

## Agricultural Marketing Service, USDA

## § 987.44

both, it shall recommend to the Secretary requirements as to grade based on the effective United States Standards for Grades of Dates or any modification thereof, and such size requirements as it may deem appropriate. If the Secretary finds, upon the basis of such recommendation or other information available to him, that such additional grade or size regulation, or both such regulations, will tend to effectuate the declared policy of the act, he shall establish such regulations. Notice thereof, showing the effective date, shall be sent by the Committee to all handlers of record. On and after the effective date no handler shall handle dates of such variety in any designated outlet or withhold such dates to meet withholding obligation except in accordance with such regulations.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4252, Feb. 1, 1978]

### § 987.41 Inspection.

(a) *Packed dates.* Prior to handling any dates packed for handling each handler shall, at his own expense, cause:

(1) An inspection to be made of such dates in order to ascertain if such dates meet the applicable grade and size regulations prescribed or provided for in this part; and

(2) A certification for handling to be made of all such dates as meet such grade and size regulations.

(b) *Dates for further processing.* Prior to handling any dates for further processing each handler shall, at his own expense, cause: (1) An inspection to be made to ascertain if such dates meet the applicable grade and size requirements effective pursuant to § 987.39 or § 987.40, except for character associated with moisture; and (2) a certification for further processing to be made of all such dates as meet such grade and size requirements: *Provided*, That such inspection and certification requirements shall not apply to inter-handler transfers within the area of production of field-run dates or graded dates.

(c) *Identification and service.* All dates handled shall be identified by seals, stamps, or other means prescribed by the Committee and affixed to the containers by the handlers under the supervision of the Committee or the des-

ignated inspectors. Inspection shall be performed by inspectors of the United States Department of Agriculture's Processed Products Standardization and Inspection Branch or such other inspection service as may be recommended by the committee and approved by the Secretary. Handlers shall cause a copy of each inspection certificate to be furnished to the Committee.

### VOLUME REGULATION

### § 987.43 Outlets and specifications for marketable dates.

Marketable dates shall not be handled or otherwise disposed of except as provided in this subpart. This shall not preclude dates of better grades or sizes being handled or otherwise disposed of in any outlet established for dates of lesser grades or sizes. The Committee, with the approval of the Secretary, may modify the designations specified in § 987.12 to reflect new major outlets and regulatory requirements needed because of changes in marketing conditions. Marketable dates shall include but not be limited to the following: DAC dates, Dates for further processing, Export dates, and Product dates.

[43 FR 4252, Feb. 1, 1978]

### § 987.44 Free and restricted percentages.

(a) Whenever the Committee finds that the available supply of marketable dates of applicable grade and size available to supply the trade demand for free dates of any variety is likely to be excessive, and that limiting the volume of marketable dates to be handled as free dates through establishment of free and restricted percentages applicable to such variety of such dates would tend to effectuate the declared policy of the act, it shall recommend such percentages to the Secretary. If the Secretary finds, upon the basis of the Committee's recommendation and supporting data or other information available to him, that the establishment of such percentages would tend to effectuate the declared policy of the act, he shall establish such percentages. The sum of the free and restricted percentages for any crop year shall equal 100 percent.

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(b) The dates handled by any handler in accordance with the provisions hereof shall be determined to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

[27 FR 6818, July 19, 1962, as amended at 43 FR 4252, Feb. 1, 1978]

**§ 987.45 Withholding restricted dates.**

(a) Whenever free and restricted percentages for any variety of dates have been established for a crop year by the Secretary in accordance with § 987.44, each handler shall, at the time of having dates of such variety certified for handling as free dates (including those for further processing that are to be handled as free dates), withhold from handling a quantity of marketable dates of such variety having a weight equal to the restricted percentage for such variety referable to the dates so far certified. The withholding requirement shall not apply to dates certified for delivery directly to an excess supply removal program of the Secretary. The weight required to be withheld shall be determined by dividing the restricted percentage by the free percentage and applying the resultant withholding factor, rounded to the nearest one-tenth of one percent, to the weight of dates so certified. The withholding factor, computed as aforesaid, shall be established by the Secretary. When pitted dates are certified, the weight to be withheld shall be determined by dividing the weight of the pitted dates certified for handling or further processing by a divisor established by the Committee with the approval of the Secretary and applying the withholding factor.

(b) Compliance by any handler with the withholding of restricted dates may be deferred to any date not later than January 31 of any crop year, upon request to the Committee and when accompanied by a written undertaking that on or prior to such date, he will have fully satisfied his withholding obligation. Such undertaking shall be secured by a bond or bonds to be filed with, and acceptable to, the Committee and with a surety or sureties acceptable to the Committee, running in favor of the Committee and the Secretary in an amount conditioned upon

full compliance with such undertaking. The amount shall be determined by multiplying the poundage of the deferred restricted obligation by a bonding rate per pound which would provide funds estimated to be sufficient for the Committee to purchase on the open market a volume of dates equivalent to the deferred obligation. Such bonding rate shall be established annually, and modified as necessary, by the Committee. Any sums collected through default by a handler on his bond shall be used by the Committee to purchase dates to meet the violated restricted obligation, reimburse the Committee for expenses relative to the default, and any excess money remaining shall be refunded to the defaulting handler. The dates so purchased by the Committee shall be turned over to the defaulting handler for disposition as restricted dates. In the event the Committee is unable to purchase a poundage of dates equal to the defaulted volume, the sums collected shall, after reimbursement of Committee expenses in connection with the default, be distributed among all handlers other than the defaulting handler in proportion to the volume of certified dates handled as free dates (including those for further processing that were handled as free dates), during the crop year in which the default occurred.

(c) At any time during the crop year free dates may be inspected and certified for handling or for further processing as provided in § 987.41. Dates so certified shall, at the time of certification, be identified by appropriate seals, stamps, or tags to be furnished by the Committee and to be affixed to the containers by the handler under the direction and supervision of the Committee or its designated inspectors. The assessment requirements in § 987.72 as well as the withholding obligation prescribed in paragraph (a) of this section shall be met at the time of certification. However, a handler who has had more free dates certified for handling or further processing than he subsequently shipped or otherwise handled may, upon request to the Committee and with its approval, have any of such excess quantity of the certified dates suspended from certification of record or, if damaged or the outlet