

§ 81.3

7 CFR Ch. I (1-1-11 Edition)

Marketing Committee (Committee). The Committee, or its authorized representatives, does not have authority to modify or waive any of the provisions of this subpart. Such power shall rest solely with the Administrator of AMS, or delegatee. The Administrator or delegatee, in the Administrator's or delegatee's sole discretion can modify deadlines or other conditions, as needed or appropriate to serve the goals of the program. In all cases, payments under this part are subject to the availability of funds.

§ 81.3 Definitions.

(a) *Administrator* means the Administrator of AMS.

(b) *AMS* means the Agricultural Marketing Service of the U.S. Department of Agriculture.

(c) *Application* means "Application for Prune Tree Removal Program."

(d) *Committee* means the Prune Marketing Committee established by the Secretary of Agriculture to locally administer Federal Marketing Order No. 993 (7 CFR Part 993), regulating the handling of dried prunes produced in California.

(e) *Diversion* means the removal of prune-plum trees after approval of applications by the Committee through June 30, 2002.

(f) *Producer* means an individual, partnership, association, or corporation in the State of California who grows prune/plums that are dehydrated into dried plums for market.

(g) *Removal* means that the prune-plum trees are no longer standing and capable of producing a crop, and the roots of the trees have been removed. The producer can accomplish removal by any means the producer desires. Grafting another type of tree to the rootstock remaining after removing the prune/plum tree would not qualify as removal under this program.

§ 81.4 Length of program.

Producers diverting prune/plums by removing prune-plum trees must complete the diversion no later than June 30, 2002.

§ 81.5 General requirements.

(a) To be eligible for this program, the trees to be removed must have

yielded at least 1.5 tons of dried prune/plums per net-planted acre during the 1999 or 2000 crop year. A net-planted acre is the actual acreage planted with prune-plum trees. Abandoned orchards and dead trees will not qualify. In new orchards diverted, qualifying trees must be at least 5 years of age (6th leaf), contain at least two scaffolds, and be capable of producing at least 1.5 tons per net-planted acre. The block of trees for removal must be easily definable by separations from other blocks and contain at least 1,000 eligible trees or comprise an entire orchard.

(b) Any grower participating in this program must agree not to replant prune-plum trees on the land cleared under this program through June 30, 2004. Participants bear responsibility for ensuring that trees are not replanted, whether by themselves, or by successors to the land, or by others, until after June 30, 2004. If trees are replanted before June 30, 2004, by any persons, participants must refund any USDA payment, with interest, made in connection with this tree removal program.

§ 81.6 Rate of payment; total payments.

(a) The rate of payment for each eligible prune-plum tree removed will be \$8.50 per tree.

(b) Payment under paragraph (a) of this section will be made after tree removal has been verified by the staff of the Committee.

(c) The \$8.50 per tree payment shall be the total payment. USDA will make no other payment with respect to such removals. The producer will be responsible for arranging, requesting, and paying for the tree removal in the specified orchard blocks or orchard(s), as the case may be.

(d) Total payments under this program are limited to no more than \$17,000,000. No additional expenditures shall be made, unless the Administrator or delegatee in their sole and exclusive discretion shall, in writing, declare otherwise.

§ 81.7 Eligibility for payment.

(a) If total applications for payment do not exceed \$17,000,000, less administration costs, payments will be made

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under this program to any eligible producer of prune/plums who complies with the requirements in §81.8 and all other terms and conditions in this part.

(b) If applications for participation in the program authorized by this part exceed \$17,000,000, less administration costs, the Committee will approve the applications (subject to the requirements in §81.8) in the order in which the completed applications are received in the Committee office up to the funding limit of \$17,000,000, less administration costs, for the program. Any additional applications will be denied.

(c) The Administrator or his delegatee may set other conditions for payment, in addition to those provided for in this part, to the extent necessary to accomplish the goals of the program.

§81.8 Application and approval for participation.

(a) Applications will be reviewed for program compliance and approved or disapproved by Committee office personnel.

(b) Applications for participation in the Prune-Plum Diversion Program can be obtained from the Committee office at 3841 North Freeway Boulevard, Suite 120, Sacramento, California 95834; telephone (916) 565-6235.

(c) Any producer desiring to participate in the prune-plum diversion program must have filed an application with the Committee by January 31, 2002. The application shall be accompanied by a copy of any two of the following four documents: Plat Map from the County Hall of Records; Irrigation Tax Bill; County Property Tax Bill; or any other documents containing an Assessor's Parcel Number. Such application shall include at least the following information:

(1) The name, address, telephone number and tax identification number/social security number of the producer;

(2) The location and size of the production unit to be diverted;

(3) The prune/plum production from the orchard or portion of the orchard to be diverted during the 1999-2000 and 2000-2001 seasons;

(4) A statement that all persons with an equity interest in the prune/plums in the production unit to be diverted consent to the filing of the application. That is, the statement must show that the applicant has clear title to the property in question, and/or as needed, the statement must show an agreement to participate in the tree removal program from all lien or mortgage holders, and/or land owners, lessors, or similar parties with an interest in the property to the extent demanded by AMS or to the extent that such persons could object to the tree removal. However, obtaining such assent shall be the responsibility of the applicant who shall alone bear any responsibilities which may extend to third parties;

(5) A statement that the applicant agrees to comply with all of the regulations established for the prune/plum diversion program;

(6) A certification that the information contained in the application is true and correct;

(7) The year that the unit of prune/plums was planted;

(8) An identification of the handler(s) who received the prune/plums from the producer in the last two years.

(d) After the Committee receives the producer applications, it shall review them to determine whether all the required information has been provided and that the information appears reliable.

(e) As previously indicated, if the number of trees to be removed in such applications, multiplied by \$8.50 per tree, exceeds the amount of funds available for the diversion program, each grower's application will be considered in the order in which they are received at the Committee office. AMS may reject any application for any reason, and its decisions are final.

(f) After the application reviews and confirmation of eligible trees are completed, the Committee shall notify the applicant, in writing, as to whether or not the application has been approved and the number of trees approved for payment after removal. If an application is not approved, the notification