

**§987.76**

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.

(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.

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(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 processing 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