

controls in 2004–2005 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

Based on projections available at the meetings, the Committee considered alternatives to the 4 percent increase. The Committee not only considered leaving the Native spearmint oil salable quantity and allotment percentage unchanged, but also looked at various increases ranging from 3 percent to 5 percent. The Committee reached its recommendation to again increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information, and believes that the level recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to meet market needs.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meetings and participate in Committee deliberations. Like all Committee meetings, the September 13, 2004, October 6, 2004, January 20, 2005, and the February 23, 2005, meetings were public meetings and all entities, both large and small, were able to express their views on each of the recommended increases in the 2004–2005 Native spearmint oil salable quantity and allotment percentage.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay

Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a revision to the salable quantity and allotment percentage for Native spearmint oil for the 2004–2005 marketing year. Comments must be received by April 25, 2005. This closing date is deemed appropriate to receive comments in a timely manner and this date corresponds to the ending date of the comment period for the amended interim final rule. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this further amended interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule increases the quantity of Native spearmint oil that may be marketed during the marketing year which ends on May 31, 2005; (2) the current quantity of Native spearmint oil may be inadequate to meet demand for the remainder of the marketing year, thus making the additional oil available as soon as is practicable is beneficial to both handlers and producers; (3) the Committee unanimously recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides an appropriate comment period and any comments received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

■ For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

#### **PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST**

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. In § 985.223, paragraph (b) is revised to read as follows:

[**Note:** This section will not appear in the annual Code of Federal Regulations.]

#### **§ 985.223 Salable quantities and allotment percentages—2004–2005 marketing year.**

\* \* \* \* \*

(b) Class 3 (Native) oil—a salable quantity of 1,353,498 pounds and an allotment percentage of 63 percent.

Dated: March 23, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–6081 Filed 3–23–05; 3:55 pm]

**BILLING CODE 3410–02–P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 993**

[Docket No. FV05–993–1 FR]

#### **Dried Prunes Produced in California; Increased Assessment Rate**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Prune Marketing Committee (committee) under Marketing Order No. 993 for the 2004–05 and subsequent crop years from \$4.00 to \$6.00 per ton of salable dried prunes. The committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The committee recommended a higher assessment rate because the 2004–05 crop is very small, and the higher assessment rate is needed to generate funds to meet program expenses and provide an adequate financial reserve. The crop year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** March 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Program Analyst, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901; Fax (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237;

Telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 110 and Marketing Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning August 1, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the committee for the 2004-05 and subsequent crop years from \$4.00 to \$6.00 per ton of salable dried prunes.

The California dried prune marketing order provides authority for the committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the committee are producers and handlers of California dried prunes. They are familiar with the committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The committee recommended an assessment rate of \$4.00 per salable ton of prunes for the 2004-05 and subsequent crop years on June 23, 2004. USDA approved that assessment rate and published it in the **Federal Register** on September 28, 2004 (69 FR 55733.) That assessment rate was to continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA. At the time of the June 23 meeting, the estimated prune crop was expected to be 68,950 salable tons.

However, the committee met again on December 8, 2004, and unanimously recommended an increased assessment rate of \$6.00 per ton of salable dried prunes and an increase in 2004-05 expenditures to \$283,218. At its June 23, 2004, meeting, the committee recommended expenditures totaling \$275,800. The assessment rate of \$6.00 per ton is \$2.00 higher than the rate currently in effect, and \$4.00 per ton more than the assessment rate in effect during the 2003-2004 crop year.

The committee recommended a higher assessment rate because a very small crop was received by handlers during the crop year. The salable prune production this year is expected to be only 47,203 tons, the smallest crop since 1918. The assessment rate of \$6.00 per ton is expected to provide sufficient funds for committee operations this year and provide an adequate financial reserve.

In comparison, the budgeted expenditures for the 2003-2004 crop year were \$322,022 and the assessment rate was \$2.00 per salable ton of prunes, based upon an estimated crop of 170,500 salable tons.

The following table compares the major budget expenditures recommended by the committee on December 8, 2004, and major budget expenditures in the previously-approved 2004-05 budget.

Budget expense categories	Approved budget 2004-05	Revised budget 2004-05
Total Personnel Salaries .....	\$181,335	\$178,335
Total Operating Expenses .....	84,931	75,431
Reserve for Contingencies .....	9,534	29,452

The assessment rate recommended by the committee was derived by dividing anticipated expenses by the estimated salable tons of California dried prunes. Production of dried prunes for the year is estimated to be 47,203 salable tons, which should provide \$283,218 in assessment income. Income derived from handler assessments is expected to be adequate to cover budgeted expenses. The committee is authorized to use excess assessment funds from the 2004-05 crop year (currently estimated at \$29,452) for up to 5 months beyond the end of the crop year to meet 2005-06 crop year expenses. At the end of the 5-month period, the committee must refund or credit excess funds to handlers, as prescribed by § 993.81(c).

The assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2004-05 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS)

has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,100 producers of dried prunes in the production area and approximately 22 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those whose annual receipts are less than \$750,000, and small agricultural service firms as those whose annual receipts are less than \$5,000,000.

Eight of the 22 handlers (36.4 percent) shipped over \$5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Fourteen of the 22 handlers (63.6 percent) shipped under \$5,000,000 of dried prunes and could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,100 total producers, would be considered large growers with annual income over \$750,000. Therefore, the majority of handlers and producers of California dried prunes may be classified as small entities.

This rule increases the assessment rate established for the committee and collected from handlers for the 2004–05 and subsequent crop years from \$4.00 to \$6.00 per ton of salable dried prunes. The committee unanimously recommended revised 2004–05 expenditures of \$283,218 and an increased assessment rate of \$6.00 per ton of salable dried prunes at the meeting on December 8, 2004. The recommended expenditures are slightly higher than the committee's initial estimate of \$275,800 for 2004–05. The assessment rate of \$6.00 per ton is \$2.00 higher than the current rate. The quantity of salable dried prunes for the 2004–05 crop year is now estimated at 47,203 salable tons. Thus, the \$6.00 rate should provide \$283,218 in assessment income and be adequate to meet this year's expenses.

The following table compares the major budget expenditures recommended by the committee on December 8, 2004 and major budget

expenditures in the previously-approved 2004–05 budget.

Budget expense categories	Approved budget 2004–05	Revised budget 2004–05
Total Salaries .....	\$181,335	\$178,331
Operating Expenses .....	84,931	75,431
Reserve for Contingencies .....	9,534	29,452

Prior to arriving at its budget of \$283,218, the committee considered information from various sources, such as the committee's Executive Subcommittee. An alternative to this action would be to continue with the \$4.00 per ton assessment rate. However, an assessment rate of \$4.00 per ton in combination with the estimated crop of 47,203 salable tons would not generate sufficient monies to fund all the budget items for 2004–05 and provide an adequate financial reserve. The assessment rate of \$6.00 per ton of salable dried prunes was determined by dividing the total recommended budget by the estimated salable dried prunes. The committee is authorized to use excess assessment funds from the 2004–05 crop year (currently estimated at \$29,452) for up to 5 months beyond the end of the crop year to fund 2005–06 crop year expenses. At the end of the 5-month period, the committee must refund or credit excess funds to handlers, as prescribed by § 993.81(c). Anticipated assessment income collected during 2004–05 would be adequate to cover authorized expenses.

The grower price for the 2004–05 crop year is expected to average about \$750 per salable ton of dried prunes. Based on an estimated 47,203 salable tons of dried prunes, assessment revenue during the 2004–05 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 8, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on February 4, 2005 (70 FR 5944). Copies of the proposed rule were also provided to prune handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending on March 7, 2005, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab/html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2004–05 crop year began on August 1, 2004, and the marketing order requires that the rate of assessment for each crop year apply to all assessable prunes handled during the crop year. Further, the Committee needs sufficient funds to pay its expenses which are incurred on a continuous basis. Handlers are aware of this rule which was unanimously recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

#### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

## PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

### § 993.347 Assessment rate.

On and after August 1, 2004, an assessment rate of \$6.00 per ton is established for California dried prunes.

Dated: March 22, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–5984 Filed 3–25–05; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 02–002–2]

### Classical Swine Fever Status of Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of classical swine fever (CSF). We have conducted a series of risk evaluations and have determined that these four States have met our requirements for being recognized as free of this disease. This action allows the importation into the United States of pork, pork products, live swine, and swine semen from these regions. In addition, this rule requires live swine, pork, and pork products imported into the United States from the four Mexican States to be certified as having originated in one of those States or in another region recognized by the Animal and Plant Health Inspection Service as free of CSF and as not having been commingled, prior to export to the United States, with animals and animal products from regions where CSF exists.

**DATES:** *Effective Date:* April 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Hatim Gubara, Staff Veterinarian, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road

Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

### SUPPLEMENTARY INFORMATION:

#### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation and exportation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

On September 30, 2002, we published in the **Federal Register** (67 FR 61293–61300, Docket No. 02–002–1) a proposal to amend the regulations in §§ 94.9 and 94.10 by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of classical swine fever (CSF), thus relieving restrictions on the importation into the United States of pork, pork products, live swine, and swine semen from these regions. We also proposed to remove references to those four States in § 94.15(b) because we believed that paragraph, which, among other things, governs the transiting through the United States of pork and pork products not otherwise eligible for entry into the United States under part 94, would no longer apply to those States once they were recognized as CSF-free. Finally, we proposed to remove § 94.21, which contained provisions for the importation of pork and pork products from Sonora and Yucatan, because our recognition of those two Mexican States as free of CSF meant that those provisions would no longer apply.

**Note:** Since the proposed rule's publication, §§ 94.19 through 94.25 have been redesignated as §§ 94.20 through 94.26, respectively. Throughout this final rule, we use the current section numbers in part 94. Thus, where the proposed rule referred to § 94.20, this final rule refers to § 94.21.

We solicited comments concerning our proposal for 60 days ending November 29, 2002. We received one comment by that date. It was from a domestic pork producers' association.

The commenter opposed the proposal, raising a number of issues that we will discuss in the paragraphs that follow. Areas of concern mentioned by the commenter included APHIS' risk assessment methodology; the conditions under which live swine and swine semen would be imported from the four

Mexican States; the possibility that imports of those two commodities, in particular, could transmit not only CSF to U.S. herds but other diseases as well; the conditions under which pork and pork products would be imported into the United States from the four Mexican States; the adequacy of controls on the movement of products from CSF-affected regions into the four Mexican States; the possibility of commingling of products originating in the four States with products imported into those States from surrounding CSF-affected regions; swine identification and traceback in Mexico; and the adequacy of some aspects of the veterinary infrastructure in the four Mexican States.

The commenter noted that for a separate CSF-related rulemaking, APHIS conducted a risk analysis that included quantitative risk assessments for live swine, swine semen, and pork. (The rulemaking cited by the commenter involved the recognition of a region in the European Union (EU) consisting of Austria, Belgium, Greece, the Netherlands, Portugal, and parts of Germany and Italy as free of CSF; that rulemaking was completed with the publication of a final rule in the **Federal Register** (68 FR 16922–16940, Docket No. 98–090–5) on April 7, 2003.) The commenter stated that risk analyses conducted for our September 2002 proposed rule regarding the four Mexican States did not include separate assessments for live swine and swine semen, even though, in general, there are higher levels of risk associated with importing live animals and germ plasm than with importing pork and pork products. The commenter requested an explanation of the apparent disparity in the risk determination procedures used in the two rulemakings.

In conducting the analyses that provided the basis for our September 2002 proposed rule concerning Campeche, Quintana Roo, Sonora, and Yucatan, we used our standard approach, which is described in § 92.2 of the regulations, and we found the risk of CSF transmission to the United States via imports from these four Mexican States to be low. Historically, we have not conducted separate risk analyses for live swine and swine semen in similar rulemakings. Our typical approach when evaluating a region for disease-free status has been to conduct qualitative analyses. Regions that have met criteria for disease freedom, such as the four Mexican States covered by this rulemaking, are typically those that have not reported an outbreak of the relevant disease in many years, do not allow vaccinations that might mask