

proceeds generated from sales of reserve prunes are distributed to the reserve pool's equity holders, primarily producers.

Definitions

Section 993.21c of the prune marketing order defines salable prunes as prunes which are free to be handled pursuant to any salable percentage established by the USDA pursuant to § 993.54.

Section 993.21d of the order defines reserve prunes as prunes which must be withheld in satisfaction of a reserve obligation arising from the application of a reserve percentage established by the USDA pursuant to § 993.54.

Section 993.54 of the order provides authority for USDA, based on recommendations by the Committee and supporting information supplied by the Committee, or from other available information, to establish salable and reserve percentages for dried prunes received by handlers during a crop year. The crop year begins August 1 and runs through July 31. When salable and reserve percentages are in effect, § 993.57 requires handlers to hold in their possession or under their control, for the account of the Committee, the quantity of prunes necessary to meet their reserve obligation.

Authority To Pay Handlers for Reserve Pool Services

Section 993.59 of the order specifies that handlers be compensated for necessary services performed in connection with reserve prunes including, but not limited to inspection, receiving, storing, grading, and fumigation. The payment is made on the tonnage of reserve prunes held by the handler for the account of the Committee, in accordance with a schedule of payments.

Handler Service Payments and Conditions for Reserve Prunes

Pursuant to § 993.59 of the order, details of the criteria and procedures for compensating prune handlers in connection with reserve prunes are established by regulation after recommendation by the Committee. They may be found in § 993.159 of the administrative rules and regulations. Since the early 1970's, the compensation rate has been \$25 per ton. The prune industry has not implemented salable and reserve percentages since 1971; therefore, the compensation rate does not reflect current costs. In recent years, the Committee has considered implementing a reserve.

The Committee normally meets during the end of June or early July to discuss marketing policy issues and decides whether to recommend implementing a reserve. The Committee met on November 29, 2001, and unanimously recommended revising the rules and regulations pertaining to the compensation rates for handler services in connection with reserve prunes. One change recommended establishes a procedure in the administrative rules and regulations for computing the compensation rates instead of having the rates stated in the rule. To aid in formulating the compensation rates, the Committee will obtain current costs through surveys of dried prune handlers and compute average costs based on the number of handlers participating in the survey. Abnormally high or low results will not be considered in the average. The average may be rounded to the nearest \$0.25.

An updated compensation rate for handling reserve prunes during the crop year of acquisition will be computed when the Committee considers its annual marketing policy, but no later than July 20. This date could be extended up to 10 days, if warranted by a late crop. During marketing policy discussions, the Committee reviews, among other things, industry production and marketing statistics for dried prunes here and abroad, pricing information for domestic and foreign produced dried prunes, and handler costs for holding reserve prunes, including, but not limited to inspection, receiving, storing, grading, and fumigating prunes. Any recommended change in compensation rate will be reviewed, and will have to be approved by USDA. Upon approval, the Committee will inform all handlers of the changed compensation rate for the upcoming crop year. The process will be completed by the beginning of the crop year (August 1).

On November 29, 2001, the Committee also recommended that no payment for handler services be made for reserve prunes released by handler acceptance of diversion certificates under §§ 993.62 and 993.162, if the handler has not stored the prunes. For example, a handler may have a reserve obligation of 1,000 tons and received 900 tons worth of diversion certificates. The handler submits the 900 tons of diversion certificates to the Committee and requests that he be relieved of 900 tons of reserve prune obligation, leaving a reserve obligation of 100 tons. In this situation, the Committee will only reimburse the handler for reserve pool costs on the 100 tons.

The Committee intends to pay up to one-half the compensation rate (first

payment) as soon as practicable after the majority of the deliveries have been made and funds are available. During normal years, the first payment will occur after the second quarter of the crop year (usually during February) and quarterly payments will be made thereafter, as funds are available. The crop year runs from August 1 through July 31.

The Committee also recommends a number of administrative changes to the rules and regulations. They include: (1) Correcting a reference in § 993.159(a) from § 993.57 to § 993.59; (2) adding a provision in § 993.159(a)(1) stating that in crop years when the Committee recommends a reserve pool, it shall meet by July 20 to review costs for handler services in connection with reserve prunes pursuant to § 993.59, except that the Committee may extend this date by not more than 10 business days if warranted by a late crop; (3) adding weighing and stacking prunes as part of the direct labor costs in § 993.159(a)(2); (4) adding clean-up, health insurance, pension plan contributions, vacation pay, holiday and other paid days off as part of the plant overhead costs in § 993.159(a)(2); and (5) eliminating reference to personal pronouns and replacing them with a descriptive noun so the regulatory text is not gender specific. Paragraphs (a)(1), (2), and (3) of § 993.159 are modified accordingly.

In addition, the Committee recommended that the provisions in § 993.159(c)(2) regarding payments to handlers for services rendered in connection with reserve prunes held beyond the end of the crop year of acquisition also be updated. The regulations currently establish the reimbursement rate for storage and fumigation at \$2 per ton for the first quarter of the year beyond the crop year of acquisition. This approximates 10 percent of the current handler compensation rate for the crop year of acquisition. The Committee recommended that handlers be compensated at 10 percent of the yearly rate computed by the Committee and approved by USDA for the crop year of acquisition for the first quarter after the crop year of acquisition, rather than establishing a specific rate. That paragraph also specifies specific amounts per ton for storage and fumigation for the second, third, and fourth quarters after the crop year of acquisition at \$1.00, \$0.25, and \$0.25 per ton, respectively. This equates to 50 percent of the first quarter's amount for the second quarter and 25 percent each for the third and fourth quarters. Rather than maintaining specific rates for the