

Authority: 7 U.S.C. 601-674.

■ 2. Section 993.159 is revised to read as follows:

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).

(3) The Committee shall survey all handlers to obtain their costs for services performed with respect to reserve tonnage prunes. The Committee will compute the average industry cost for holding reserve pool prunes by adding each handlers' cost data, and dividing the composite figure by the number of handlers participating in the survey. In the event that any handler's cost data is too low or too high, the Committee may choose to exclude the high and low data in computing an industry average. The industry average costs may be rounded to the nearest \$0.25. The industry average costs computed by the Committee shall be publicized by the Committee pursuant to paragraph (e) of this section.

(b) *Reimbursement for required insurance costs.* Each handler holding reserve prunes for the account of the Committee shall maintain proper insurance thereon, including fire and extended coverage, in valuations (according to grade and/or size) established by, or acceptable to, the Committee for the particular crop year. The Committee shall reimburse the handler for the actual costs of such insurance. Prior to the receipt of reserve prunes at the beginning of each crop year, the handler shall certify to the Committee and the Secretary of Agriculture, on Form PMC 4.5, that such handler has a fire and extended coverage policy fully insuring all reserve prunes received by the handler during such crop year. Such certification shall contain the following information:

(1) The name and address of the handler;

(2) The location(s) where reserve prunes will be held for the account of the Committee and the premium rate per \$100 value per annum at each location;

(3) The value per ton at which the reserve prunes are insured; and

(4) The name and address of the insurance underwriter.

(c) *Certain additional payments in connection with the holding of reserve prunes for the account of the Committee.*

(1) Whenever a handler is directed by the Committee to move and dump containers or reserve prunes held by the handler for the account of the Committee for the purpose of causing an inspection to be made of the prunes as provided in § 993.75, but without taking delivery of the prunes at that time, the

handler shall be paid for such services at a rate per ton (natural condition weight) determined by the Committee and approved by the Secretary of Agriculture. Such reimbursement rate shall be computed as described in paragraph (a)(3) of this section and publicized as required in paragraph (e) of this section.

(2) Additional payment for reserve tonnage prunes held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding reserve prunes shall complete such services so that the Committee is assured that the prunes are maintained in good condition.

(i) For storage and necessary fumigation, each handler shall be compensated at a per ton rate announced by the Committee in accordance with paragraph (a)(3) of this section:

(A) For all or any part of the first 3 months of the succeeding crop year, the rate per ton shall be 10 percent of the yearly rate established for the crop year of acquisition;

(B) For all or any part of the second 3 months of the succeeding crop year, the rate per ton shall be 50 percent of the rate established for the first 3 months of the succeeding crop year;

(C) For all or any part of the third 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(D) For all or any part of the fourth 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(ii) For all or part of the succeeding crop year, the Committee shall determine the per ton rate for bin rental within the industry and announce bin rental rate to the industry pursuant to paragraph (e) of this section.

(iii) For insurance as prescribed in paragraph (b) of this section.

(d) *Certain additional payments in connection with the delivery of reserve prunes to the Committee or its designee.*

(1) Whenever a handler is directed by the Committee to deliver to it or its designee reserve prunes in natural condition, the Committee shall furnish the handler with the containers in which to deliver the prunes, or reimburse the handler, at cost, for any containers which the handler furnishes pursuant to an agreement with the Committee.

(2) Whenever the Committee arranges with a handler for the reserve prunes delivered to it or its designee to be in processed and packaged condition, the Committee shall reimburse the handler