

§ 993.157

7 CFR Ch. IX (1–1–14 Edition)

such manner as may be prescribed in such reserve control regulation established for the crop year in which such lot is received by a handler from a producer or dehydrator.

[30 FR 13311, Oct. 20, 1965]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.156 was suspended indefinitely.

§ 993.157 Holding and delivery of reserve prunes.

(a) *Sales and deliveries.* Committee sales and deliveries of reserve prunes from the holdings of any handler shall not exceed the quantity of reserve prunes required to be held by him. The reserve prune holding requirement of the handler shall be reduced by the tonnage so sold or delivered.

(b) *Assistance to handlers.* As assistance to handlers, the committee shall furnish each handler a monthly tabulation, beginning as soon as possible after the start of the crop year, showing his reserve obligation and holding requirement based on records on file with the committee.

(c) *Failure to hold and deliver reserve prunes in accordance with reserve obligation.* In the event a handler fails to hold for the committee and deliver his total reserve prune obligation in any category and is unable to rectify such a deficiency with salable prunes, he shall compensate the committee in an amount computed by multiplying the pounds of natural condition prunes so deficient by the applicable values established by the committee: *Provided*, That the remedies prescribed herein shall be in addition to, and not exclusive of, any of the remedies or penalties prescribed in the act with respect to noncompliance. The determination of any such deficiency shall include application of any tolerance allowance for shrinkage in weight, increase in the number of prunes per pound, and normal and natural deterioration and spoilage which may then be in effect.

(d) *Excess delivery of prunes to the committee.* In the event a handler delivers to the committee as reserve prunes a quantity of prunes in excess of his holding requirement for reserve prunes, the committee shall make such practical adjustments as are consistent with this part and this may include

compensating the handler for such excess (nonreserve prunes) by paying to him the proceeds received by the committee for such excess.

(e) *Holding reserve prunes on other than a handler's premises.* No handler shall hold reserve prunes on the premises of another handler, or in approved commercial storage other than on his own premises, unless prior thereto he notifies the committee in a certified report on Form PMC 5.1 "Notice of Proposed Intent to Store Reserve Prunes" which shall contain at least the following information: (1) The date and the name and address of the handler; (2) the name and address of the person on whose premises the reserve prunes will be stored for the handler; (3) the approximate quantity to be so stored and the exact location and description of the storage facilities; and (4) the proposed date that such storage will begin. The report shall be accompanied by a signed statement by the persons on whose premises the reserve prunes are to be stored agreeing to hold such prunes under conditions of proper storage and further agreeing to permit access to such premises by the committee at any time during business hours for the purpose of examining or taking delivery of such prunes in accordance with the provisions of this part. No handler shall be permitted to hold reserve prunes on any premises outside the area.

(f) *Exchange of salable prunes for reserve prunes.* No handler shall exchange salable prunes for reserve prunes unless he has entered into a sales agreement authorized pursuant to § 993.65(b) whereby the value of any such exchange, and payment therefor to the committee, shall be determined.

(g) *Delivery by non-signatory handlers.* Any handler not signing the sales agreement authorized pursuant to § 993.65(b), shall deliver to the Committee, upon demand, the total weight of his reserve obligation by such variety, grade, and size categories, and at the count per pound for each size category as is required by the reserve control regulation of the applicable crop year. Such deliveries of prunes may be either graded prunes or any lot of ungraded prunes, or portion thereof, identifiable to the satisfaction of the

Agricultural Marketing Service, USDA

§ 993.159

committee as being in the same form as when received: *Provided*, That the percent of standard prunes in each lot shall be taken into account but with respect to any lot of graded prunes, no credit shall be given to the standard obligation of the handler if in a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes exceeds the count per pound of 10 ounces of the largest prunes by more than 45 prunes per pound.

[33 FR 19162, Dec. 24, 1968, as amended at 48 FR 57261, Dec. 29, 1983]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.157 was suspended indefinitely.

§ 993.158 Deferment of reserve withholding.

Any handler who desires to defer withholding pursuant to the provisions of § 993.58 shall notify the committee on Form PMC 9.1, "Notification of Desire for Deferment of Reserve Withholding", containing at least the following information: (a) The date and the name and address of the handler; (b) the total salable prunes acquired or under contract with producers and dehydrators; (c) the period for which deferment is requested; and (d) the tonnage of reserve prunes, by categories, on which deferment is requested. The notification shall be accompanied by the undertaking and bond or bonds required by § 993.58. No handler shall defer withholding of reserve prunes until he has filed the required undertaking and bond or bonds with the committee and has received its acceptance.

[30 FR 13311, Oct. 20, 1965, as amended at 48 FR 57261, Dec. 29, 1983]

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.158 was suspended indefinitely.

§ 993.159 Payments for services performed with respect to reserve tonnage prunes.

(a) *Payment for crop year of acquisition.* Each handler shall, with respect to reserve prunes held by the handler for the account of the Committee pursuant to § 993.59, be paid at a rate computed by the Committee (natural condition rate) for necessary services rendered by the handler in connection with such prunes so held during all or

any part of the crop year in which the prunes were physically received from producers or dehydrators. Each handler holding reserve prunes shall perform such services to assure that the prunes are maintained in good condition. No payment will be made for prunes released by handler acceptance of diversion certificates if the handler has not stored the released prunes. The rate of payment shall be established by the Committee and must be approved by the Secretary. Following such approval, it shall be publicized as required in paragraph (e) of this section.

(1) On or before July 20 of each crop year when the Committee recommends a reserve pool (except the Committee may extend this date by not more than ten business days if warranted by a late crop), the Committee shall hold a meeting to review the costs for necessary services rendered by handlers in connection with reserve prunes.

(2) Such amount shall, together with the additional payments, as provided in this section, be in full payment for the costs incurred in connection with but not be limited to the following services: Inspection, receiving, storing, grading, fumigation, and handling. The costs include, but are not limited to:

(i) Acquisition costs, which include those for salaries, commission, or brokerage fees, transportation and handling between plants and receiving stations, inspection, and other costs, including container expenses, incidental to acquisition or storage;

(ii) Direct labor costs, which include those for weighing, receiving and stacking, grading, preliminary sorting and storing (including that performed by the handler at the receiving station), and loading for shipment or other delivery to the Committee or its designee;

(iii) Plant overhead costs, which include those for supervision, indirect labor, fuel, power and water, taxes and insurance on facilities, depreciation and rent, repairs and maintenance (clean-up, etc.), factory supplies and expense, and employee benefits (payroll taxes, compensation insurance, health insurance, pension plan contributions, vacation pay, holiday and other paid days off, and other such costs).