AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

TABLE I—Continued

Variety	A date	Min. wt.	Min. diam.	B date	Min. wt.	Min. diam.	C date	Min. wt.	Min. diam.	D date
Catalina	8–15	24	.....	8–29	22	.....	.....	.....	.....	9–19
Blair	8–29	16	3 9/16	9–12	14	3 5/16	.....	.....	.....	10–03
Guatemalan Seedling[2]	9–05	15	.....	10–03	13	.....	.....	.....	.....	12–05
Marcus	9–05	32	4 12/16	9/19	24	4 5/16	.....	.....	.....	10–31
Brooks 1978	9–05	12	3 4/16	9–12	10	3 1/16	9–19	8	2 14/16	10–10
Rue	9–12	30	4 3/16	9–19	24	3 15/16	10–03	18	3 9/16	10–17
Collinson	9–12	16	3 10/16	.....	.....	.....	.....	.....	.....	10–10
Hickson	9–12	12	3 1/16	9–26	10	3 9/16	.....	.....	.....	10–10
Simpson	9–19	16	3 9/16	.....	.....	.....	.....	.....	.....	10–10
Chica	9–19	12	3 7/16	10–03	10	3 4/16	.....	.....	.....	10–17
Leona	9–26	18	3 10/16	10–03	16	.....	.....	.....	.....	10–10
Melendez	9–26	26	3 14/16	10–10	22	3 11/16	10–24	18	3 7/16	11–07
Herman	10–03	16	3 9/16	10–17	14	3 6/16	.....	.....	.....	10–31
Pinkerton (CP)	10–03	13	3 3/16	10–17	11	3 9/16	10–31	9	.....	11–14
Taylor	10–10	14	3 5/16	10–24	12	3 2/16	.....	.....	.....	11–07
Ajax (B–7)	10–10	18	3 14/16	.....	.....	.....	.....	.....	.....	10–31
Booth 3	10–10	16	3 9/16	10–17	14	3 6/16	.....	.....	.....	10–31
Semil 34	10–17	18	3 10/16	10–31	16	3 8/16	11–14	14	3 5/16	11–28
Semil 43	10–24	18	3 10/16	11–7	16	3 8/16	11–21	14	3 5/16	12–05
Booth 1	11–14	16	3 12/16	11–28	12	3 6/16	.....	.....	.....	12–12
Zio (P)	11–14	12	3 1/16	11–28	10	2 14/16	.....	.....	.....	12–12
Gossman	11–28	11	3 1/16	.....	.....	.....	.....	.....	.....	12–26
Brookslate	12–05	18	3 13/16	12–12	16	3 10/16	1–02	12	3 5/16	1–30
				12–19	14	3 8/16	1–16	10		
Meya (P)	12–12	13	3 2/16	12–26	11	3 9/16	.....	.....	.....	1–09
Reed (CP)	12–12	12	3 4/16	12–26	10	3 3/16	1–09	9	3 9/16	1–23

[1] Avocados of the West Indian type varieties and seedlings not listed elsewhere in table I.
[2] Avocados of the Guatemalan type varieties and seedlings, hybrid varieties and seedlings, and unidentified seedlings not listed elsewhere in table I.

(3) Avocados which fail to meet the maturity requirements specified in this section must be maintained under the supervision of the Federal or Federal-State Inspection Service using the Positive Lot Identification program, and when presented for reinspection, must meet the maturity requirements which correspond to the date of the original inspection.

(4) The requirements listed in table I of this section are in effect annually from April 16 through April 15 of the following year, with an exception for the requirements for Guatemalan seedling which are in effect annually from June 9 to June 8 of the following year.

(b) The term *diameter* means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit.

[59 FR 30869, June 16, 1994, as amended at 64 FR 53185, Oct. 1, 1999; 71 FR 11294, Mar. 7, 2006; 73 FR 26945, May 12, 2008; 79 FR 55353, Sept. 16, 2014; 87 FR 8143, Feb. 14, 2022]

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

Subpart A—Order Regulating Handling

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AUTHORITY: 7 U.S.C. 601–674.

Subpart A—Order Regulating Handling

SOURCE: 41 FR 17528, Apr. 27, 1976, unless otherwise noted.

DEFINITIONS

§ 917.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.1 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.2 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.3 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.3 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.4 Fruit.

Fruit means the edible product of the following kinds of trees:

(a) All varieties of pears except Beurre Hardy, Beurre D'Anjou, Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau.

(b) [Reserved]

[71 FR 41351, July 21, 2006, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.4 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.5 Grower.

Grower is synonymous with producer and means any person who produces fruit for market in fresh form, and who has a proprietary interest therein.

[71 FR 41351, July 21, 2006, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.5 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.6 Handle.

Handle and ship are synonymous and mean to sell, consign, deliver or transport fruit or to cause fruit to be sold, consigned, delivered or transported between the production area and any point outside thereof, or within the production area: *Provided*, That the term handle shall not include the sale of fruit on the tree, the transportation within the production area of fruit from the orchard where grown to a packing facility located within such area for preparation for market, or the delivery of such fruit to such packing facility for such preparation.

[71 FR 41351, July 21, 2006, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.6 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.7 Handler.

Handler is synonymous with shipper and means any person (except a common or contract carrier transporting fruit owned by another person) who handles fruit.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.7 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.9 Fiscal period.

Fiscal period is synonymous with fiscal year and means the 12-month period ending on the last day of February of each year, or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.9 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.11 Production area.

Production area means the State of California.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.11 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.12 Container.

Container means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of fruit.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.12 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.13 Pack.

Pack means the specific arrangement, size, weight, count, or grade of a quantity of fruit in a particular type and size of container or any combination thereof.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.13 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.14 District.

District means any of the following subdivisions of the State of California:

(a) *North Sacramento Valley District* includes and consists of Glenn County, Shasta County, Tehama County, Modoc County, Siskiyou County, Lassen County, Plumas County, and Colusa County.

(b) *Central Sacramento Valley District* includes and consists of Sutter County, Butte County, Yuba County, and Sierra County.

(c) *Sacramento River District* includes and consists of Sacramento County, that portion of Yolo County east of a straight line from the northwest corner of Sacramento County to the Northeast corner of Solano County, and that

portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(d) *El Dorado District* includes and consists of El Dorado County.

(e) *Placer-Colfax District* includes and consists of Nevada and Placer Counties.

(f) *Solano District* includes and consists of that portion of Yolo County not included in the Sacramento River District, and that portion of Solano County not included in the Sacramento River District.

(g) *Contra Costa District* includes and consists of Contra Costa County.

(h) *Santa Clara District* includes and consists of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County, and San Benito County.

(i) *Lake District* includes and consists of Lake County.

(j) *Mendocino District* includes and consists of Mendocino County, Humboldt County, Trinity County, and Del Norte County.

(k) *South Coast District* includes and consists of San Luis Obispo County, Santa Barbara County, and Ventura County.

(l) *Stockton District* includes and consists of San Joaquin County, Amador County, Calaveras County, and Alpine County.

(m) *Stanislaus District* includes and consists of Merced County, Stanislaus County, Tuolumne County, and Mariposa County.

(n) *Fresno District* includes and consists of Madera County, Fresno County, and Mono County.

(o) *Tulare District* includes and consists of Tulare County and Kings County.

(p) *Kern District* includes and consists of that portion of Kern County west of the Tehachapi Mountains.

(q) *Tehachapi District* includes and consists of that portion of Kern County not included in Kern District, and Inyo County.

(r) *Southern California District* includes and consists of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and Los Angeles County.

(s) *North Bay District* includes and consists of Sonoma County, Napa County, and Marin County.

[41 FR 17528, Apr. 27, 1976, as amended at 71 FR 41351, July 21, 2006]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.14 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.15 Representation area.

Representation area means any one of the districts or groups of districts which are designated for nominating members and alternate members to the commodity committees under §917.21 or as changed pursuant to §917.35(g).

[56 FR 46369, Sept. 12, 1991, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.15 was suspended indefinitely, effective Oct. 28, 2011.

ADMINISTRATIVE BODIES

§ 917.16 Designation of Control Committee.

A Control Committee is hereby established consisting of 12 shipper members and 13 commodity committee members, and the members shall be selected in accordance with the provisions of §917.17 through §917.19. The members shall be selected annually for a term ending on the last day of February, and said members shall serve until their respective successors are selected and have qualified.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.16 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.17 Nomination of shipper members of the Control Committee.

Nominations for the 12 members of the Control Committee to represent shippers shall be made in the following manner:

(a) By February 1 of each year the Control Committee shall announce a time and place for a meeting of all shippers of fruit and shall conduct the election of nominees at such meeting. At said election meeting the shippers present shall select a nominee for each of the shipper member positions on the Control Committee. Each shipper shall cast only one vote.

(b) No shipper shall be entitled to participate in the nomination of members of the Control Committee, or be eligible for membership on such committee, if such shipper has failed to pay the assessments, due to be paid by him pursuant to the provisions of § 917.37.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.17 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.18 Nomination of commodity committee members of the Control Committee.

Nominations for the 13 members of the Control Committee to represent the commodity committees shall be made in the following manner:

(a) A nomination for one member shall be made by each commodity committee selected pursuant to § 917.25. Nominations for the remaining members shall be made by the respective commodity committees as provided in this section. The number of remaining members which each respective commodity committee shall be entitled to nominate shall be based upon the proportion that the previous three fiscal periods' shipments of the respective fruit is of the total shipments of all fruit to which this part is applicable during such periods. In the event provisions of this part are terminated or suspended as to any fruit, nominations of members to the Control Committee shall be composed of representatives of any remaining fruit. The apportionment shall be determined as aforesaid. In the event provisions of this part are terminated or suspended as to any fruit, the members of the commodity committee of the remaining fruit shall have all the powers, duties, and functions given to the Control Committee under this part and sections of this part pertaining to the designation of the Control Committee shall be terminated or suspended.

(b) A person nominated by any commodity committee for membership on the Control Committee shall be an individual person who is a member or alternate member of the commodity committee that nominates him/her. Each member of each commodity committee shall have only one vote in the selection of nominees for membership on the Control Committee.

[41 FR 17528, Apr. 27, 1976, as amended at 88 FR 82232, Nov. 24, 2023]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.18 was suspended indefinitely, effective Oct. 28, 2011. At 88 FR 82232, Nov. 24, 2023, the suspension was lifted, amendments were made to § 917.18, and the section was stayed indefinitely.

§ 917.19 Selection of members of the Control Committee.

From the nominations made pursuant to § 917.17, or from other persons, the Secretary shall select the shipper members of the Control Committee. From the nominations made pursuant to § 917.18, or from other persons, the Secretary shall select the commodity committee members of the Control Committee. Any person selected as member of the Control Committee shall qualify by filing with the Secretary a written acceptance of the appointment.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.19 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.20 Designation of members of commodity committees.

There is hereby established a Pear Commodity Committee consisting of 13 members. Each commodity committee may be increased by one public member nominated by the respective commodity committee and selected by the Secretary. The members of each said committee shall be selected biennially for a term ending on the last day of February of odd numbered years, and such members shall serve until their respective successors are selected and have qualified. The members of each commodity committee shall be selected in accordance with the provisions of § 917.25.

[76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.20 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.21 Nomination of Pear Commodity Committee members.

Nominations for membership on the Pear Commodity Committee shall be

made by the growers of pears in the respective representation areas as follows:

(a) North Sacramento Valley District and the Central Sacramento Valley District one nominee.

(b) Sacramento River District, Stockton District, Stanislaus District, Contra Costa District, Santa Clara District, and Solano District four nominees.

(c) Placer-Colfax District one nominee.

(d) Lake District four nominees.

(e) Mendocino District and the North Bay District one nominee.

(f) El Dorado District one nominee.

(g) All of the production area not included in paragraphs (a) through (f) of this section one nominee.

EFFECTIVE DATE NOTE: At 59 FR 10055, Mar. 3, 1994, § 917.21 was suspended, effective Apr. 4, 1994.

§ 917.24 Procedure for nominating members of various commodity committees.

(a) The Control Committee shall hold or cause to be held not later than February 15 for pears of each odd numbered year a meeting or meetings of the growers of the fruits in each representation area set forth in § 917.21. These meetings shall be supervised by the Control Committee, which shall prescribe such procedures as shall be reasonable and fair to all persons concerned.

(b) With respect to each commodity committee, only growers of the particular fruit who are present at such nomination meetings or represented at such meetings by duly authorized employees may participate in the nomination and election of nominees for commodity committee members and alternates. Each such grower, including employees of such grower, shall be entitled to cast but one vote for each position to be filled for the representation area in which he produces such fruit.

(c) A particular grower, including employees of such growers, shall be eligible for membership as principle or alternate to fill only one position on a commodity committee. A grower nominated for membership on the Pear Commodity Committee must have produced at least 51 percent of the pears shipped by him during the previous fiscal period, or he must represent an organization which produced at least 51 percent of the pears shipped by it during such period.

[76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.24 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.25 Selection of members of various commodity committees.

(a) The Secretary shall select the members of each commodity committee from nominations made by growers, as provided in §§ 917.21 through 917.24, or from among other eligible persons. Any person selected as a member of a commodity committee shall qualify by filing with the Secretary a written acceptance of the appointment.

(b) [Reserved]

[41 FR 17528, Apr. 27, 1976, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.25 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.26 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in §§ 917.21 through 917.24, the Secretary may, without regard to nominations, select the member and alternate members of commodity committees on the basis of representation provided in § 917.21. In the event nominations are not made for membership on the Control Committee, pursuant to the provisions of §§ 917.17 and 917.18, by May 1 of each year, the Secretary may select such members without waiting for nominees to be designated.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.26 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.27 Alternates.

There shall be an alternate for each member of the Control Committee, and an alternate for each member of each commodity committee. Each such alternate shall possess the same qualifications, shall be nominated and selected in the same manner and shall

hold office for the same term, as the member for whom he is alternate. An alternate shall, in the event of such member's absence at a meeting of the committee, act in the place and stead of such member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for such member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member. In the event both a member and his alternate are unable to attend a meeting the member or the committee members present may designate any other alternative to serve in such member's place and stead provided such action is necessary to secure a quorum.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.27 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.28 Procedure for filling vacancies on committees.

To fill any vacancy on the Control Committee or on any of the commodity committees occasioned by the failure of any person selected as a member or as an alternate member to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member, a successor for the unexpired term of such member or alternate shall be nominated and selected in the manner specified in §§917.17 through 917.19 and §§917.21 through 917.25. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations on the basis of representation provided for in §§917.16 and 917.21.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.28 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.29 Organization of committees.

(a) A majority of all of the members of the Control Committee shall constitute a quorum, and any action of the Control Committee shall require the concurrence of the majority of all members present at the meeting.

(b) A quorum of the Pear Commodity Committee shall consist of nine members.

(c) The Control Committee and each commodity committee shall give to the Secretary the same notice of each meeting that is given to the members of the respective committee.

(d) The Control Committee or any commodity committee may, upon due notice to all of the members of the respective committee, vote by letter, telegraph or telephone: *Provided*, That any member voting by telephone shall promptly thereafter confirm in writing his/her vote so cast.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991; 71 FR 41352, July 21, 2006; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.29 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.30 Removal and disapproval.

The members of the Control Committee, including their respective successors and alternates, and the members of each commodity committee, including their respective successors and alternates, and any agent or employee appointed or employed by the Control Committee and the members of any other committee established pursuant to the provisions of this subpart shall be subject to removal or suspension at any time by the Secretary. Each regulation, decision, determination, or other act of the Control Committee, or any commodity committee, or any other committee established pursuant to the provisions of this subpart, shall be subject to the continuing right of the Secretary to disapprove of the same at any time; and, upon such disapproval, each such regulation, decision, determination, or other act, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.30 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.31 Compensation and expenses.

All committee members shall serve without compensation, but said members, and their respective alternates,

shall be reimbursed for expenses necessarily incurred in the performance of their duties. At its discretion any committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses as aforesaid.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.31 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.32 Funds and other property.

(a) All funds received by the Control Committee, pursuant to the provisions of this part, shall be used solely for the purpose specified in this part; and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

(b) Upon the resignation, removal, or expiration of the term of any member or employee of the Control Committee, or of any member of any commodity committee, all books, records, funds, and other property in his possession belonging to the Control Committee or any commodity committee shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee, pursuant to the provisions of this part.

(c) The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses, pursuant to the provisions of this part.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.32 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.33 Powers of Control Committee.

The Control Committee shall have the following powers:

(a) To administer, as specifically provided in this part, the terms and provisions of this part.

(b) To make administrative rules and regulations in accordance with and to effectuate the terms and provisions of this part.

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part.

(d) To recommend to the Secretary amendments to this part.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.33 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.34 Duties of Control Committee.

The Control Committee shall have the following duties:

(a) To act as intermediary between the Secretary and any grower or shippers.

(b) To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee; and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary.

(c) To investigate, from time to time, and assemble data on the growing, shipping, and marketing conditions respecting fruit, as defined in §917.4; to engage in such research and service activities in connection with the handling of such fruit as may be approved, from time to time, by the Secretary; and to furnish to the Secretary such available information as may be requested.

(d) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and define the duties of each.

(e) To develop and provide the commodity committees data on shared expenses to facilitate equitable apportionment of such expenses in the development of budgets.

(f) To confer with representatives of shippers and growers of fruit produced in other states and areas with respect to the formulation or operation of marketing agreements providing for the regulation of shipments among the several states and areas in the United States in which such fruit is grown.

(g) With the approval of the Secretary establish procedures for the selection and appointment of a public member and alternate to each of the commodity committees.

(h) To establish and define the duties of additional committees or subcommittees to assist in the performance of any of the duties and functions of the Control Committee.

(i) To defend all legal proceedings against any committee members (individually or as members) or any officers or employees of such committees arising out of any act or omission made in good faith pursuant to the provisions of this part.

(j) To cause the books of the Control Committee to be audited by a competent accountant at least once each fiscal period and at such other time or times as the Control Committee may deem necessary or as the Secretary may request. Such audit shall indicate whether the funds have been received and expended in accordance with the provisions of this part.

(k) To appoint nomination committees if it deems proper for any or each nomination meeting held pursuant to § 917.21. Such nomination committees would canvas prospective members and alternate members to the commodity committees to determine their eligibility and willingness to serve and present a slate of nominees to the meeting or meetings. The presentation of nominees by the nominating committee at these meetings shall not exclude the right of any grower to nominate any eligible person at such meeting.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.34 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.35 Powers and duties of each commodity committee.

Each commodity committee shall have the following powers and duties:

(a) With regard to the respective fruit for which it was established, to establish production research and marketing research and development projects as authorized under § 917.39, to recommend to the Secretary regulation of shipments pursuant to the provisions of this part, and to possess such other powers and exercise such other duties as will properly effectuate the purpose of this part: *Provided, however,* That the Pear Commodity Committee shall approve actions under § 917.39 and make said recommendations pursuant to §§ 917.40 through 917.43 only upon the affirmative vote of not less than nine members of said committee.

(b) To make such rules and regulations with respect to fruit for which it was established as may be necessary to effectuate the terms and provisions of this part.

(c) To forward to the Control Committee and to the Secretary a record of the minutes of each meeting of the commodity committee.

(d) To establish such other committees to aid the commodity committee in the performance of its duties under this part as may be deemed advisable.

(e) Each season prior to any recommendation to the Secretary for a regulation of shipments pursuant to §§ 917.40 through 917.43 to determine the marketing policy to be followed for the respective commodity during the ensuing fiscal period and to submit such policy to the Secretary, said policy report to contain, among other provisions, information relative to the estimated total production and shipments of the fruit by districts, information as to the expected general quality and size of fruit, possible or expected demand conditions of different market outlets, supplies of competitive commodities, such analysis of the foregoing factors and conditions as the committee deems appropriate, and the type of regulations of shipments expected to be recommended for the respective fruit.

(f) To submit as soon as practicable after the beginning of each fiscal year to the Secretary, for his approval, a budget of its expenses for such fiscal period, including its proportional share of the expenses of the Control Committee and an explanation of the items therein, and a recommendation as to the rate of assessment for the respective fruit for which the commodity committee was established.

(g) With the approval of the Secretary, to redefine the Districts into which the State of California has been divided under § 917.14 or change the representation of any representation area affecting the respective commodity committee: *Provided, however,* That if

any such changes are made, representation on any such committee from the various representation areas shall be based, so far as practicable, upon the proportionate quantity of the respective fruit shipped from the respective representation area during the preceding three fiscal periods: *Provided further*, That the commodity committees shall follow the principle, so far as practicable, of assigning a member position on the commodity committees to any representation area from which five percent of regulated shipments have originated during such periods.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991; 71 FR 41352, July 21, 2006; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.35 was suspended indefinitely, effective Oct. 28, 2011.

EXPENSES AND ASSESSMENTS

§ 917.36 Expenses.

Each commodity committee is authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by the said commodity committee during each fiscal period for the maintenance and functioning of such committee, including its proportionate share of the expenses of the Control Committee; and for such research and service activities relating to handling of the fruit for which the commodity committee was established as the Secretary may determine to be appropriate. The funds to cover such expenses shall be acquired by the levying of assessments as provided in §917.37.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.36 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.37 Assessments.

(a) As his/her pro rata share of the expenses which the Secretary finds are reasonable and are likely to be incurred by the commodity committees during a fiscal period, each handler shall pay to the Control Committee, upon demand, assessments on all fruit handled by him/her. The payment of assessments for the maintenance and functioning of the committees may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the respective rate of assessment, which handlers shall pay with respect to each fruit during each fiscal period in an amount designed to secure sufficient funds to cover the respective expenses, which may be incurred during such period. At any time during or after the fiscal period, the Secretary may increase the rates of assessment in order to secure funds to cover any later findings by the Secretary relative to such expenses, and such increase shall apply to all fruit shipped during the fiscal period.

(c) In order to provide funds to carry out the functions of the commodity committee prior to commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season. Any shipper who ships fruit for the account of a grower may deduct, from the account of sale covering such shipment or shipments, the amount of assessments levied on said fruit shipped for the account of such grower.

[71 FR 41352, July 21, 2006, as amended at 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.37 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.38 Accounting.

If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each commodity committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or

be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.38 was suspended indefinitely, effective Oct. 28, 2011.

RESEARCH

§ 917.39 Production research, market research and development.

The committees, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to § 917.37.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.39 was suspended indefinitely, effective Oct. 28, 2011.

REGULATIONS

§ 917.40 Recommendations for regulations.

(a) Whenever a commodity committee deems it advisable to regulate the handling of any variety or varieties of fruit in the manner provided in § 917.41, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the commodity committee shall give consideration to current information with respect to the factors affecting the supply and demand for such fruit during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the commodity committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.40 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.41 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of any variety or varieties of fruit whenever he finds, from the recommendations and information submitted by the commodity committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the total quantity of any grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of fruit;

(2) Limit the shipment of any variety or varieties of fruit by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of any fruit.

(b) The commodity committee shall be informed immediately of any such regulation issued by the Secretary, and the commodity committee shall promptly give notice thereof to handlers.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, § 917.41 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.42 Modification, suspension, or termination of regulations.

(a) In the event the commodity committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 917.41 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the commodity committee or from other available information, that a regulation should be modified, suspended, or terminated

with respect to any or all shipments of fruit in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.42 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.43 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§917.37, 917.41, and 917.42, and the regulations issued thereunder, handle fruit (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the commodity committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §917.41, §917.42, §917.45, or §917.37, the handling of fruit; (1) To designated market areas outside the continental United States; (2) for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to §917.39); or (3) in such minimum quantities or types of shipments, as may be prescribed.

(c) The commodity committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent fruit handled under the provisions of this section from entering the channels of trade for other than the specified purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the commodity committee for authorization to handle fruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the fruit will not be used for any purpose not authorized by this section.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.43 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.45 Inspection and certification.

(a) Whenever the handling of any variety of a particular fruit is regulated pursuant to §917.41 or §917.42, each handler who handles such fruit shall, prior thereto, cause such fruit to be inspected by the Federal or Federal-State Inspection Service: *Provided*, That inspection and certification shall not be required if such fruit has previously been so inspected and certified. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the commodity committee a copy of the certificate of inspection issued with respect to such fruit. The commodity committees may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided*, That all shipments made under such waiver shall comply with all regulations in effect.

(b) The Control Committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, for any or all fruits, and may collect from handlers their respective pro rata shares of such costs.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.45 was suspended indefinitely, effective Oct. 28, 2011.

REPORTS

§ 917.50 Reports.

(a) Each handler shall furnish to the Manager of the Control Committee, at such times and for such periods as the Control Committee or the commodity committees may designate, certified reports covering, to the extent necessary for the committees to perform their functions, each shipment of fruits as follows:

(1) The name of the shipper and the shipping point;

(2) The car or truck license number (or name of the trucker), and identification of the carrier;
(3) The date and time of departure;
(4) The number and type of containers in the shipment;
(5) The quantities shipped, showing separately the variety, grade, and size of the fruit;
(6) The destination;
(7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled;
(8) The price per package at which sold, including specific and detailed information relative to all discounts, allowances, rebates, or other adjustments thereof.

(b) Upon request of any committee, made with the approval of the Secretary, each handler shall furnish to the Manager of the Control Committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the fruits received and disposed of by him as may be necessary to verify the reports he submits to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the Control Committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handlers furnishing the information are not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.50 was suspended indefinitely, effective Oct. 28, 2011.

MISCELLANEOUS PROVISIONS

§ 917.60 Effective time.

The provisions of this part and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in §917.61.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.60 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.61 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part or the applicability of the provisions of this part as to a particular fruit whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers of the fruit: *Provided,* That such majority has during the current fiscal period produced more than 50 percent of the volume of the fruit which was produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of March subsequent to the announcement thereof by the Secretary.

(d) The Control Committee shall consider all petitions from growers submitted to it for termination of this part provided such petitions are received by the Control Committee prior to October 1 of the then current fiscal period. Upon recommendation of the Control Committee, received not later than December 1 of the then current fiscal period, the Secretary shall conduct a referendum among the growers of the particular kind of fruit prior to February 15 of such fiscal period to ascertain whether continuance of this part is favored by producers.

(e) The Secretary shall conduct a referendum within the period beginning

December 1, 1974, and ending February 15, 1975, to ascertain whether continuance of this part as to any fruit included in this part is favored by the growers. The Secretary shall conduct such a referendum within the same period of every fourth fiscal period thereafter.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

[41 FR 17528, Apr. 27, 1976, as amended at 88 FR 82232, Nov. 24, 2023]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.61 was suspended indefinitely, effective Oct. 28, 2011. At 88 FR 82232, Nov. 24, 2023, the suspension was lifted, an amendment was made to §917.61, and the section was stayed indefinitely.

§ 917.62 Proceedings after termination.

(a) Upon the termination of the provisions of this part pertaining to any fruit or fruits, the Control Committee then functioning shall for the purpose of liquidating the affairs of the Control Committee with respect to such fruit continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all funds, property, and claims vested in the Control Committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the Control Committee and upon the trustees.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.62 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.63 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.63 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.64 Compliance.

Each shipper shall comply with all regulations. No shipper shall ship fruit in violation of the provisions of this part or in violation of any regulation issued by the Secretary pursuant to the provisions of this part.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.64 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.65 Duration of immunities.

The benefits, privileges, and immunities conferred by virtue of the provisions of this subpart shall cease upon its termination except with respect to acts done under and during the time the provisions of this part are in force and effect.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.65 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.66 Agents.

The Secretary may by a designation in writing name any person, including any officer or employee of the Government or any agency or Division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.66 was suspended indefinitely, effective Oct. 28, 2011.

§917.67 Derogation.

Nothing contained in this part is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.67 was suspended indefinitely, effective Oct. 28, 2011.

§917.68 Liability of committee members.

No members of the Control Committee, any commodity committee, or other committee, or any subcommittee, or any employee of the Control Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any shipper or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.68 was suspended indefinitely, effective Oct. 28, 2011.

§917.69 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, thing, or any particular kind of fruit is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, thing, or kind of fruit shall not be affected thereby.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.69 was suspended indefinitely, effective Oct. 28, 2011.

Subpart B—Administrative Requirements

SOURCE: 16 FR 12776, Dec. 20, 1951, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

§917.100 Order.

Order means Marketing Order No. 917, as amended (this part 917), regulating the handling of fresh pears grown in the State of California.

[31 FR 7476, May 5, 1966, as amended at 56 FR 46369, Sept. 12, 1991; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.100 was suspended indefinitely, effective Oct. 28, 2011.

§917.101 Marketing agreement.

Marketing agreement means Marketing Agreement No. 85 as amended.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.101 was suspended indefinitely, effective Oct. 28, 2011.

§917.103 Terms.

All other terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

[18 FR 712, Feb. 4, 1953. Redesignated at 26 FR 12751, Dec. 30, 1961]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.103 was suspended indefinitely, effective Oct. 28, 2011.

GENERAL

§917.110 Communications.

Unless otherwise prescribed in this subpart, or in the marketing agreement and order, or required by the Control Committee, or a particular commodity committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed as follows:

California Tree Fruit Agreement, P.O. Box 968, Reedley, CA, 93654–0968.

[63 FR 16041, Apr. 1, 1998, as amended at 71 FR 78041, Dec. 28, 2006]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.110 was suspended indefinitely, effective Oct. 28, 2011.

ADMINISTRATIVE BODIES

§917.115 Nomination of shipper members for the Control Committee.

(a) All shippers who, prior to February 1 of the then current year, have not advised the manager of the Control

Committee in writing of their participation in the formation of an elective body shall be notified promptly by the manager after that date, by mail, of the time and place for a meeting of such shippers to elect nominees for shipper membership on the Control Committee.

(b) The chairman of the then existing Control Committee shall schedule a meeting of shippers in the month of February of the then current year, for the purpose of making nominations to the shipper membership of the Control Committee; and such chairman is authorized to appoint a member of the Control Committee to act as chairman of the meeting and to conduct the election.

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.115 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.119 Procedure for nominating members for various Commodity Committees; meetings.

(a) The manager of the then existing Control Committee shall arrange for, and publicize, meetings of growers to nominate members for the different commodity committees, and each such meeting shall be attended by one or more employees of the Control Committee. Members of the Agricultural Extension Service of the University of California may be authorized by the manager to assist in calling such meetings and advise growers, on their respective mailing lists, of such meetings.

(b) Growers assembled at any such meetings may select a chairman and secretary, but in the event none of the aforesaid employees of the Control Committee is selected as secretary of the meeting, one such employee shall, nevertheless, record all nominations made.

(c) The nominations at any meeting shall be conducted according to Robert's rules of order. However, voting may be by secret ballot or by acclamation in accordance with the desire of the majority of the growers attending the meeting.

(d) No individual, whether representing a corporation or otherwise, may cast more than one vote for each nominee to be selected at the meeting where such individual is eligible to participate in the selection of nominees for members and alternate members of the Commodity Committees.

[16 FR 12776, Dec. 20, 1951, as amended at 24 FR 470, Jan. 21, 1959. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 71 FR 78041, Dec. 28, 2006; 76 FR 66605, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.119 was suspended indefinitely, effective Oct. 28, 2011.

§ 917.121 Changes in nomination of Pear Commodity Committee members.

Nominations for membership on the Pear Commodity Committee shall be made by the growers of pears in the respective representation areas as follows:

(a) North Sacramento Valley District, Central Sacramento Valley District, Placer-Colfax District, El Dorado District, and all of the production area not included in paragraphs (b) through (d) of this section, one nominee.

(b) Sacramento River District, Stockton District, Stanislaus District, Contra Costa District, Santa Clara District and Solano District, three nominees.

(c) Lake District, six nominees.

(d) Mendocino District and North Bay District, three nominees.

[52 FR 12513, Apr. 17, 1987]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, §917.121 was suspended, effective Apr. 4, 1994.

§ 917.122 Qualification requirements and nomination procedure for public members of Commodity Committees.

(a) Public members shall not have a financial interest in or be associated with production, processing, financing, or marketing (except as consumers) of the commodities regulated under this part.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly, and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of California.

(d) Public members should be nominated by each Commodity Committee

and should serve a two-year term which coincides with the term of office of grower members of Commodity Committees.

[42 FR 3625, Jan. 19, 1977, as amended at 43 FR 58355, Dec. 14, 1978]

EFFECTIVE DATE NOTE: At 76 FR 66605, Oct. 27, 2011, §917.122 was suspended indefinitely, effective Oct. 28, 2011.

REGULATION BY GRADES, SIZES, AND MINIMUM STANDARDS OF QUALITY AND MATURITY

§917.143 Exemptions.

(a) *Waivers.* A handler may handle fruit without inspection and certification, as prescribed under §917.45, if all the following conditions are met:

(1) The handler requests the Federal-State Inspection Service to provide inspection during its regular working hours at least two hours in advance of the time when inspection is needed. The request need not be in writing but it shall be confirmed immediately in writing on a waiver form supplied by the inspection service;

(2) The Federal-State Inspection Service advises the handler that it is not practicable to provide inspection at the time and place designated by the handler. Such advice may be verbal but it shall be confirmed in writing by the Federal-State Inspection Service by execution of the waiver form on which the handler submitted his written request. A confirmed copy thereof shall be forwarded by the inspection service to the office of the Control Committee;

(3) The Federal-State Inspection Service furnishes the handler with the number of the waiver which shall cover the fruit on which inspection is requested;

(4) When so instructed, the handler plainly and conspicuously marks one end of each container with the letter W and the waiver number supplied by the Federal-State Inspection Service. The letter W and the number so marked shall be not less than one-half inch in height.

(b) *Minimum quantities.* Notwithstanding any other provisions of this section, pears may be handled without regard to the provisions of §§917.37, 917.41, 917.42, 917.45 and 917.50 under the following conditions:

(1) Such pears meet the grade requirements set forth in Articles 35, 38, and 34, respectively of the Food and Agriculture Code of California.

(2) Such pears are for home use and not for resale.

(3) The shipment does not exceed 200 pounds of pears to any one vehicle during any one day.

(4) Such pears are handled by the person who produces them; and the handling takes place (i) on the premises where grown, (ii) at a packinghouse or retail stand nearby which is operated by said handler, or (iii) at a certified farmers market in compliance with section 1392 of the regulations of the California Department of Food and Agriculture: *Provided,* That the exemption for certified farmers markets shall not apply to fruit sorted out by a handler unless such fruit is packed in containers clearly and legibly marked to show that the fruit contained therein is only to be sold at a certified farmers market, and the handler complies with regulations established under §§917.37, 917.41(a)(1), 917.45, and 917.50, except that such fruit may be handled to such markets if the fruit fails to meet the applicable grade only on account of being soft and overripe.

[31 FR 7476, May 24, 1966, as amended at 41 FR 22071, June 1, 1976; 41 FR 28509, July 12, 1976; 42 FR 22875, May 5, 1977; 47 FR 30452, July 14, 1982; 49 FR 36361, Sept. 17, 1984; 53 FR 18818, May 25, 1988; 56 FR 46369, Sept. 12, 1991; 76 FR 66606, Oct. 27, 2011]

EFFECTIVE DATE NOTE: At 76 FR 66606, Oct. 27, 2011, §917.143 was suspended indefinitely, effective Oct. 28, 2011.

§917.149 Special purpose shipments.

Any person may file a request with the Pear Commodity Committee to transport pears to a packing facility located in the State of Oregon without inspection and certification prior to such transporting. The committee may approve such a request subject to the following terms and conditions:

(a) Approval shall be requested by the person prior to transporting the pears out of the area of production.

(b) Such person shall file with the committee, in such manner as required, reports showing, among other things, the date and quantity of pears comprising each shipment of pears

transported to Oregon and the disposition thereof.

(c) All such pears shall be of the person's own production and the packing facility to which they are transported must be owned and operated by that person.

(d) All such pears shall be inspected and certified, as required by § 917.45, by the Federal or Federal-State Inspection Service prior to the time such pears are shipped from the packing facility. Any pears shipped to any such facility which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations, may be shipped, or handled, within the State, for consumption by any charitable institution or for distribution by any relief agency or for conversion into products. Prior to any such shipment or handling, there shall first have been submitted to the committee proof satisfactory to the committee that the pears will not be handled contrary to the requirements of the marketing agreement and order. Such proof shall include a written certificate, executed by both the handler and the intended receiver, stating that the pears will not be used for any purpose not authorized by this section.

[41 FR 31180, July 27, 1976]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, § 917.149 was suspended, effective Apr. 4, 1994.

REGULATION OF DAILY SHIPMENTS

REPORTS

§ 917.176 Pears.

(a) *Report of daily packout.* When requested by the Pear Commodity Committee, each shipper who ships pears shall furnish to the manager of the Control Committee or when designated to the Federal-State Inspection Service a report of the number of packages by container type, by variety and by district of origin, which the shipper packed during the preceding day.

(b) *Recapitulation of shipments.* When requested by the Pear Commodity Committee, each shipper of pears shall furnish to the manager of the Control Committee a recapitulation of his shipments. The recapitulation shall show:

(1) The name of the shipper,

(2) The shipping point,

(3) The district of origin,

(4) The variety, and

(5) The number of packages, by size, for each container type.

(c) *Report of pears held in storage.* Each shipper who has pears under refrigeration in a storage warehouse shall upon request, file with the manager of the Control Committee within the time specified in the request an accurate report containing the following information:

(1) The name and address of the shipper; and

(2) The total quantity, as of the date specified in the request, of pears in storage outside of the State of California and in storage in the State of California.

[39 FR 27117, July 25, 1974]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, § 917.176 was suspended, effective Apr. 4, 1994.

Subpart C—Grade and Size Requirements

§ 917.461 Pear Regulation 12.

(a) No handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: *Provided,* That for the 1992 crop year, no handler shall ship organic pears of these varieties unless they grade at least U.S. Combination with not less than 50 percent, by count, grading at least U.S. No. 1 and the remainder grading at least U.S. No. 2, except that russeting shall not be scored as a defect for such organic pears. Handlers who intend to ship organic pears in accordance with this paragraph shall provide, upon request of the committee, with the approval of the Secretary, information to indicate that the pears were grown in accordance with the provisions of paragraph (b)(5) of this section.

(2) Any box or container, including consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are

of a size not smaller than the size known commercially as size 165;

(3) Any box or container, other than consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, other than consumer packages in master containers and consumer packages not in master containers, unless such box or container conforms to the requirement of standard pack, except that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive: *Provided,* That 10 percent of the containers in any lot may fail to meet the requirements of this subparagraph: *Provided further,* That such varieties of pears shipped in bulk bin containers containing 300 pounds or more of pears shall be exempt from the requirements in this subparagraph.

(6) Any volume-filled box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears (not packed in rows and not wrap packed), other than consumer packages in master containers and consumer packages not in master containers, unless (i) such boxes or containers are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each box or container that will cover the fruit with no more than ¼ inch between the pad and any side or end of the box or container; and (iv) the top of the box or container shall be securely fastened to the bottom: Provided, That 10 percent of the boxes or containers in any lot may fail to meet the requirements of this paragraph.

(7) Each master container, when filled with pears packed in consumer packages, shall bear on one outside end in plain sight and plain letters the varietal name and size description of the contents; the number of consumer packages packed in the master container; the net weight of each consumer package; and the name and address, including zip code, of the handler.

(8) Each individual consumer package shall bear the name and address, including the zip code, of the handler and the net weight of the contents. When a consumer package is not shipped in a master container, it must also bear the varietal name, number and size description of pears contained in the package.

(b) *Definitions.* (1) *Size known commercially as size 165* means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(2) *Standard pear box* means the container so designated in §1380.19 of the regulations of the California Department of Food and Agriculture.

(3) *U.S. No. 1, U.S. No. 2, U.S. Combination,* and *Standard Pack* mean the same as defined in the United States Standards for Summer and Fall Pears (7 CFR 51.1260 to 51.1280).

(4) *Approved top pad* shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

(5) *Organic pears* means pears which are produced, harvested, distributed, stored, processed and packaged without application of synthetically compounded fertilizers, pesticides, or growth regulators. In addition, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied by the grower to the field or area in which the pears are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for pears.

(6) *Consumer package* means a package holding 15 pounds or less net weight of pears.

[46 FR 48116, Oct. 1, 1981, as amended at 47 FR 34116, Aug. 6, 1982; 54 FR 32796, Aug. 10, 1989; 55 FR 25958, June 26, 1990; 56 FR 32063, July 15, 1991; 57 FR 31093, July 14, 1992]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, §917.461 was suspended, effective Apr. 4, 1994.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

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AUTHORITY: 7 U.S.C. 601–674.

SOURCE: 49 FR 39658, Oct. 10, 1984, unless otherwise noted.

DEFINITIONS

§ 920.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department of whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 920.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 920.3 Person.

Person means an individual, partnership, corporation, association or any other business unit.

§ 920.4 Production area.

Production area means the State of California.

§ 920.5 Kiwifruit.

Kiwifruit means all varieties of kiwifruit, or kiwi grown in the production area.

[58 FR 65102, Dec. 13, 1993]