

Agricultural Marketing Service, USDA

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handlers thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(e) If a handler does not pay assessments within the time prescribed by the committee, the assessment may be increased by a late payment charge and/or an interest rate charge at amounts prescribed by the committee with approval of the Secretary.

[26 FR 704, Jan. 25, 1961, as amended at 73 FR 10976, Feb. 29, 2008]

§ 959.43 Accounting.

(a) Assessments collected in excess of expenses incurred shall be accounted for in accordance with one of the following:

(1) Excess funds not retained in a reserve, as provided in paragraph (a)(2) of this section shall be refunded proportionately to the persons from whom they were collected.

(2) The committee, with the approval of the Secretary, may carry over excess funds into subsequent fiscal periods as reserves: *Provided*, That funds already in reserves do not equal approximately two fiscal periods' expenses. Such reserve funds may be used (i) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, 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. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the

purpose specified in this part and shall be accounted for in the manner provided for in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

[26 FR 12751, Dec. 30, 1961, as amended at 34 FR 6440, Apr. 12, 1969]

RESEARCH AND DEVELOPMENT

§ 959.48 Research and development.

The committee, 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, consumption or efficient production of onions. The expenses of such projects shall be paid from funds collected pursuant to § 959.42.

[38 FR 31516, Nov. 15, 1973]

REGULATIONS

§ 959.50 Marketing policy.

(a) At the beginning of each season, and as the Secretary may require, the committee shall prepare a marketing policy. Such policy shall indicate the data on onion supplies and demand on which the committee bases its judgments and recommendations. It shall

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indicate also the kind or types of regulations contemplated during the ensuing season, and, to the extent practical, shall include recommendations for specific regulations. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available generally.

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to onion supplies for the season, with special consideration to:

- (1) Estimates of total supplies, including grade, size, and quality thereof, in the production area;
- (2) Estimates of supplies in the competing areas;
- (3) Market prices by grades, sizes, containers, and packs;
- (4) Estimates of supplies of competing commodities;
- (5) Anticipated marketing problems;
- (6) Level and trend of consumer income; and
- (7) Other relevant factors.

§ 959.51 Recommendations for regulations.

Upon complying with the requirements of § 959.50 the committee may recommend regulations to the Secretary whenever it finds that such regulations as are provided for in this subpart will tend to effectuate the declared policy of the act.

§ 959.52 Issuance of regulations.

(a) The Secretary shall limit the handling of onions by regulations specified in this section whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

- (1) Limit in any or all portions of the production area the handling of particular grades, sizes, qualities or packs, or any combination thereof, of any or all varieties of onions during any period;
- (2) Limit the handling of particular grades, sizes, qualities, or packs of onions differently for different varieties,

for different containers, for different portions of the production area, or any combination of the foregoing, during any period;

(3) Limit the handling of onions by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity;

(4) Fix the size, capacity, weight, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, preparation for market, shipment, or other handling of onions;

(5) Establish holidays by prohibiting throughout the entire production area, the packaging or loading, or both, of onions on Sundays;

(6) Prohibit the packaging or loading, or both, of onions except during specified consecutive hours of any calendar day or days: *Provided*, That, any handler may, upon such notice to the committee as it may prescribe with approval of the Secretary, package or load onions during a different period in such day consisting of the same number of consecutive hours: *Provided further*, That any handler who, due to conditions specified in regulations established by the committee with the approval of the Secretary as being beyond a handler's reasonable control, is prevented for more than one of such consecutive hours from so packaging or loading onions may, in accordance with such regulations, obtain permission from the committee to package or load onions, or both, during a comparable number of additional hours in the same day or a later day as specified by the committee.

(c) Regulations issued hereunder may be amended, modified, suspended, or terminated whenever it is determined:

- (1) That such action is warranted upon recommendation of the committee or other available information;
 - (2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions; or
 - (3) That regulations issued hereunder no longer tend to effectuate the declared policy of the act.
- (d) No handler may handle onions that were packaged or loaded or both