

term rate of increase is lower than average rate of inflation since 1998. Adjusted for inflation, grading fees after this increase will be lower in real dollars than they were in 1998. Dairy Programs continues to evaluate the business practices of its grading and inspection programs, and will implement, as they are identified, measures that should result in increased program efficiency.

Each of the comments received was carefully considered. Nevertheless, Dairy Programs' current grading and inspection fees are not adequate, and this increase in fees is necessary. Dairy Programs has and continues to seek cost savings by reducing overhead and travel costs, and increasing program efficiency through enhanced automation of business practices.

Pursuant to the Administrative Procedures Act (5 U.S.C. 553), good cause is found to make this effective less than 30 days after publication in the **Federal Register**. This rule will take effect the next day following publication to minimize financial losses for dairy grading and inspection services. Revenues are not sufficient to cover program costs or allow the Dairy Grading Branch to maintain adequate operating reserves. The Branch is currently operating with a monthly revenue loss of \$42,000, which will adversely affect its ability to provide inspection and grading services.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

■ For the reason set forth in the preamble, 7 CFR part 58 is amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

■ 1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

Subpart A—[Amended]

§ 58.43 [Amended]

■ 2. In § 58.43, “\$62.00” is removed and “\$68.00” is added in its place, and “\$68.20” is removed and “\$74.80” is added in its place.

§ 58.45 [Amended]

■ 3. In § 58.45, “\$57.00” is removed and “\$63.00” is added in its place.

Dated: October 10, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–17191 Filed 10–16–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 924 and 944

[Docket No. FV06–924–1 FIR]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Suspension of Handling Regulations, Establishment of Reporting Requirements, and Suspension of the Fresh Prune Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule suspending the handling regulations prescribed under the Washington-Oregon fresh prune marketing order for the 2006 and future seasons. The marketing order regulates the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, and is administered locally by the Washington-Oregon Prune Marketing Committee (Committee). This rule continues in effect the action that suspended the minimum grade, size, quality, maturity, and inspection requirements for fresh prune handlers under the marketing order. During the suspension of the handling regulations, reports from handlers will continue to be required to obtain information necessary to administer the marketing order. In addition, this rule continues in effect the suspension of fresh prune import inspection and minimum quality, grade, size, and maturity requirements.

DATES: *Effective Date:* November 16, 2006.

FOR FURTHER INFORMATION CONTACT:

Barry Broadbent or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326–2724, Fax: (503) 326–7440, or e-mail:

Barry.Broadbent@usda.gov or *GaryD.Olson@usda.gov*.

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*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 924, as amended (7 CFR 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the “Act.” This rule is also issued under section 8e of the Act regarding the establishment of inspection and quality, grade, size, or maturity requirements on imports of commodities that are similarly regulated under Federal marketing orders.

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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. A 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.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule continues in effect the action that suspended the handling regulations prescribed under the order for the 2006 and future seasons.

Specifically, this rule suspends the minimum grade, size, quality, maturity, and inspection requirements under the order. In addition, this rule continues in effect the suspension of regulation of fresh prune import under section 8e of the Act.

Furthermore, this rule continues in effect the action that established a new handler reporting requirement. The new handler report provides the Committee with information that has previously been available from the Federal-State Inspection Service (Inspection Service). As a result of suspending the handling regulations, including mandatory inspections, information from the Inspection Service is no longer available to the Committee to compile industry statistics and to assess handlers. The new handler reporting requirement allows the Committee to obtain information directly from handlers similar to the information that has been obtained previously from the Inspection Service.

Section 924.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for fresh prunes grown in the production area. Section 924.53 authorizes the modification, suspension, or termination of regulations issued under § 924.52.

Section 924.55 provides that whenever the handling of any variety of fresh prunes is regulated pursuant to § 924.52 or § 924.53, such prunes must be inspected by the Inspection Service, and certified as meeting the applicable requirements. The cost of the inspection and certification is borne by handlers.

Section 924.60 authorizes the Committee, with the approval of USDA, to require reports and other information from handlers that are necessary for the Committee to perform its duties.

Minimum grade, size, quality, maturity, and inspection requirements for fresh prunes regulated under the order are specified in § 924.319 (the section suspended by this rule). When effective, § 924.319, with exemptions for certain varieties and types of shipments, provides that all fresh prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1 $\frac{1}{4}$ inches in diameter as measured by a rigid ring. The regulation includes a minimum quantity exemption, as well as specific tolerances for prunes that fail to meet color, minimum diameter, and quality requirements.

Regulation regarding the importation of fresh prunes into the United States under Section 8e of the Act is set forth in § 944.700.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington-Oregon fresh prunes which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA reviews Committee recommendations, information submitted by the Committee, and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its February 16, 2006, meeting, the Committee unanimously recommended suspending the handling regulations and establishing a new handler reporting requirement for the 2006 and future seasons.

The objective of handling regulation has been to ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification (mandated when the handling regulations are in effect) currently exceeds the benefits derived.

Fresh prune prices have been at low levels in recent seasons, and many producers have faced difficulty covering their production costs. Consequently, the Committee has, for a number of years, explored the possibility of reducing the industry's costs through the elimination of mandatory inspections and the accompanying fees. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets, thereby affecting consumer demand. Also, there is some concern that, should overall quality decline, the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

After much consideration, the Committee recommended the suspension of the handling regulations for the 2006 and future seasons, but stipulated that the Committee would assess marketing conditions annually to determine if lifting the suspension is warranted. The suspension enables the industry to realize needed cost savings while the impact of the suspension is evaluated, on an ongoing basis, by the Committee. Should the market situation so dictate, the Committee may take

appropriate action to recommend reinstating regulation.

This final rule enables Washington-Oregon fresh prune handlers to continue to ship prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. This allows handlers to decrease their total costs by eliminating the expenses associated with mandatory inspection. This rule does not restrict handlers from seeking product inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect the suspension of the handling regulations has on market conditions and on producer returns each year the suspension is in effect, and, if necessary, make recommendations to USDA for changes.

The suspension of the handling regulation and mandatory inspections also results in the elimination of the inspection certificates that have been generated by the Inspection Service and forwarded to the Committee. The Committee used these certificates as the basis for assessment billing from handlers and for compiling prune industry statistics. In the absence of the inspection certificates, handlers are now required to submit reports directly to the Committee to facilitate the collection of assessments and the compilation of industry statistics.

Therefore, a new § 924.160 *Reports* has now been added which requires each handler to submit to the Committee, on or before October 30 of each year, a "Handler Statement for Washington-Oregon Fresh Prunes" containing the following information: (a) The handler's name and address; (b) the name and address of each producer; (c) the quantity, in field run tons, of early and late fresh prunes handled by each handler; (d) the assessment due and enclosed; (e) the name, telephone number, and signature of the authorized person completing the form; and (f) the date the form is signed.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The new reporting requirement facilitates the Committee's ability to collect assessments needed to cover necessary program costs. Even though reporting requirements are increased, this final rule, through the elimination of inspection and certification requirements, is expected to reduce overall industry expenses.

Consistent with the suspension of § 924.319, this final rule also suspends § 924.110 of the rules and regulations in effect under the order. Section 924.110 contains provisions for handlers to

apply for waivers from mandatory inspection when such inspection is not readily available from the Inspection Service. With the suspension of regulation, such waivers are no longer necessary.

Contained within the handling regulations (§ 924.319(b)) is a provision allowing the handling of any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of Stanley or Merton variety prunes, or 350 pounds net weight of any other variety of prunes, without regard to the inspection and assessment requirements issued under the order. Regardless of the suspension of handling regulations, the Committee desires that this provision remain effective for the purpose of providing a minimum quantity exemption from assessments. Thus, a new § 924.121 *Minimum quantity exemption* is established. This section essentially continues the provision with the same minimum quantity exemption threshold as in 924.319(b), but in regards to the assessment requirements contained in § 924.41 only.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including fresh prunes, imports of that commodity must meet the same or comparable requirements. Section 944.700 contains the regulations for fresh prune imports. Since this final rule indefinitely suspends the handling regulation for domestic fresh prunes, including grade, size, quality, and maturity requirements, the regulation of imported fresh prunes is suspended indefinitely as well.

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 action 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.

Currently, there are 7 handlers of Washington-Oregon fresh prunes who are subject to regulation under the order and approximately 100 fresh prune

producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$6,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

Fresh prune production has been approximately 5,000 to 7,000 tons per year for the past several years. The Committee estimates that all Washington-Oregon fresh prune handlers combined ship less than \$6,500,000 worth of prunes on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, average annual producer receipts are approximately \$13,000, which is considerably less than the \$750,000 threshold. In view of the foregoing, it can be concluded that all of the handlers and producers of Washington-Oregon fresh prunes may be classified as small entities.

This final rule continues in effect the suspension of the handling regulations specified in § 924.319, as well as the fresh prune import regulations specified in § 944.700. Furthermore, this rule continues in effect the modified minimum quantity exemption as a new § 924.121 and the addition a new reporting requirement as § 924.160. The suspension of the handling regulation will allow the Washington-Oregon fresh prune industry to market fresh prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. Authority for this action is provided in §§ 924.53 and 924.60.

The handling regulations help ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification exceeds the benefits derived. The Committee believes that the demands of wholesale buyers and consumers will drive handlers and producers to maintain a high level of product quality without the necessity of minimum quality standards and mandatory inspections. The Committee will review the suspension of the handling regulations and all relevant related issues on an annual basis. The handling regulations can be reinstated by way of Committee recommendation and USDA approval through the informal rulemaking process.

Fresh prune prices have been at low levels in recent years, and many producers have faced difficulty covering their production costs. In response to the adverse economic conditions being experienced by the industry, the Committee discussed the possibility of reducing costs through the elimination of mandatory inspection and the related fees. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets. Also, should fruit quality decline, there is some concern among Committee members that the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

While acknowledging these concerns, the Committee believes that the benefits derived from suspending the regulations outweigh the potential costs. The Committee also believes that the current marketing situation makes regulation unnecessary, that the cost of regulation outweighs the benefits, and that the conditions leading to the suspension will perpetuate well into the future. Therefore, the Committee recommended that the suspension of the handling regulations be effective not only for the upcoming season, but for future seasons as well. The indefinite suspension will alleviate the need for annual rulemaking to maintain the suspension while allowing the Committee to monitor the impacts of the suspension and consider appropriate actions for ensuing seasons. If and when the industry experiences changes in the marketing environment that would make reinstating the handling regulations necessary, the Committee has the ability to quickly respond.

This final rule enables handlers to ship prunes without regard to the minimum grade, size, quality, maturity, and inspection requirements of the order for the 2006 and future seasons. This allows handlers to decrease costs by eliminating the costs associated with mandatory inspection but does not, however, restrict handlers from seeking inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect that suspension of the handling regulations has on marketing conditions and on producer returns at their annual meeting each spring.

The suspension of the handling regulations results in the elimination of mandatory inspections and, in turn, the inspection certificates that are generated by the Inspection Service and subsequently provided to the Committee. The Committee has in the

past used such certificates for assessment billing purposes and for compiling industry statistics. As a result of the suspension of the handling regulations, the Committee will require a report directly from each handler for the purpose of obtaining information on which to collect assessments and generate statistical information.

The Committee anticipates that this rule will not negatively impact small handlers and producers because it suspends minimum grade, size, quality, maturity, and inspection requirements. The total cost of inspection and certification for fresh shipments of Washington-Oregon fresh prunes during the 2005 marketing season is estimated by the Committee to have been \$0.23 per hundredweight, or approximately \$27,000 total. This represents approximately \$4,000 per handler. Since handlers may continue to have their prunes voluntarily inspected, the Committee expects that some handlers will continue to have at least a portion of their fresh prunes inspected and certified by the Inspection Service.

Alternatives to the suspension of the handling regulations considered by the Committee included maintaining the status quo, suspending the regulations for one season only, and terminating the marketing order in its entirety. The Committee believes, however, that the continuation of regulation would be a financial burden on the industry, given the current market situation and outlook. With that perspective, continuing to regulate was not a viable option to the Committee. The Committee also discussed suspending regulation one season at a time, but rejected that option as well. Finally, the Committee considered terminating the order in its entirety, but declined to take that action because the Committee continues to believe that the order has purpose, even without handling regulation.

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, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 16, 2006, meeting was a public meeting and all entities, both large and

small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on May 9, 2006 (71 FR 26817). Copies of the rule were mailed by the Committee's staff to all Committee members and fresh prune handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and the USDA. A 60-day comment period ending July 10, 2006, was provided to allow interested persons to respond to the interim final rule. Two comments were received during the comment period. However, as neither comment addressed the substance of this rule, they will not be considered in this document.

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 **FOR FURTHER INFORMATION CONTACT** section.

As mentioned previously, this action requires an additional collection of information. The information collection requirements are discussed in the following section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements that are contained in this rule were approved by the Office of Management and Budget (OMB), under OMB No. 0581-0237. The information collection has been merged into OMB No. 0581-0189, Generic OMB Fruit Crops, which expires September 30, 2007.

In summary, the additional reporting requirements will enable the Committee to collect information from fresh prune handlers regarding the total quantity of early and late fresh prunes handled during the season, which was previously obtained from the inspection certificates issued by the Inspection Service. However, this source will no longer be available under the suspension of the handling regulations. The Committee will use used by the Committee to compile information that is essential for the collection of handler assessments, to provide production statistics to the industry, and to help ensure compliance with the order's provisions. In addition, the form will assist the Committee and USDA with oversight and planning.

E-Government Act Compliance

The Agricultural Marketing Service (AMS) is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (71 FR 26817, May 9, 2006) will tend to effectuate the declared policy of the Act.

The U.S. Trade Representative has reviewed this final rule and concurs with its issuance.

List of Subjects in 7 CFR Parts 924 and 944

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

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

PART 944—FRUITS; IMPORT REGULATIONS

■ Accordingly, the interim final rule amending 7 CFR parts 924 and 944 which was published at 71 FR 26817 on May 9, 2006, is adopted as a final rule without change.

Dated: October 10, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6-17192 Filed 10-16-06; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 910 and 913

[No. 2006-19]

RIN 3069-AB32

Privacy Act and Freedom of Information Act; Implementation

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule with request for comments.

SUMMARY: As part of a comprehensive review of agency practices related to the collection, use, and protection of personally identifiable information, the Federal Housing Finance Board