered by the Secretary, continue to serve until his successor has been selected and has qualified.

[43 FR 4251, Feb. 1, 1978]

§ 987.24 Nomination and selection.

(a) Nomination for members and alternate members of the Committee shall be made not later than June 15 of every other year.

(b) Opportunity shall be provided producers and handlers to nominate individuals to serve on the Committee by establishing a day for polling and also for casting absentee ballots. Persons will only be able to vote in nominations for the group in which they would be qualified to serve on the Committee, and shall nominate the applicable number of individuals for the positions prescribed pursuant to § 987.21. Each producer, regardless of the number and locations of his date gardens, voting in the nominations for producer members and producer alternate members, shall be entitled to one vote for each member and alternate member position to be filled. The individual receiving the highest number of votes for a position shall be the nominee. Each person voting in the nominations for producer-handler members and producer-handler

Agricultural Marketing Service, USDA

§ 987.30

alternate members, shall be given the opportunity to vote for one member and one alternate member position. His ballot shall be weighted by the pounds of dates he had certified as marketable dates, from the beginning of the then current crop year through April which he produced in his own gardens or acquired from other producers. The individual receiving the highest weighted vote for a producer-handler position shall be the nominee. The Committee, with the approval of the Secretary, may issue rules and regulations on the manner in which nominees for a position may be obtained, polling, balloting, absentee ballots, and the weighting of votes for producer-handler positions when the Committee is restructured during a term of office.

[43 FR 4251, Feb. 1, 1978]

§ 987.25 Qualification.

Each person selected as a member or alternate member of the Committee shall, prior to serving on the Committee, qualify by filing with the Secretary a written acceptance after receiving notice of his selection. Any member or alternate who, at the time of his selection, was a member of or employed by a member of the group which nominated him shall, upon ceasing to be such member or employee, become disqualified to serve further and his position on the Committee shall be deemed vacant.

§ 987.26 Vacancies.

In the event of any vacancy occasioned by the failure to qualify, declination to serve, removal, resignation, disqualification, or death of any person nominated to serve on the Committee, or any member or alternate member selected by the Secretary, the Committee shall promptly submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified for the group in § 987.21. If the vacancy is for a member position, the Committee shall recommend appointment of the alternate member if that person is willing to serve in that position. If the Committee's recommendation is not submitted within 30 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard

to nominations, and the selection shall be made on the basis of representation provided in § 987.21.

[43 FR 4251, Feb. 1, 1978]

§ 987.27 Alternates.

An alternate for a member of the Committee shall act in the place and stead of such member during his absence or in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified. In the event a member and his alternate are unable to attend a meeting of the Committee, such member or alternate, in that order, may designate an alternate from the group he represents to act in his place. If neither a member nor his alternate has designated an alternate as his replacement, or such designated alternate is unable to serve as the replacement, the chairman may, with the concurrence of a majority of the members including alternates acting as members, representing such group, designate an alternate from such group who is present at the meeting and is not acting as a member to act in the place and stead of the absent member.

[27 FR 6818, July 19, 1962, as amended at 36 FR 15038, Aug. 12, 1971; 43 FR 4251, Feb. 1, 1978]

§ 987.28 Expenses.

The members of the Committee shall serve without compensation but shall be allowed their necessary expenses.

§ 987.29 Powers.

The Committee shall have the following powers:

(a) To administer the terms and provisions of this subpart.

(b) To make rules and regulations to effectuate the terms and provisions of this subpart.

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart, and

(d) To recommend to the Secretary amendments to this subpart.

§ 987.30 Duties.

The Committee shall have, among other things, the following duties:

§ 987.31

7 CFR Ch. IX (1-1-07 Edition)

(a) To act as intermediary between the Secretary and any producer or handler.

(b) To keep minutes, books, and records which will clearly reflect all of its transactions and such minutes, books, and other records shall be subject to examination by the Secretary at any time.

(c) To investigate the growing, handling, and marketing conditions with respect to dates, to assemble data in connection therewith.

(d) To furnish to the Secretary such available information as may be deemed pertinent to the administration of this subpart or as he may request and to give to the Secretary the same notice of meetings of the Committee as is given to the members of the Committee.

(e) To appoint such employees as it may deem necessary and to determine the salaries, define the duties and where desirable fix the bonds of such employees.

(f) To cause the books of the Committee to be audited by a certified public accountant at least once each crop year and at such other times as the Committee may deem necessary or the Secretary may request. The report of each such audit shall show among other things the receipt and expenditure of funds pursuant hereto. Two copies of such audit shall be submitted to the Secretary.

(g) To investigate compliance and to use means available to the Committee to prevent violations of this part.

(h) To furnish the Committee viewpoints of the consumer, the Committee may utilize a consumer consultant. The consumer consultant shall have no financial interest in the date industry and shall receive no compensation, however, such person shall be reimbursed for necessary expenses attendant to those assignments that the Committee has given prior support and approval.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4252, Feb. 1, 1978]

§ 987.31 Procedure.

(a) A majority of the Committee shall constitute a quorum.

(b) The Committee shall, from among its members, select a chairman and

such other officers and adopt such rules for the conduct of its business as it may deem advisable.

(c) For any decision of the Committee to be valid, a concurring vote of at least five members is required, except as follows:

(1) In matters relating to restructuring Committee composition pursuant to § 987.21, concurrence by at least eight members is required;

(2) In matters relating to establishment, modification and application of free and restricted percentages pursuant to §§ 987.44 and 987.46, concurrence by at least seven members is required; and

(3) In matters relating to recommendation of any program of paid advertising or major program of market promotion pursuant to § 987.33, concurrence by at least six members is required.

(d) At all assembled meetings each vote shall be cast in person.

(e) The Committee may vote upon any proposition by mail, or telephone when confirmed in writing within 2 weeks, or telegram, upon due notice and full and identical explanation to all members, including alternates acting as members, but any such action shall not be considered valid unless unanimously approved.

(f) If the total number of members of the Committee is changed pursuant to § 987.21, the minimum voting requirements shall be in the same ratio to the revised total number of members, as nearly as practicable, as the minimum voting requirements prescribed in paragraph (c) of this section are to nine.

[36 FR 15038, Aug. 12, 1971, as amended at 43 FR 4252, Feb. 1, 1978]

MARKET DEVELOPMENT

§ 987.33 Research and promotion.

(a) The Committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects, including marketing promotion and paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption of dates. The expenses of such projects

Agricultural Marketing Service, USDA

§ 987.38

shall be paid from funds collected pursuant to §987.72. Upon conclusion of each program, but at least annually, the Committee shall summarize and report on the program status and accomplishments, to its members and the Secretary. A similar report to the Committee shall be required of any contracting party on any paid advertising or major program. Also, for each advertising or major program the contracting party shall be required to maintain records of money received and expenditures and such shall be available to the Committee and the Secretary. The Committee shall, with the approval of the Secretary, establish criteria which will determine such major program.

(b) [Reserved]

[32 FR 12595, Aug. 31, 1967, as amended at 36 FR 15038, Aug. 12, 1971; 43 FR 4252, Feb. 1, 1978]

MARKETING POLICY

§ 987.34 Development.

As early as practicable, but no later than October 31, the Committee shall prepare and submit to the Secretary, a report setting forth its marketing policy, including data on which it is based, by variety, for regulation of dates in the crop year.

(a) The committee shall consider such factors as: (1) The estimated production of dates during the crop year; (2) the estimated production of DAC dates, export dates, and product dates; (3) the handler carryin on October 1 of dates of those qualities; (4) the estimated trade demand in each outlet during the crop year; and (5) the desirable carryout, by outlet.

(b) If dates to be handled as free dates are not synonymous with those to be handled in DAC outlets, the Committee shall consider such additional factors as: (1) The supply of marketable dates that will be available from the estimated production, and from the October 1 carryin, that could be used as free dates, and (2) the estimated trade demand for free dates during the current crop year, and the desirable carryout for free dates.

(c) The Committee shall submit its recommendation as to grade, size, and container regulations and its rec-

ommendation whether free and restricted percentages should be established and if so, the free and restricted percentages and the appropriate withholding factor.

[43 FR 4252, Feb. 1, 1978]

§ 987.35 Modifications.

In the event the Committee subsequently determines that the marketing policy should be modified due to changing supply or demand conditions, it shall formulate and submit to the Secretary its modified marketing policy along with the data which it considered in connection with such modification.

§ 987.36 Notice.

The Committee shall give notice through newspapers having general circulation in the area of production or by other means of communication to producers and handlers of the contents of each marketing policy report submitted to the Secretary and of each report modifying such marketing policy. Copies of all such reports shall be maintained in the office of the Committee where they shall be available for examination by producers and handlers.

§ 987.38 Handlers of record.

Each crop year but no later than October 10 for continuing handlers and prior to handling dates in the case of new handlers, any person desiring to handle dates shall submit a report to the Committee on a form prescribed by it containing the following information with respect to all dates which such person expects to handle:

(a) The name and address of each producer;

(b) The location of each date garden; and

(c) The acreage and estimated current season's production thereon.

Those reports required to be filed by October 10 shall reflect producers who are signed up with the handlers as of October 1 of the then current crop year. The Committee, with the approval of the Secretary, may issue rules and regulations to carry out the provisions of this section.

[43 FR 4252, Feb. 1, 1978]

GRADE REGULATION

§ 987.39 The establishment of minimum standards.

In order to effectuate the declared policy of the act, all dates handled as marketable dates shall meet the requirements of U.S. Grade C, or if for further processing, U.S. Grade C (Dry) of the effective U.S. Standards for Grades of Dates, 7 CFR 52.1001: *Provided*, That the Secretary, may upon recommendation of the Committee, prescribe other minimum standards of grades and sizes for marketable dates of any variety to be handled in any designated outlet. To aid the Secretary in prescribing such other minimum standards, the Committee shall furnish to the Secretary the data upon which it acted in recommending such standards. The provisions hereof relating to minimum standards of grades and sizes for marketable dates and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions relating to the administration and enforcement thereof shall continue in effect irrespective of whether the season average price to producers for dates is or is not in excess of the parity level specified in section 2(1) of the act. Notice of the minimum standard regulation shall be sent by the Committee to all handlers of record. On and after the effective date of such regulations no handler shall handle dates except in accordance with such minimum standard.

[32 FR 12596, Aug. 31, 1967, as amended at 43 FR 4252, Feb. 1, 1978]

§ 987.40 Additional grade or size regulations.

Whenever the Committee deems it advisable to establish grade or size requirements for any variety of dates, in addition to the minimum standard provided pursuant to § 987.39, to govern dates of such variety to be handled in any designated outlet or to be withheld to meet withholding obligation, or both, it shall recommend to the Secretary requirements as to grade based on the effective United States Standards for Grades of Dates or any modification thereof, and such size requirements as it may deem appropriate. If the Secretary finds, upon the basis of

such recommendation or other information available to him, that such additional grade or size regulation, or both such regulations, will tend to effectuate the declared policy of the act, he shall establish such regulations. Notice thereof, showing the effective date, shall be sent by the Committee to all handlers of record. On and after the effective date no handler shall handle dates of such variety in any designated outlet or withhold such dates to meet withholding obligation except in accordance with such regulations.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4252, Feb. 1, 1978]

§ 987.41 Inspection.

(a) *Packed dates.* Prior to handling any dates packed for handling each handler shall, at his own expense, cause: (1) An inspection to be made of such dates in order to ascertain if such dates meet the applicable grade and size regulations prescribed or provided for in this part; and (2) a certification for handling to be made of all such dates as meet such grade and size regulations.

(b) *Dates for further processing.* Prior to handling any dates for further processing each handler shall, at his own expense, cause: (1) An inspection to be made to ascertain if such dates meet the applicable grade and size requirements effective pursuant to § 987.39 or § 987.40, except for character associated with moisture; and (2) a certification for further processing to be made of all such dates as meet such grade and size requirements: *Provided*, That such inspection and certification requirements shall not apply to inter-handler transfers within the area of production of field-run dates or graded dates.

(c) *Identification and service.* All dates handled shall be identified by seals, stamps, or other means prescribed by the Committee and affixed to the containers by the handlers under the supervision of the Committee or the designated inspectors. Inspection shall be performed by inspectors of the United States Department of Agriculture's Processed Products Standardization and Inspection Branch or such other inspection service as may be recommended by the committee and approved by the Secretary. Handlers shall

cause a copy of each inspection certificate to be furnished to the Committee.

VOLUME REGULATION

§ 987.43 Outlets and specifications for marketable dates.

Marketable dates shall not be handled or otherwise disposed of except as provided in this subpart. This shall not preclude dates of better grades or sizes being handled or otherwise disposed of in any outlet established for dates of lesser grades or sizes. The Committee, with the approval of the Secretary, may modify the designations specified in § 987.12 to reflect new major outlets and regulatory requirements needed because of changes in marketing conditions. Marketable dates shall include but not be limited to the following: DAC dates, Dates for further processing, Export dates, and Product dates.

[43 FR 4252, Feb. 1, 1978]

§ 987.44 Free and restricted percentages.

(a) Whenever the Committee finds that the available supply of marketable dates of applicable grade and size available to supply the trade demand for free dates of any variety is likely to be excessive, and that limiting the volume of marketable dates to be handled as free dates through establishment of free and restricted percentages applicable to such variety of such dates would tend to effectuate the declared policy of the act, it shall recommend such percentages to the Secretary. If the Secretary finds, upon the basis of the Committee's recommendation and supporting data or other information available to him, that the establishment of such percentages would tend to effectuate the declared policy of the act, he shall establish such percentages. The sum of the free and restricted percentages for any crop year shall equal 100 percent.

(b) The dates handled by any handler in accordance with the provisions hereof shall be determined to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4252, Feb. 1, 1978]

§ 987.45 Withholding restricted dates.

(a) Whenever free and restricted percentages for any variety of dates have been established for a crop year by the Secretary in accordance with § 987.44, each handler shall, at the time of having dates of such variety certified for handling as free dates (including those for further processing that are to be handled as free dates), withhold from handling a quantity of marketable dates of such variety having a weight equal to the restricted percentage for such variety referable to the dates so far certified. The withholding requirement shall not apply to dates certified for delivery directly to an excess supply removal program of the Secretary. The weight required to be withheld shall be determined by dividing the restricted percentage by the free percentage and applying the resultant withholding factor, rounded to the nearest one-tenth of one percent, to the weight of dates so certified. The withholding factor, computed as aforesaid, shall be established by the Secretary. When pitted dates are certified, the weight to be withheld shall be determined by dividing the weight of the pitted dates certified for handling or further processing by a divisor established by the Committee with the approval of the Secretary and applying the withholding factor.

(b) Compliance by any handler with the withholding of restricted dates may be deferred to any date not later than January 31 of any crop year, upon request to the Committee and when accompanied by a written undertaking that on or prior to such date, he will have fully satisfied his withholding obligation. Such undertaking shall be secured by a bond or bonds to be filed with, and acceptable to, the Committee and with a surety or sureties acceptable to the Committee, running in favor of the Committee and the Secretary in an amount conditioned upon full compliance with such undertaking. The amount shall be determined by multiplying the poundage of the deferred restricted obligation by a bonding rate per pound which would provide funds estimated to be sufficient for the Committee to purchase on the open market a volume of dates equivalent to the deferred obligation. Such bonding

rate shall be established annually, and modified as necessary, by the Committee. Any sums collected through default by a handler on his bond shall be used by the Committee to purchase dates to meet the violated restricted obligation, reimburse the Committee for expenses relative to the default, and any excess money remaining shall be refunded to the defaulting handler. The dates so purchased by the Committee shall be turned over to the defaulting handler for disposition as restricted dates. In the event the Committee is unable to purchase a poundage of dates equal to the defaulted volume, the sums collected shall, after reimbursement of Committee expenses in connection with the default, be distributed among all handlers other than the defaulting handler in proportion to the volume of certified dates handled as free dates (including those for further processing that were handled as free dates), during the crop year in which the default occurred.

(c) At any time during the crop year free dates may be inspected and certified for handling or for further processing as provided in §987.41. Dates so certified shall, at the time of certification, be identified by appropriate seals, stamps, or tags to be furnished by the Committee and to be affixed to the containers by the handler under the direction and supervision of the Committee or its designated inspectors. The assessment requirements in §987.72 as well as the withholding obligation prescribed in paragraph (a) of this section shall be met at the time of certification. However, a handler who has had more free dates certified for handling or further processing than he subsequently shipped or otherwise handled may, upon request to the Committee and with its approval, have any of such excess quantity of the certified dates suspended from certification of record or, if damaged or the outlet changed, removed from certification, and his withholding and assessment obligations adjusted accordingly. A handler, who has had dates certified for handling or further processing and has not had them so suspended from certification of record or removed from certification, may carry such certified free dates over into the new crop year

and need not pay the assessment nor meet the requirements of any withholding percentages established for such year.

(d) Dates withheld to meet the withholding obligation shall be stored at the expense of the handler, in storage of his own choosing and disposed of in accordance with §987.55. All such dates shall be inspected and identified by appropriate seals, stamps, or tags to be furnished by the Committee and to be affixed to the containers by the handler under the direction and supervision of the Committee or its designated inspectors. All withholding and movement of restricted dates, shall be subject to the supervision and accounting control of the Committee and reports shall be filed as required by this part. Any handler who during a crop year disposes in restricted outlets of a quantity of marketable dates in excess of his withholding obligation of such year may: (1) On written request delivered to the Committee not later than September 30 of such crop year have a part or all of such excess transferred, by the Committee, to such other handler or handlers as he may name, for crediting such other handlers' withholding obligations incurred in that crop year; and in addition (2) have a part or all of the remainder of such excess credited to his restricted obligation of the subsequent crop year: *Provided*, That the amount of any such credit shall not exceed that established by the Committee, with the approval of the Secretary, as the percentage of such withholding obligation.

(e) On request to the Committee and with its approval, a handler may, in accordance with the provisions of this paragraph and any applicable rules and regulations which the Committee may prescribe with the approval of the Secretary, defer until any date not later than September 30 of the crop year the meeting of any portion of his obligation to withhold restricted dates by setting aside such amount of graded dates as will assure a quantity of marketable dates equal at least to the quantity needed to be withheld to meet his withholding obligation. With respect to any such dates the handler may set aside in connection with such

a deferment, the Committee may require, if it deems it necessary, the handler to have made, at his own expense, such inspection as may be necessary for a determination as to whether such dates conform to the applicable requirements for dates that may be set aside under this paragraph. As a condition to the Committee approving the deferment, the handler shall agree in writing that: (1) He will adequately mark and identify the set-aside graded dates as such and hold them separate and apart from other dates; (2) the graded dates will not be removed from the stacks in which so set aside without the prior written permission of the Committee; (3) inspection of the dates by the Committee will be permitted at any reasonable time; and (4) if the quantity, quality, or size of the set-aside dates is found by the Committee at any time to be deficient, the handler will promptly set aside such additional or substitute quantity of graded dates as is necessary to correct the deficiency.

(f) Upon the Committee prescribing, with the approval of the Secretary, minimum standards for inspection of field-run dates and appropriate administrative rules and regulations, a handler may, in accordance therewith and the provisions of this paragraph, satisfy all or any part of his obligation to withhold restricted dates by setting aside field-run dates or by disposing of field-run dates in outlets prescribed in, or pursuant to, §987.56. The field-run dates shall be of such quality or size as shall be prescribed in such rules and regulations. The setting aside, direct disposal, and disposal of any field-run dates set aside shall occur prior to September 30 of the crop year in which the withholding obligation occurs. Prior to the disposal or setting aside of the field run dates, the handler shall have had them inspected to determine the weight of dates eligible to satisfy withholding obligation. Upon such disposal or setting aside of the field-run dates, the handler shall be credited with satisfaction of his restricted obligation to the extent of the eligible weight of dates. In permitting the handler to so satisfy his withholding obligation the Committee shall require the handler to agree in writing that: (1) Any field-run

dates set aside will be held separate and apart from other dates and appropriately marked; (2) such dates will not be removed from the stacks in which so set aside for substitution of other dates, disposition, or for any other reason without prior written permission of the Committee; and (3) inspection of said dates by the Committee will be permitted at any reasonable time. In order to satisfy a withholding obligation by direct disposal of field-run dates into cull outlets, the disposal shall be under the supervision of the Committee and through persons on a Committee approved list of feeders and manufacturers. The handler may, upon giving prior notice to the Committee of any of the following proposed actions with respect to field-run dates withheld and obtaining its approval, (i) dispose of any such set-aside, field-run dates in the same manner as provided for direct disposal (ii) grade such dates and have the graded dates certified as marketable dates and withhold or dispose of such marketable dates as restricted dates, or (iii) substitute for the set-aside, field-run dates an equivalent quantity of marketable dates which he shall withhold or dispose of as restricted dates.

[27 FR 6818, July 19, 1962, as amended at 29 FR 9707, July 18, 1964; 36 FR 15039, Aug. 12, 1971; 43 FR 4253, Feb. 1, 1978]

§987.46 Revisions of percentages.

The Secretary may, on recommendation of the Committee submitted prior to January 31 of the crop year, or on the basis of other information available to him, increase the free percentage to conform with such new relation as may be found to exist between trade demand for free dates and available supply of marketable dates of applicable grade and size. Upon any revision in the free and restricted percentages the control obligation of each handler with respect to free dates handled or certified for handling or for further processing by him for the entire crop year shall be recomputed in accordance with such revised control percentages. The handler shall be permitted to select, insofar as practicable, under the supervision and direction of the Committee,

§ 987.47

the particular dates to be removed from any dates withheld.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4253, Feb. 1, 1978]

§ 987.47 Surplus.

All cull dates and all substandard dates, including such dates blended with varieties within the generic term *dates* not regulated by this part, except any utility dates released to human consumption outlets pursuant to § 987.56, are surplus dates of any crop year. No handler shall ship or deliver such surplus dates to other than the Committee or its designee(s) for disposition in eligible outlets for such dates, except that any producer or handler may dispose of any such surplus dates of his own production within his own livestock feeding operations. Surplus dates delivered to the Committee shall be disposed of by it, in those outlets specified in § 987.56, at the best prices attainable and the proceeds returned pro rata, after deduction of Committee costs, to equity holders. The Committee may assist handlers with the cleaning, storage, or delivery of surplus dates and may, with the approval of the Secretary, establish rules and regulations necessary and incidental to administration of this regulation.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4251, Feb. 1, 1978]

CONTAINER REGULATION

§ 987.48 Container regulation.

Whenever the Committee deems it advisable to establish a container regulation for any variety of dates, it shall recommend to the Secretary the size, capacity, weight, or pack of the container, or containers, which may be used in the handling or packaging of dates, or both. If the Secretary finds upon the basis of such recommendation or other information available to him that such container regulation would tend to effectuate the declared policy of the act he shall establish such regulation and notice thereof showing the effective date shall be sent by the Committee to all handlers of record. After the effective date of such regulation, no handler shall handle dates of such variety except in accordance with such

7 CFR Ch. IX (1-1-07 Edition)

regulation and all other applicable requirements in effect pursuant to this part.

QUALIFICATIONS TO REGULATION

§ 987.50 Application after end of crop year.

Unless otherwise specified the regulations and the bonding rates established for any crop year shall continue in effect with respect to all free dates for which control obligations have not been previously met, until regulations and bonding rates are established for the new crop year. Thereupon the withholding obligations for all free dates handled or certified for handling or for further processing during such crop year shall be adjusted to the newly established percentages and a similar adjustment shall be made in any bond or bonds already given for that crop year.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4253, Feb. 1, 1978]

§ 987.51 Interhandler transfers.

Transfers of dates may be made from one handler to another, and each handler who so transfers any such dates shall immediately upon the completion of the particular transfer notify the Committee of the transfer, specifying the date of the transfer, the quantity and variety of dates involved, and the name of the receiving handler. If such transfer is wholly within the area of production, the assessment and withholding obligations shall be placed on the handler agreeing to assume them: *Provided*, That in the absence of the Committee receiving notice of a specific agreement on such obligations, the buying handler shall be held accountable. If such transfer is from within the area of production to any point outside thereof, the assessment and withholding obligations shall be met by the handler within the area of production. Except for packed dates inspected and certified for handling prior to transfer and which are not repacked, any receiving handler (other than a repacker not otherwise a handler, who shall comply with § 987.53) shall comply with the requirements of § 987.41 on all dates, but this shall apply to repacked dates previously inspected and certified for handling only if the handler

Agricultural Marketing Service, USDA

§ 987.56

also packs dates received as field-run dates.

[32 FR 12596, Aug. 31, 1967]

§ 987.52 Exemption.

The Committee may exempt from regulation, upon written request of any producer or handler, the dates he sells to consumers through roadside stands, local date shops, mail order or specialty outlets, if it determines that the particular request is not likely to materially interfere with the objectives of this part. All dates handled pursuant to exemptions under this section shall be reported to the Committee in such manner and in such form as the Committee may prescribe. The Committee shall issue, with the approval of the Secretary, appropriate rules and regulations establishing the bases on which exemptions may be granted.

§ 987.53 Application of regulations to repackers.

Repackers shall be exempt from those requirements of this part, including reporting requirements, with respect to packed dates which had been certified for handling, pursuant to § 987.41(a), prior to receipt, except that: (a) A repacker who processes such dates by machine pitting shall comply with the grade, size, inspection, certification, and identification requirements, and (b) a repacker who repackages such dates in containers other than those in which received, shall comply with the then effective container regulations established pursuant to § 987.48.

[32 FR 12596, Aug. 31, 1967]

DISPOSITION OF OTHER THAN FREE DATES

§ 987.55 Outlets for restricted dates.

Restricted dates may be disposed of only through exportation to such countries as the Committee may approve or by diversion in product outlets described in § 987.43 which the Committee concludes to be appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates. To facilitate sales and promote orderly marketing of any variety of restricted dates handled

in export, the Committee may participate in or negotiate for handlers, the sale of such dates to meet all or a substantial part of the needs of the particular country, and, in connection with each such sale, the Committee shall extend to all handlers an opportunity to participate therein and shall distribute the returns therefrom to participating handlers according to their respective contributions of dates. The Committee, with the approval of the Secretary, may prescribe rules and regulations governing the opportunity to participate in such sales. The provisions of this section shall not preclude restricted dates being disposed of in outlets for utility and cull dates prescribed in § 987.56.

[43 FR 4253, Feb. 1, 1978]

§ 987.56 Outlets for utility and cull dates.

Subject to the provisions of § 987.47, utility dates and cull dates may be disposed of without inspection, but only in feed, non-table syrup, alcohol, or brandy outlets, or in such other outlets for non-human food products as the Committee with the approval of the Secretary, may specify: *Provided*, That whenever the Committee concludes and the Secretary finds that the use of utility dates of any variety in certain products for human consumption would tend to effectuate the declared policy of the act, the Secretary shall specify such products, and dates of such variety that are inspected and certified as utility dates may be disposed of for use, or used, in such products: *And provided further*, That whenever the Committee concludes and the Secretary finds that the disposition of utility dates of any variety through any export outlet would tend to effectuate the declared policy of the act, the Secretary shall specify such export outlet, and dates of such variety that are inspected and certified as meeting such grade, size, container, and identification requirements as may be prescribed by the Committee with the approval of the Secretary for such outlet may be so exported.

[29 FR 9707, July 18, 1964, as amended at 43 FR 4251, 4253, Feb. 1, 1978]

§ 987.57

§ 987.57 Approved manufacturers or feeders.

(a) Diversion of dates, pursuant to § 987.55 or § 987.56, shall be accomplished only by such persons (which may include handlers) as are approved manufacturers or feeders. Any person may become an approved manufacturer or feeder if he (1) submits an application to the Committee in which he agrees, as a condition to approval of his application, to furnish to the Committee such information as it may require and to comply with the requirements and restrictions relative to the use and disposition of such dates, as set forth in this part, and (2) receives from the Committee written approval of his application. The application and approval shall be in accordance with such rules, regulations and safeguards as may be prescribed pursuant to § 987.59.

(b) [Reserved]

[27 FR 6818, July 9, 1962, as amended at 43 FR 4251, 4253, Feb. 1, 1978]

§ 987.58 Terminal date.

Dates covered by §§ 987.55 and 987.56 shall, by September 30 of the subsequent crop year (a) in accordance with the applicable requirements of such sections, be disposed of, or be converted from their whole or pitted form; or (b) be set aside and marked for disposition pursuant to the applicable requirements of such sections. The Committee may prescribe, with the approval of the Secretary, such rules, regulations and safeguards, pursuant to § 987.59, as may be necessary to prevent dates covered by §§ 987.55 and 987.56 from interfering with the objectives of this part.

§ 987.59 Safeguards.

The Committee may prescribe, with the approval of the Secretary, such rules, regulations and safeguards as are necessary to prevent dates covered by §§ 987.55 and 987.56 from interfering with the objectives of this part.

REPORTS AND RECORDS

§ 987.61 Reports of handler carryover.

Each handler shall file each year with the Committee written reports of his carryover of dates as of March 1,

7 CFR Ch. IX (1-1-07 Edition)

October 1, and at such other times as the Committee may prescribe: *Provided*, That during those seasons when volume regulations are established by the Secretary, the handler shall file an additional report on his January 1 carryover. Such reports shall be filed within 10 days of the date of the carryover. These reporting dates specified may be changed, upon recommendation of the Committee, together with substantiation of the need therefore, with the approval of the Secretary.

[43 FR 4253, Feb. 1, 1978]

§ 987.62 Reports of dates shipped.

Each handler who ships dates during a crop year shall submit to the Committee, in such form and at such intervals as the Committee may prescribe, reports showing the net weight of dates shipped by him and such other information pertinent thereto as the Committee may specify.

§ 987.63 Reports on restricted dates withheld.

Each handler from time to time, on demand of the Committee, shall file with it a report of the restricted dates withheld by him in satisfaction of his withholding obligation. Such reports shall show such information as the Committee may require and may be in such form as the Committee may prescribe.

§ 987.64 Reports on disposition of restricted, other marketable, utility, and cull dates.

Each handler disposing of any dates pursuant to §§ 987.55 and 987.56 shall promptly thereafter report such disposition to the Committee in such form as the Committee may prescribe.

[43 FR 4253, Feb. 1, 1978]

§ 987.65 Other reports.

Upon request of the Committee each handler shall furnish to it in such manner and at such times as it prescribes, such other information as will enable the Committee to perform its duties and exercise its powers hereunder.

§ 987.66 Certification of reports.

All reports submitted to the Committee as required in this part shall be

Agricultural Marketing Service, USDA

§ 987.72

certified to the United States Department of Agriculture and to the Committee as to the completeness and correctness of the information therein.

§ 987.67 Confidential information.

All data or other information constituting a trade secret or disclosing a trade position or business condition shall be received by, and kept in the custody of, one or more designated employees of the Committee and information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

§ 987.68 Verification of reports and records.

For the purpose of checking compliance with record keeping requirements and verifying reports filed by handlers, the Secretary and the Committee, through its duly authorized employees, shall have access to any premises where dates are held and, at any time during reasonable business hours, shall be permitted to examine any dates held and any and all records with respect to matters within the purview of this part. Handlers shall furnish labor necessary to facilitate such examinations at no expense to the Committee. All handlers shall maintain complete records establish and which accurately show the quantity of dates handled, disposed of, and withheld. The Committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than two years subsequent to the termination of each crop year.

[27 FR 6818, July 19, 1962, as amended at 36 FR 15039, Aug. 12, 1971; 43 FR 4253, Feb. 1, 1978]

EXPENSES AND ASSESSMENTS

§ 987.71 Expenses.

The Committee is authorized to incur such expenses, including maintenance of an operating reserve fund, as the Secretary may find are reasonable and are likely to be incurred by it during each crop year for the maintenance and functioning of the Committee and for such other purposes as he determines to be appropriate. The recommendation

of the Committee as to total expenses and allocation thereof for each crop year, together with all data supporting such recommendation, shall be submitted to the Secretary within a reasonable time after the marketing policy for each crop year is recommended.

§ 987.72 Assessments.

(a) *Requirement for payment.* Each handler shall pay to the Committee upon demand, on all dates he has certified as meeting the requirements for marketable dates and utility dates utilized in product outlets including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f), 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. Should the condition arise wherein the utility portion of dates handled in certain other outlets should not be, in the opinion of the Committee, subject to the payment of assessments on that portion, the Committee may recommend and the Secretary approve by rulemaking, such exclusion. Each handler's pro rata share shall be the rate of assessment per hundredweight fixed by the Secretary. At any time during or after a crop year the Secretary may increase such assessment rate to secure sufficient funds to cover unanticipated expenses or a deficit in assessable poundage. Any such increase shall apply to all assessable poundage of the crop year. The Committee may accept payments of assessments in advance and may borrow money in any amount not to exceed 10 percent of the estimated expenses set forth in its budget for the then crop year. The assessment weight of pitted dates shall be determined by dividing the weight of such dates by a divisor established by the Committee with the approval of the Secretary.

(b) *Surplus expenses.* The Committee is authorized to use temporarily funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in disposing of surplus dates. All such expenses shall be deducted from the proceeds obtained by the Committee from such disposal.

§ 987.76

(c) *Operating reserve.* The Committee, with the approval of the Secretary, may establish and maintain during one or more crop years an operating monetary reserve in an amount not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years, except that 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 proc-

7 CFR Ch. IX (1-1-07 Edition)

essing 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.

Agricultural Marketing Service, USDA

§ 987.101

§ 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.

(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

§ 987.102

identification either (a) packed as a continuous production segment, or (b) offered for inspection as a shipping, storage, or other unit.

§ 987.102 Lot number.

Lot number is synonymous with code and means a combination of letters or numbers, or both, acceptable to the Committee, showing at least the date of packing, the variety, and the outlet category of the dates. The combination of letters or numbers, or both, imprinted on the containers shall differ from those of any other lot coded within a 3-year period.

§ 987.104 Major marketing promotion.

A major marketing promotion program is one requiring the expenditure of more than \$500 of Committee funds.

[43 FR 28435, June 30, 1978]

§ 987.105 Whole equivalent of pitted dates.

For the purposes of this part, the whole date equivalent weight of pitted dates shall be determined by dividing the weight of the pitted dates by 0.83.

[53 FR 39226, Oct. 6, 1988]

IDENTIFICATION AND OUTLET
SPECIFICATIONS

§ 987.112 Identification of dates.

(a) *General.* Prior to applying the markings required by this section, each handler shall remove or delete from each container all former identifying marks which conflict with those applicable to the dates currently in the container. Dates of each outlet category shall be held, stored, or shipped in a manner to preserve their identity. Except as provided in paragraph (d) of this section, the markings on the containers shall be not less than five-sixteenths ($\frac{5}{16}$) inch in height on containers exceeding 5 pounds net weight and not less than one-eighth ($\frac{1}{8}$) inch in height on smaller containers. All markings shall be legible.

(b) *DAC dates.* Each handler shall mark every shipping or storage container (excluding subcontainers) of DAC dates with his name or that of the distributor for whom the handler is packing, and the lot number. Under the

7 CFR Ch. IX (1-1-07 Edition)

supervision of the inspection service every container shall be marked with the date of inspection, the name or insignia of the inspection service, and the letters "DAC".

(c) *FP dates.* Each handler shall mark every shipping or storage container (excluding subcontainers) of FP dates with his name or that of the distributor for whom the handler is packing, and the lot number. Under the supervision of the inspection service every container shall be marked with the date of inspection, the name or insignia of the inspection service, and the letters "FP".

(d) *Export dates.* Each handler shall mark every shipping or storage container (excluding subcontainers) of Export dates with his name or that of the exporting firm, and the lot number. If the dates, including fieldrun dates with cull dates removed, are certified as meeting the grade and size requirements for export to approved countries other than Mexico, the containers shall be marked "Export". Dry dates for processing packed for shipment to approved countries shall be marked "Export Dry". Dates packed for export to Mexico shall be marked "Export Mexico". However, "Export Mexico" shall be in letters not less than three-fourths ($\frac{3}{4}$) inch in height on containers exceeding 5 pounds net weight, and not less than one-eighth ($\frac{1}{8}$) inch in height on smaller containers. DAC dates and FP dates, marked pursuant to paragraphs (b) and (c), respectively, of this section, may be exported without change of marking.

(e) *Product and utility dates.* Each handler shall mark every shipping or storage container (excluding subcontainers) of Product dates, or Utility dates when approved for use in products, with the lot number and, if for shipment outside the area of production, with the word *Product* or *Utility*, as applicable. Whenever a handler, or an approved date product manufacturer, utilizes a procedure that maintains the identity of the lot and assures that the dates will be used in products or exported, the Committee may waive the requirements of this paragraph for that lot.

(f) *Unidentified dates.* If a handler loses the identity of any lot of dates

Agricultural Marketing Service, USDA

§ 987.112a

previously inspected and certified as marketable dates, the certification as to such lot shall be void.

[43 FR 28436, June 30, 1978]

§ 987.112a Grade, size, and container requirements for each outlet category.

(a) In lieu of the minimum standards prescribed in § 987.39, the following standards are prescribed as the minimum grades and sizes for marketable dates to be handled in the applicable outlets. These standards shall continue in effect irrespective of whether the season average price to producers for dates is or is not in excess of the parity level specified in section 2(1) of the act.

(b) *DAC dates.* (1) All varieties of DAC dates may be handled in the United States, Canada, or any other outlet established for dates of lesser grades or sizes.

(2) DAC dates of any variety shall at least meet the requirements of U.S. Grade B, except that up to 25 percent, by weight, of the dates may possess semi-dry of dry calyx ends, but not more than 5 percent, by weight, of the dates may possess dry calyx ends. Also, with respect to whole dates of the Deglet Noor variety, the individual dates in the sample from the lot shall weigh at least 6.5 grams, but up to 10 percent, by weight, may weigh less than 6.5 grams, except beginning February 21, 1997, and ending October 31, 1997, the 10 percent tolerance shall be increased to 15 percent. These size requirements are in addition to, and do not supersede, the requirements as to uniformity of size prescribed in the grade standards.

(3) DAC dates of any variety, when packed in plastic containers, other than bags and master shipping containers, shall contain a net weight (i) for whole dates, of either eight ounces, twelve ounces, 1 pound 8 ounces, or two pounds or more, and (ii) for pitted dates, of either seven ounces, ten ounces, one pound, one pound eight ounces, or two pounds or more. DAC dates packed in other than plastic containers may be handled without regard to the net weight content. For the purpose of this subparagraph, *plastic container* means any containers of any shape made from plastic and in which

dates are packed without the use of cardboard boats, trays, or other like stiffening material: *Provided*, That DAC dates shipped for sale in Canada in plastic containers are exempt from the net weight requirements of this subparagraph.

(4) The California Date Administrative Committee may designate with the approval of the Secretary such other types and sizes of containers for testing in connection with a research project conducted by or in cooperation with the Committee. The time period and the quantity of dates which may be marketed by handlers during that period shall be designated by the Committee for each market research project. The handling of each lot of dates in such test containers shall be subject to the prior approval, and under the supervision, of the Committee.

(c) *Dates for further processing.* (1) Except as provided in § 987.152(b)(1), all varieties of FP dates may be disposed of only (i) to persons in the United States capable of processing and packing the dates and having them certified as DAC dates, or (ii) exported to the countries designated in paragraph (d)(2) of this section.

(2) FP dates of any variety shall at least meet the requirements of U.S. Grade B (dry). Also, with respect to whole dates of the Deglet Noor variety, the individual dates in the sample from the lot shall weigh at least 6.5 grams, but up to 10 percent, by weight, may weigh less than 6.5 grams, except beginning February 21, 1997, and ending October 31, 1997, the 10 percent tolerance shall be increased to 15 percent. These size requirements are in addition to, and do not supersede, the requirements as to uniformity of size prescribed in the grade standards.

(d) *Export dates.* (1) Dates of any variety identified as "Export" dates and inspected and certified as meeting the requirements of this subparagraph may only be exported to any country except Canada. Such dates shall at least meet the requirements of U.S. Grade C: *Provided*, That Deglet Noor dates shall score not less than 31 points for character and 24 points for absence of defects but up to 40 percent, by weight, of

the dates may be damaged by broken skin.

(2) *Export of dry dates.* Dates of any variety identified and certified as meeting the requirements of this subparagraph only may be exported to the following designated date producing and processing countries in North Africa: Morocco, Algeria, Tunisia, Libya,¹ Egypt, and Sudan; the following date processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, France, Greece, and the Netherlands; and the following date processing and consuming country in Asia: Japan. Such dates shall at least meet U.S. Grade C (dry) except for defects removable by washing; *Provided*, That Deglet Noor dates shall score not less than 31 points for character and 24 points for absence of defects but up to 40 percent, by weight, of the dates may be damaged by broken skin.

(3) Dates of any variety identified as "Export—Mexico" and inspected and certified as at least meeting the requirements of U.S. Grade C may be exported only to Mexico. No dates shall be exported to Mexico unless the handler certifies to the Committee and the U.S. Department of Agriculture, on CDAC Form No. 11(a), which shall be submitted to the Committee, that the importing buyer has agreed that such dates will not reenter the United States or be shipped to Canada. The form shall show the identity of the handler, the trucker, the importer, the destination of the dates, the location of the border-crossing station, and such other information as the Committee deems appropriate to perform its duties and exercise its powers under this part.

¹Executive Order 12543 of January 7, 1986 (51 FR 875), prohibits trade and certain transactions involving Libya, and is applicable to exports of dates under this marketing order as long as the executive order is in effect. That order, among other things, prohibits the exports to Libya of any goods, technology (including technical data or other information) or services from the United States, except publications and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes.

(4) Whenever field-run dates of any variety are authorized for export to any country, each lot shall consist of at least 85 percent, by weight, of sound dates. *Sound dates* means individual dates which are at least U.S. Grade C in character and are free of the defects—other than those removable by washing—scored to determine the point requirement applicable to their intended destination.

(5) Dates meeting the grade and size requirements of this paragraph may be disposed of in outlet categories established for dates of lesser grades and sizes.

(e) *Product dates.* (1) Dates of any variety identified as "Product" dates and inspected and certified as at least meeting the requirements of this paragraph may be disposed of by handlers for use or used by them in the production of table syrup, rings, chunks, pieces, butter, paste, and macerated dates or other products approved by the Committee. If the handler does not use the dates in products, he may sell them to: (i) Other handlers within the area of production for conversion into products, or (ii) to date product manufacturers approved by the Committee regardless of their location. Once the dates have been converted from their whole or pitted form, they may be shipped to any market in the United States, Canada, or foreign country.

(2) Product dates of any variety and identified as "Product" shall meet the requirements of U.S. Grade C, except that mashing and mechanical injury not affecting eating quality shall not be considered in determining the defect factor.

(f) *Change of outlet.* A handler may change the outlet category for any lot of dates: *Provided*, That prior to such change, the handler files a completed CDAC Form No. 1(a) and a new inspection certificate with the Committee. If the grade and size requirements of the new outlet category are the same as or less than the requirements of the outlet category previously intended, only a condition inspection is required. If the grade and size requirements of the new outlet category are greater, a complete inspection is required. The handler shall change the marking on the

Agricultural Marketing Service, USDA

§ 987.138

containers to conform with the identification requirements prescribed in § 987.112 for the new outlet.

(g) *Deteriorated dates.* Any marketable dates which deteriorated in quality so that they are either utility or cull dates may be disposed of only in the applicable outlets for such dates or they may be reconditioned and upon reconditioning, the modified lot may be reinspected and recertified, as applicable.

[43 FR 28436, June 30, 1978, as amended at 47 FR 4489, Feb. 1, 1982; 47 FR 23417, May 28, 1982; 48 FR 176, Jan. 11, 1983; 51 FR 4478, Feb. 5, 1986; 52 FR 35530, Sept. 22, 1987; 53 FR 35994, Sept. 16, 1988; 56 FR 778, Jan. 9, 1991; 57 FR 61779, Dec. 29, 1992; 62 FR 7663, Feb. 20, 1997]

NOMINATIONS

§ 987.124 Nomination and polling.

(a) Date producers and producer-handlers shall be provided an opportunity to nominate individuals to serve on the Committee. For this purpose, the Committee shall establish a date and place for polling prior to June 15 of each even-numbered year and establish a procedure for casting absentee ballots. The date and place of polling shall be announced at least 6 weeks prior to the polling date by letters to all known date producers and producer-handlers and by Committee press releases to local newspapers and other news media in the date-producing area. Such letters and press releases shall: (1) include the names of incumbents who are willing to continue serving on the Committee; (2) inform eligible producers and producer-handlers of the opportunity to propose additional names to be included on the nomination ballots; and (3) state when and where absentee ballots will be available. Additional names to be included on the nomination ballot must be received by the Committee at least 4 weeks prior to the polling date. Absentee ballots and instructions for completing and returning the ballots will be made available by the Committee at least 3 weeks prior to the polling date. Any person eligible to vote must request the ballot in person at the Committee's office or must submit a written request to the Committee for an absentee ballot. All ballots shall provide for write-in can-

didates and must be returned by the close of business on the polling date to be counted.

(b)(1) *Producers.* Each producer may vote for three producer members and three producer alternate members. No producer may vote more than once for any one person. The three individuals receiving the highest number of votes for the producer member positions shall be the producer member nominees. Individuals nominated for producer member and failing to receive enough votes to become a producer member nominee shall have their names listed with those nominated for producer alternate members and the votes cast for them as member shall be counted with any votes they received for producer alternate member. The three individuals receiving the highest number of votes for the producer alternate member positions shall be the producer alternate member nominees.

(2) *Producer-handlers.* Each producer-handler may vote for one producer-handler member and one producer-handler alternate member, and these votes shall be weighted as provided in § 987.24. No producer-handler may vote more than once for any one person. The six individuals receiving the highest weighted votes for the producer-handler member positions shall be the producer-handler member nominees. Individuals nominated for producer-handler member and failing to receive enough votes to become a producer-handler member nominee shall have their names listed with those nominated for producer-handler alternate members and the votes cast for them as member shall be counted with any votes they received for producer-handler alternate member. The six individuals receiving the highest weighted vote for producer-handler alternate member positions shall be the alternate member nominees.

[43 FR 28437, June 30, 1978]

§ 987.138 Handlers of record.

Prior to handling dates, each person shall file CDAC Form No. 18 with the Committee at the times, and containing the information, prescribed in § 987.38.

[43 FR 28437, June 30, 1978]

INSPECTION

§ 987.141 Inspection and certification.

Each handler shall furnish, or cause the inspection service to furnish, to the Committee a copy of the inspection certificate issued to him on each lot of dates, and such certificate shall contain at least the following information: (a) The date of inspection; (b) the name of the handler; (c) the lot number and the applicable outlet category set forth in § 987.112a; (d) the variety of dates and weight of the lot; (e) the number and type of containers in the lot; and (f) if the dates (1) are other than field-run dates, a certification as to the grade of the dates and whether or not they meet the applicable grade, size, container, and identification requirements, or (2) are field-run dates, a certification showing the percentage by weight, of sound dates in the lot, and whether or not they meet the identification requirements for such dates.

[43 FR 28437, June 30, 1978]

VOLUME REGULATION

§ 987.145 Withholding obligation.

(a) *Satisfying the withholding obligation.* Any handler may satisfy all or part of his withholding obligation for any variety of dates for which free and restricted percentages have been established by having an adequate quantity of that variety inspected and certified as meeting the applicable grade, size, and container requirements prescribed by the Committee for any approved restricted date outlet.

(b) *Credit for excess disposition in restricted outlets.* Disposition of marketable dates in restricted outlets in excess of a handler's withholding obligation may be: (1) Transferred pursuant to § 987.45 upon such handler filing a completed CDAC Form No. 14 with the Committee, or (2) credited to the handler's withholding obligation of the following crop year so long as the excess disposition exceeds 199 pounds. However, the quantity so credited shall never exceed 40 percent of the handler's withholding obligation of the crop year in which the excess disposition occurred and 100 percent of the withholding obligation incurred by him during October through December of the crop year fol-

lowing the crop year in which such excess disposition occurred. All such crediting or accumulation shall be contingent upon the Committee receiving, in due course, confirmation that the dates were disposed of in eligible restricted outlets. With respect to exports, the withholding credit shall be granted upon the Committee receiving notification from the inspection service, and in due course a copy of the on board bill of lading or other documentary evidence satisfactory to the Committee.

(c) *FP dates.* Withholding obligations on FP dates shall be based on the weight of such dates when they are inspected and certified. However, if such dates are subsequently processed and packed within the area of production, the withholding obligation shall be adjusted to reflect any increase in weight.

(d) *Dates for deferment of withholding.* Any handler may defer his certification and withholding or disposition of restricted dates by pledging a comparable volume of graded or field-run dates as a surety that he will meet his withholding obligation at a later date. Such deferment shall not be effective until: (1) The handler files with the Committee a CDAC Form No. 12 to set aside graded dates or CDAC Form No. 13 to set aside field-run dates; and (2) the pledged dates are set aside as a lot and identified by the handler as "Restricted" and as "Graded" or "Field-Run", as appropriate, and as to the number of containers, the date of set-aside and whether or not the dates have been inspected. If the handler sets aside field-run dates or disposes of field-run dates in outlets prescribed in or pursuant to § 987.56 to obtain withholding credit for the sound date portion in the lot, the field-run dates shall meet the requirements prescribed in paragraph (f) of this section for eligible field-run dates, as determined by the inspection service.

(e) *Identification of restricted dates.* Any lot of restricted dates not immediately disposed of through exportation to countries approved by the Committee or directed to approved product outlets shall be stored as a lot separate from all other dates and in a specified

Agricultural Marketing Service, USDA

§ 987.152

location with a USDA inspection service tag marked "Restricted".

(f) *Field-run dates.* Field-run dates set aside for the purpose of deferring or meeting any part or all of a withholding obligation shall consist of at least 70 percent, by weight, of sound dates but may contain 10 percent, by weight, of cull dates of which not more than 5 percent may be hidden culls—i.e., dates with internal defects including souring, mold, fermentation, insect infestation, or foreign material.

(g) *Substitution.* Any handler may, under the direction and supervision of the Committee or the inspection service, substitute for any quantity of restricted dates held by him a like quantity of dates of the same variety and of the same or more recent year's production which have been certified and identified as meeting the requirements for restricted dates.

[43 FR 28437, June 30, 1978]

SURPLUS

§ 987.147 Surplus.

(a) *General.* Surplus dates delivered to the Committee pursuant to § 987.47 shall be pooled for sale to livestock feeders, distillers, or manufacturers of inedible products: *Provided*, That if any portion of the deliveries differs sufficiently to require separate handling, and earn a different average return, such portion shall be handled as a separate pool. The income from sale of surplus, after deduction of committee expenses, shall be paid to the respective equity holders in the pool or pools, or to their assignees, on the basis of the weight of dates each delivered.

(b) *Delivery.* The Committee may refuse delivery of any surplus dates which it determines are excessively soured, fermented, or adulterated by palm debris, rocks, paper, wood, plastic liners, or other foreign material. If the Committee refuses delivery, the deliverer shall be permitted to clean such dates sufficiently to make them acceptable to the Committee. The weight of each accepted delivery shall be that determined by a public weightmaster or, in the absence of such weight, that determined by the Committee on the basis of the number and size of the containers used in the delivery. Upon de-

livery of surplus dates to the Committee, the deliverer, or a designee of the Committee shall execute CDAC Form SP-1, Delivery Manifest, showing: (1) The person to receive payment of the net proceeds for the surplus, (2) the date and place of loading, (3) if field surplus, the location and owner of the garden, (4) the type and number of containers loaded or dumped, (5) the net weight of the load, and (6) if the delivery is directly to a buyer's truck, the driver, truck and buyer.

QUALIFICATION TO REGULATION

§ 987.151 Interhandler transfers.

When any handler transfers dates, other than product dates, to another handler, the selling handler shall promptly notify the Committee by filing with it a completed CDAC Form No. 1 and shall show the name and address of the transferring or selling handler and of the receiving or buying handler, the variety and processed category or classification of the dates, the lot number and inspection certificate number on any lot of packed and certified dates, the number and type of containers, the net weight of the transferred dates, and if applicable, the transferring handler's statement on assuming the withholding and assessment obligation. A transfer of products dates between handlers shall be reported as a disposition by the selling handler filing with the Committee a completed CDAC Form No. 8.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28438, June 30, 1978]

§ 987.152 Exemption from regulations.

(a) *Producer exemption.* The Committee may permit any producer to sell dates from such producer's own production free of the requirements of §§ 987.41, 987.45, 987.48, and 987.72 when sold directly to consumers through a roadside stand or date shop owned or operated by the producer within 25 miles of the city limits of Indio, California, through shipments by parcel post or express, or by certified producers at certified farmers' markets, as these terms are defined by the State of California. Permission to so sell dates

§987.157

7 CFR Ch. IX (1-1-07 Edition)

shall be granted only upon the producer filing with the Committee a completed CDAC Form No. 9 wherein the producer describes how the producer plans to sell such dates and agrees to sell only dates of DAC date quality of the producer's own production in direct sales; and to report such sales to the Committee. If the producer fails to comply with this agreement, the Committee may revoke any or all exemptions granted the producer.

(b) *Handler exemptions*—(1) *Specialty sales.* The Committee may permit any handler to sell to health food stores or health food outlets, dates which at least meet the requirements for FP dates. It may permit any handler to sell to a candy manufacturer hand-pitted dates which meet the grade requirements for DAC dates except for size, or damage due to cutting and pitting. Also, it may permit any handler to sell hand-layered dates in tin, wood, plastic, or other type of container exempt from §§987.41(a) and 987.48, or to make shipments by common carrier of up to 150 pounds to any one purchaser in any one day exempt from the provisions of §987.41(a): *Provided,* That the hand-layered dates or the shipment to a single purchaser in any 1 day have been packed from dates certified as meeting the grade requirements for DAC dates and have not been commingled with other dates. Permission to use these exemptions shall be granted only upon the handler filing with the Committee its CDAC Form No. 10 wherein he describes how he plans to sell, and agrees to sell only specific dates and to report such sales.

(2) *Donations.* The Committee may permit any handler to donate marketable dates other than DAC dates to needy persons, prisoners, or Indians on reservations. Before such donation is made, such handler shall file a request for donation with the Committee detailing the quantity and grade of dates involved and the name and address of the intended donee. The donation may be subject to Committee surveillance, verification by written documentation of receipt by the donee, and any other

safeguards necessary to assure consumption in these outlets.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28438, June 30, 1978; 53 FR 35994, Sept. 16, 1988; 57 FR 39112, Aug. 28, 1992]

§987.157 **Approved date product manufacturers.**

Any person, including date handlers, with facilities for converting dates into products may apply to the committee, by filing CDAC Form No. 3, for listing as an approved date product manufacturer.

(a) The applicant shall indicate on such form: The products he/she intends to make; the quantity of dates he/she may use; the location of his/her facilities; and agree that all dates obtained for manufacturing into products shall be used for that purpose, none shall be resold or disposed of as whole or pitted dates.

(b) As a condition to become an approved date product manufacturer: Each applicant is subject to an inspection of his/her manufacturing plant to verify that proper equipment to convert dates into products is in place and that the plant meets appropriate sanitation requirements; the applicant also shall agree to file a report of the disposition of each lot of dates on the Committee's CDAC Form No. 8 within 24 hours of the transaction, and to file an annual usage and inventory report on CDAC Form No. 4 by October 10 of each year; and an applicant who is also a handler under the order shall be in compliance with the order, including the assessment payment and reporting requirements.

(c) The committee shall approve each such application on the basis of information furnished or its own investigation, and may revoke any approval for cause. The name and address of all approved manufacturers shall be placed on a list and made available to each date handler in Riverside County.

(d) If an application is disapproved, the committee shall notify the applicant in writing of the reasons for disapproval, and allow the applicant an opportunity to respond to the disapproval. When the applicant has complied with all the qualification requirements to become an approved manufacturer, the committee shall notify the

Agricultural Marketing Service, USDA

§ 987.165

applicant in writing of such approval. The applicant's name shall be added to the list of approved manufacturers, which shall be made available to each date handler in Riverside County.

(e) Each approved manufacturer of date products is required to renew their approved manufacturer status with the committee by submitting an updated CDAC Form No. 3 at the end of a crop year, but no later than October 10 of the new crop year. In addition, the approved manufacturer must continue to meet the other approved manufacturer qualification requirements.

(f) In the event an approved date product manufacturer who is also a regulated date handler within the area of production does not remain in compliance with the order, or fails or refuses to submit reports or to pay assessments required by the committee, such date product manufacturer shall become ineligible to continue as an approved date product manufacturer. Prior to making a determination to remove a date product manufacturer from the approved date product manufacturer list, the committee shall notify such manufacturer in writing of its intention and the reasons for removal. The committee shall allow the date product manufacturer an opportunity to respond. In the event that a date product manufacturer's name has been removed from the list of approved date product manufacturers, a new application must be submitted to the committee and the applicant must await approval.

[70 FR 11119, Mar. 8, 2005]

REPORTS AND RECORDS

§ 987.161 Handler carryover.

Each handler shall file with the Committee, a report of his carryover of dates as of March 1 and October 1 and, when volume regulation is established, as of January 1. This report shall be on CDAC Form No. 5 and shall show, by variety, at least: (a) The quantity of DAC dates held within and outside the area, (b) the quantity of FP dates held within the area, (c) the quantity of export dates, and (d) the quantity of dates held graded but not certified, and

as field-run, segregated as to outlet category.

[43 FR 28438, June 30, 1978, as amended at 53 FR 35995, Sept. 16, 1988]

§ 987.162 Handler acquisition and disposition.

Handlers shall file CDAC Form No. 6 with the Committee by the 10th of each month, reporting at least the following for the preceding month: (a) Their acquisition of field run dates; (b) their shipments of marketable dates in each outlet category; (c) their shipments of free dates and disposition of restricted dates, whenever applicable, and (d) their purchase from other handlers of DAC, Export, Product, Graded and field run dates. In addition, this report shall include the names and addresses of any producers not previously identified pursuant to § 987.38, the quantity of dates acquired from each producer, the location of such producer's date garden, the acreage of that garden, and the estimated current season's production from that garden.

[46 FR 9917, Jan. 30, 1981]

§ 987.164 Shipments of product dates and disposition of restricted dates in approved product outlets.

Each handler shall file with the Committee a completed CDAC Form No. 8 showing the shipment of each lot of product dates or the disposition of restricted dates in approved product outlets. This report shall be filed promptly after shipment or disposition of those dates and shall identify the lot, the outlet, the number of containers, and the net weight of the dates. If such dates are sold to an approved date product manufacturer, a copy of the completed form shall be signed and dated by the manufacturer and returned to the Committee. If the lot was certified as product dates and is exported to Mexico, the handler shall submit completed CDAC Form No. 8 together with completed CDAC Form No. 11(a) to the Committee.

[43 FR 28439, June 30, 1978, as amended at 53 FR 35995, Sept. 16, 1988]

§ 987.165 Other reports.

(a) *Exempt sales.* Each handler shall file with the Committee, a completed

§ 987.168

CDAC Form No. 2 showing the quantity and variety of dates sold under exemption during the crop year. The report shall be filed upon the completion of such sales or promptly after the end of the crop year.

(b) *Products.* Each approved date product manufacturer shall file with the Committee a completed CDAC Form No. 4 showing his beginning and ending inventories of product dates, the quantity received during the crop year, the quantity used, the type and quantity of products manufactured, and his year-end inventory of products. This report shall be filed promptly after the end of each crop year.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28439, June 30, 1978]

§ 987.168 Handler records.

Each handler shall establish complete records which accurately show the quantity of dates handled, disposed of, and withheld. These records shall be maintained for at least 2 years after the end of the crop year of record. Records shall show:

(a) For grower deliveries of dates, the name of each grower, the varieties delivered and the net weight of each variety;

(b) For shipments of dates, the variety, type of pack, net weight and destination or name and address of the person to whom each shipment was sent;

(c) If different from shipments, the variety, type of pack, net weight and purchaser of each quantity of dates sold; and

(d) Manifests, invoices, weight certificates, inventory tabulations, or any other documents necessary to prepare, file, or substantiate the reports required to be filed with the Committee.

[37 FR 23325, Nov. 2, 1972, as amended at 43 FR 28439, June 30, 1978]

§ 987.172 Adjustment of assessment obligation.

In accordance with §§ 987.45 and 987.72, the assessment obligation of FP dates shall be based on the weight of the dates at the time of inspection and certification. However, if such dates are subsequently processed and packed within the area of production, the as-

7 CFR Ch. IX (1-1-07 Edition)

essment obligation shall be adjusted to reflect any increase in weight and the obligation shall be placed on the handler agreeing to assume it.

[43 FR 28439, June 30, 1978]

Subpart—Assessment Rates

§ 987.339 Assessment rate.

On and after October 1, 2005, an assessment rate of \$0.95 per hundred-weight is established for California dates.

[70 FR 67087, Nov. 4, 2005]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Subpart—Order Regulating Handling

DEFINITIONS

- Sec.
- 989.1 Secretary.
- 989.2 Act.
- 989.3 Person.
- 989.4 Area.
- 989.5 Raisins.
- 989.7 Golden Seedless raisins.
- 989.8 Natural condition raisins.
- 989.9 Packed raisins.
- 989.10 Varietal types.
- 989.11 Producer.
- 989.12 Dehydrator.
- 989.12a Cooperative bargaining association.
- 989.13 Processor.
- 989.14 Packer.
- 989.15 Handler.
- 989.16 Blend.
- 989.17 Acquire.
- 989.18 Committee.
- 989.20 Ton.
- 989.21 Crop year.
- 989.22 District.
- 989.23 File.
- 989.24 Standard raisins, off-grade raisins, other failing raisins, and raisin residual material.
- 989.24a Non-normal outlets.
- 989.25 Part and subpart.

RAISIN ADMINISTRATIVE COMMITTEE

- 989.26 Establishment and membership.
- 989.27 Eligibility.
- 989.28 Term of office.
- 989.29 Initial members and nomination of successor members.
- 989.30 Selection.
- 989.31 Failure to nominate.
- 989.32 Acceptance.
- 989.33 Alternate members.
- 989.34 Vacancies.