

## §917.38

which may be incurred during such period. At any time during or after the fiscal period, the Secretary may increase the rates of assessment in order to secure funds to cover any later findings by the Secretary relative to such expenses, and such increase shall apply to all fruit shipped during the fiscal period.

(c) In order to provide funds to carry out the functions of the commodity committee prior to commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season. Any shipper who ships fruit for the account of a grower may deduct, from the account of sale covering such shipment or shipments, the amount of assessments levied on said fruit shipped for the account of such grower.

[71 FR 41352, July 21, 2006, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.37 was suspended indefinitely, effective October 28, 2011.

## §917.38 Accounting.

If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each commodity committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the per-

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sons from whom such funds were collected.

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### RESEARCH

## §917.39 Production research, market research and development.

The committees, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to §917.37.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.39 was suspended indefinitely, effective October 28, 2011.

### REGULATIONS

## §917.40 Recommendations for regulations.

(a) Whenever a commodity committee deems it advisable to regulate the handling of any variety or varieties of fruit in the manner provided in §917.41, it shall so recommend to the Secretary.

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

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.40 was suspended indefinitely, effective October 28, 2011.