

## §927.51

and processed form, which are competitive to the marketing of pears;

(3) Prospective exports of pears and imports of pears from other producing areas;

(4) Probable harvesting period for each variety or subvariety of pears;

(5) The trend and level of consumer income;

(6) General economic conditions; and

(7) Other relevant factors.

(b) On or before August 1 of each year, the Fresh Pear Committee shall recommend regulations to the Secretary if it finds, on the basis of the investigations specified in this section, that such regulation as is provided in §927.51 will tend to effectuate the declared policy of the act.

(c) In the event the Fresh Pear Committee at any time finds that by reason of changed conditions any regulation issued pursuant to §927.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

### **§927.51 Issuance of regulations; and modification, suspension, or termination thereof.**

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Fresh Pear Committee, or from other available information, that regulation, in the manner specified in this section, of the shipment of fresh pears would tend to effectuate the declared policy of the act, he or she shall so limit the shipment of such pears during a specified period or periods. Such regulation may:

(1) Limit the total quantity of any grade, size, quality, or combinations thereof, of any variety or subvariety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets;

(2) Limit, during any period or periods, the shipment of any particular grade, size, quality, or any combination thereof, of any variety or subvariety, of pears grown in any district or districts of the production area; and

(3) Provide a method, through rules and regulation issued pursuant to this part, for fixing markings on the container or containers, which may be used in the packaging or handling of pears, including appropriate logo or

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other container markings to identify the contents thereof.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Fresh Pear Committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of fresh pears grown in any district in order to effectuate the declared policy of the act, he or she shall so modify, suspend, or terminate such regulation. If the Secretary finds, from the recommendations and information submitted by the Fresh Pear Committee, or from other available information, that a regulation obstructs or does not tend to effectuate the declared policy of the act, he or she shall suspend or terminate such regulation. On the same basis and in like manner, the Secretary may terminate any such modification or suspension.

### **§927.52 Prerequisites to recommendations.**

(a) Decisions of the Fresh Pear Committee or the Processed Pear Committee with respect to any recommendations to the Secretary pursuant to the establishment or modification of a supplemental rate of assessment for an individual variety or subvariety of pears shall be made by affirmative vote of not less than 75 percent of the applicable total number of votes, computed in the manner described in paragraph (b) of this section, of all members. Decisions of the Fresh Pear Committee pursuant to the provisions of §927.50 shall be made by an affirmative vote of not less than 80 percent of the applicable total number of votes, computed in the manner prescribed in paragraph (b) of this section, of all members.

(b) With respect to a particular variety or subvariety of pears, the applicable total number of votes shall be the aggregate of the votes allotted to the members in accordance with the following: Each member shall have one vote as an individual and, in addition, shall have a vote equal to the percentage of the vote of the district represented by such member; and such district vote shall be computed as soon as

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practical after the beginning of each fiscal period on either:

(1) The basis of one vote for each 25,000 boxes (except 2,500 boxes for varieties or subvarieties with less than 200,000 standard boxes or container equivalents) of the average quantity of such variety or subvariety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods; or

(2) Such other basis as the Fresh Pear Committee or the Processed Pear Committee may recommend and the Secretary may approve. The votes so allotted to a member may be cast by such member on each recommendation relative to the variety or subvariety of pears on which such votes were computed.

### § 927.53 Notification.

(a) The Fresh Pear Committee shall give prompt notice to growers and handlers of each recommendation to the Secretary pursuant to the provisions of § 927.50.

(b) The Secretary shall immediately notify the Fresh Pear Committee of the issuance of each regulation and of each modification, suspension, or termination of a regulation and the Fresh Pear Committee shall give prompt notice thereof to growers and handlers.

### § 927.54 [Reserved]

#### INSPECTION

### § 927.60 Inspection and certification.

(a) Handlers shall ship only fresh pears inspected by the Federal-State Inspection Service or under a program developed by the Federal-State Inspection Service: except, that such inspection and certification of shipments of pears may be performed by such other inspection service as the Fresh Pear Committee, with the approval of the Secretary, may designate. Promptly after shipment of any pears, the handler shall submit, or cause to be submitted, to the Fresh Pear Committee a copy of the inspection certificate issued on such shipment.

(b) Any handler may ship pears, on any one conveyance and in such quantity as the committee, with the approval of the Secretary, may prescribe,

exempt from the inspection and certification requirements of paragraph (a) of this section.

(c) The Fresh Pear Committee may, with the approval of the Secretary, prescribe rules and regulations modifying or eliminating the requirement for mandatory inspection and certification of shipments: Provided, That an adequate method of ensuring compliance with quality and size requirements is developed.

#### EXCEPTIONS

### § 927.65 Exemption from regulation.

(a) Nothing contained in this subpart shall limit or authorize the limitation of shipment of pears for consumption by charitable institutions or distribution by relief agencies, nor shall any assessment be computed on pears so shipped. The Fresh Pear Committee or the Processed Pear Committee may prescribe regulations to prevent pears shipped for either of such purposes from entering commercial channels of trade contrary to the provisions of this subpart.

(b) The Fresh Pear Committee or the Processed Pear Committee may prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby quantities of pears or types of pear shipments may be exempted from any or all provisions of this subpart.

#### MISCELLANEOUS PROVISIONS

### § 927.70 Reports.

(a) Upon the request of the Fresh Pear Committee or the Processed Pear Committee, and subject to the approval of the Secretary, each handler shall furnish to the aforesaid committee, respectively, in such manner and at such times as it prescribes, such information as will enable it to perform its duties under this subpart.

(b) All such reports shall be held under appropriate protective classification and custody by the Fresh Pear Committee or the Processed Pear Committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers