

lot of mixed dried fruit containing French prunes for human consumption as mixed dried fruit, unless the average count of French prunes contained in any such lot is 100 or less per pound. However, under safeguards to be established by the Committee, any lot containing French prunes with an average size count of more than 100 prunes per pound may be shipped to or disposed of in prune product outlets in which they lose their form and character as prunes by conversion prior to consumption. In determining whether any such lot conforms to this minimum size requirement, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes shall not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points. The Secretary may, upon the basis of the recommendation and information submitted by the Committee and other available information, modify this tolerance for uniformity of size.

(e) No handler shall ship or otherwise make final disposition of any lot of substandard prunes except for use as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption, or for use in non-human consumption outlets: *Provided*, That any such prunes which are shipped or otherwise disposed of for human consumption shall meet the minimum standards prescribed in II C (1), (2), and (3) of § 993.97 or as such standards as may pursuant to § 993.52 be modified. The committee shall issue any such rules and regulations as may be necessary to insure such uses.

(f) Notwithstanding the restrictions contained in this section, any handler may transfer prunes from one plant owned by him to another plant owned by him within the area without having an inspection made as provided for in § 993.51. Any handler may ship prunes from his plant to another handler's plant within the area without having an inspection made as provided for in § 993.51, but a report of such inter-handler transfer shall be made promptly by the transferring handler to the committee. The receiving handler shall, before shipping or otherwise making final disposition of such prunes, comply with

the requirements of this section and of § 993.51.

(g) No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes. However, such handler may, at the direction and under the supervision of the Committee, dispose of such quantity of prunes in nonhuman consumption outlets. Prunes so disposed of shall be of the same variety as, and reasonably comparable in size, to such undersized prunes. The handler shall cause the inspection service to make a determination whether the prunes disposed of by the handler in nonhuman consumption outlets meet such requirements. In making the determination with respect to comparability in size, the inspection service shall apply a tolerance permitting a deviation from the size of the applicable opening established pursuant to § 993.49(c). Any such tolerance, together with any rules and regulations to insure proper disposition of the prunes and that such prunes are reasonably comparable to the undersized prunes so received, shall be established by the Committee with the approval of the Secretary. The quantity of prunes determined pursuant to § 993.49(c) shall not be deemed to be within the handler's quota for salable prunes fixed by the Secretary within the meaning of section 8a(5) of the Act.

[26 FR 476, Jan. 19, 1961, as amended at 37 FR 862, Jan. 20, 1972]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.50 was suspended indefinitely.

#### § 993.51 Inspection and certification.

Each handler shall at his own expense, before or upon the receiving, and before the shipping or disposing of prunes, cause an inspection to be made of such prunes to determine whether they meet the applicable grade and size requirements or the pack specifications, including labeling, effective pursuant to this part. Such handler shall obtain a certificate that such prunes meet the aforementioned applicable requirements and shall submit such certificate, or cause it to be submitted, to the committee. Acceptable certificates shall be those issued by inspectors of

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the Dried Fruit Association of California. The Secretary may designate another inspection service in the event the services of the Association prove unsatisfactory.

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.51 was suspended indefinitely.

### § 993.52 Modification.

Minimum standards, pack specifications or size regulations, including the openings prescribed in § 993.49(c), may be modified by the Secretary, on the basis of a recommendation of the committee or other information, whenever he finds that such modification would tend to effectuate the declared policy of the act.

[26 FR 476, Jan. 19, 1961, as amended at 37 FR 862, Jan. 20, 1972]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.52 was suspended indefinitely.

### § 993.53 Above parity situations.

The minimum standards, the minimum sizes, including the minimum undersized regulation in § 993.49(c), and the provisions of this part relating to administration shall continue in effect irrespective of whether the estimated season average price for prunes is in excess of the parity level specified in section 2(1) of the act.

[46 FR 61637, Dec. 18, 1981]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.53 was suspended indefinitely.

## RESERVE CONTROL

SOURCE: 30 FR 9799, Aug. 8, 1965, unless otherwise noted.

### § 993.54 Establishment of salable and reserve percentages.

Whenever the Secretary finds, from the recommendations and supporting information supplied by the committee, or from any other available information, that to establish the percentages of prunes for any crop year which shall be salable prunes and reserve prunes, respectively, or to modify the previously established percentages, would tend to effectuate the declared policy of the act, he shall establish or modify such percentages. The salable and reserve percentages when applied to the natural condition weight of

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prunes, excluding the quantity of undersized prunes determined pursuant to § 993.49(c), received during the crop year by a handler from producers and dehydrators, plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates issued pursuant to § 993.62 and credited to or held by him, shall determine the weight of each handler's receipts which are salable prunes and reserve prunes. The total of the salable and reserve percentages shall equal 100 percent. A cooperative marketing association may concentrate the prunes of its producer members before applying the salable and reserve percentages.

[30 FR 9799, Aug. 6, 1965, as amended at 37 FR 862, Jan. 20, 1972]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.54 was suspended indefinitely.

### § 993.55 Application of salable and reserve percentages after end of crop year.

The salable and reserve percentages established for any crop year shall remain in effect after that crop year until salable and reserve percentages are established for another crop year. After such percentages are established, all reserve obligations shall be adjusted to the newly established percentages.

[46 FR 61637, Dec. 18, 1981]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.55 was suspended indefinitely.

### § 993.56 Reserve obligation.

Whenever salable and reserve percentages are in effect for any crop year, the reserve obligation of a handler shall approximate the average marketable content of the handler's receipts and shall be a weight of natural condition prunes equal to the reserve percentage applied to the natural condition weight of prunes, excluding the quantity of undersized prunes determined pursuant to § 993.49(c), such handler receives during the crop year from producers and dehydrators plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates credited to or held by him which were issued pursuant to § 993.62. However, if the committee determines