Administration [DEA], and U.S. Customs and Border Protection [CBP]) in cases involving fraud or other criminal activity, and the Department of State in cases involving fraud related to selected types of visas for entry into the United States.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

In this Notice of Proposed Rulemaking, DHS now is proposing to exempt FDNS–DS, in part, from certain provisions of the Privacy Act. Some information in FDNS–DS relates to official DHS law enforcement, intelligence, and immigration activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and of immigration and border management and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. At the end of appendix C to part 5, add the following new paragraph ''7'':

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

7. The Department of Homeland Security United States Citizenship and Immigration Services Fraud Detection and National Security Data System (FDNS–DS) System of Records consists of a stand-alone database and paper files that will be used by DHS and its components. FDNS–DS is a case management system used to record, track, and manage immigration inquiries, investigative referrals, law enforcement requests, and case determinations involving benefit fraud, criminal activity, public safety and national security concerns.

The Secretary of Homeland Security has exempted this system from 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) pursuant to 5 U.S.C. 552a(k)(2). These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a(k)(2). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation; and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G) and (e)(4)(H) (Agency Requirements) because portions of this system are exempt from the individual access provisions of subsection (d) which exempts providing access because it could alert a subject to the nature or existence of an investigation, and thus there could be no procedures for that particular data. Procedures do exist for access for those portions of the system that are not exempted.

(e) From subsection (e)(4)(I) (Agency Requirements) because providing such source information would impede law enforcement or intelligence by compromising the nature or existence of a confidential investigation.

(f) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

Dated: August 11, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–19034 Filed 8–15–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. AMS–FV–08–0052; FV08–922–1 PR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2008–09 and subsequent fiscal periods from $1.50 to $2.00 per ton for Washington apricots. The Committee is responsible for local administration of the marketing order regulating the handling of apricots grown in designated counties in Washington. Assessments upon handlers of apricots are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period for the marketing order begins April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended or terminated.

DATES: Comments must be received by September 2, 2008.

ADDRESSES: Interested persons are invited to submit written comments regarding this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert J. Curry or Gary D. 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: *Robert.Curry@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 Order No. 922 (7 CFR part 922), as amended, regulating the handling of apricots grown in designated counties in Washington, 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.''

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, apricot handlers in designated counties in Washington are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable Washington apricots beginning April 1, 2008, 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 would increase the assessment rate established for the Committee for the 2008–09 and subsequent fiscal periods from $1.50 to $2.00 per ton for Washington apricots handled under the order.

The 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 apricots in designated counties in Washington. 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 at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2007–08 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate of $1.50 per ton of apricots handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 15, 2008, and unanimously recommended 2008–09 expenditures of $7,093. In comparison, last year's budgeted expenditures were $6,743. In addition, the Committee recommended that the $1.50 per ton assessment rate be increased by $0.50 to $2.00 per ton of apricots handled. The Washington apricot production area experienced freezing weather in April this year that may have a significant impact on apricot production. As a result, the Committee has estimated a total fresh crop of only 3,650 tons for this season—significantly less than the 6,620 tons of fresh prunes reported to the Committee by industry handlers last season. Due to this anticipated shortfall, the Committee recommended that the assessment rate be increased by $0.50 to help ensure that budgeted expenses are adequately covered.

The major expenditures recommended by the Committee for the 2008–09 fiscal period include $4,800 for the management fee, $1,000 for Committee travel, $100 for compliance, and $1,193 for equipment maintenance, insurance, bonds, and miscellaneous expenses. In comparison, major expenditures for the 2007–08 fiscal period included $4,800 for the management fee, $1,000 for travel, $500 for the annual financial audit, $100 for compliance, and $343 for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing the anticipated expenses of $7,093 by the projected 2008 3,650 ton apricot production. Applying the $2.00 per ton assessment rate to this crop estimate should provide $7,300 in assessment income. Although the 3,650 ton crop estimate reflects the Committee's best current assessment of the damage the late-season freezing temperatures may have on production this season, Committee members expressed some concern that production could potentially end up even shorter. Because of the crop estimate uncertainty, the Committee felt the $2.00 per ton assessment rate is warranted even though the projected fiscal year-end reserve balance at this time is $8,173. Although this is slightly higher than the recommended budget, the reserve would still be within the order's limit of approximately one fiscal period's operational expenses.

The proposed 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 would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of the Committee's meetings are available from the

Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate the Committee's 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 2008–09 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial 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 initial 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.

There are approximately 300 apricot producers within the regulated production area and approximately 22 regulated handlers. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

The Washington Agricultural Statistics Service has prepared a report showing that the total 7,000 ton apricot utilization sold for an average of $1,120 per ton in 2007 with a total farm-gate value of approximately $7,827,000. Based on the number of producers in the production area (300), the average annual producer revenue from the sale of apricots in 2007 can thus be estimated at approximately $26,090. In addition, based on information from the Committee and USDA's Market News Service, 2007 f.o.b. prices ranged from $18.00 to $20.00 per 24-pound loose-pack container, and from $20.00 to $22.00 for 2-layer tray pack containers. Approximately 40 percent of the 2007 6,620 ton fresh pack-out was packed in 24-pound loose-pack containers while the remainder was packed in 2-layer tray-pack containers (weighing an average of about 20 pounds each). On the high end, this would have grossed the 22 apricot handlers approximately $13,151,700 in f.o.b. receipts for the 2007 crop—leaving average receipts for each handler well below the SBA's $6,500,000 threshold for small businesses. Therefore, the majority of producers and handlers of Washington apricots may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2008–09 and subsequent fiscal periods from $1.50 to $2.00 per ton for apricots handled under the order's authority. The Committee also unanimously recommended 2008–09 expenditures of $7,093. With a 2008–09 Washington apricot crop estimate of 3,650 tons, the Committee anticipates assessment income of about $7,300. Due to the sharply smaller crop expected this season, the Committee recommended the assessment rate increase to help ensure that budgeted expenses are adequately covered.

Although there continues to be uncertainty this season regarding production totals due to the mid-spring freezing weather, income derived from handler assessments should adequately cover budgeted expenses. Because of the crop estimate uncertainty, the Committee felt the $2.00 per ton assessment rate is warranted even though the projected fiscal year-end reserve balance at this time is $8,173. Although this is slightly higher than the recommended budget, the reserve would still be within the order's limit of approximately one fiscal period's operational expenses.

The major expenditures recommended by the Committee for the 2008–09 fiscal period include $4,800 for the management fee, $1,000 for Committee travel, $100 for compliance, and $1,193 for equipment maintenance, insurance, bonds, and miscellaneous expenses. In comparison, major expenditures for the 2007–08 fiscal period included $4,800 for the management fee, $1,000 for travel, $500 for the annual financial audit, $100 for compliance, and $343 for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The Committee discussed alternatives to this recommended assessment increase. Leaving the assessment rate at the current $1.50 per ton was discussed, but not seriously considered since such a rate would not have earned adequate income and would have thus significantly depleted the Committee's reserves. Although a rate of assessment somewhat less than the recommended $2.00 per ton rate would have potentially covered the recommended expenses, the Committee chose the higher rate due to the uncertainty the members felt regarding the 3,650 ton crop estimate. The mid-April freeze experienced in the growing regions this year left doubt in some members' minds that the final pack-out this season will even reach the 3,650 ton estimate.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2008–09 season could average about $1,000 per ton for fresh Washington apricots. Therefore, the estimated assessment revenue for the 2008–09 fiscal period as a percentage of total producer revenue is 0.2 percent for Washington apricots.

This action would increase 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 would be offset by the benefits derived by the operation of the order.

In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the May 15, 2008, meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Washington apricot 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. Additionally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and order may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.*

Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2008–09 fiscal period began on April 1, 2008, and the order requires that the assessment rate for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Washington apricot harvest and shipping season is expected to begin as early as the last week of June; (3) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (4) handlers are aware of this action, which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is proposed to be amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On or after April 1, 2008, an assessment rate of $2.00 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–19018 Filed 8–15–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 724, 773, 785, 816, 817, 845, 846, 870, 872, 873, 874, 875, 876, 879, 880, 882, 884, 885, 886, and 887

[Docket Id: OSM–2008–0003]

RIN 1029–AC56

Abandoned Mine Land Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; extension of the comment period.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are extending the comment period on a proposed rule that would revise the Abandoned Mine Land (AML) program. The proposed rule would revise our regulations to be consistent with the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended by the Tax Relief and Health Care Act of 2006, Public Law 109–432, signed into law on December 20, 2006.

DATES: Comments on the proposed rule must be received on or before August 29, 2008, in order to ensure our consideration.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* The rule is listed under the agency name ''OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.'' The proposed rule has been assigned Docket ID: OSM–2008–0003.

If you would like to submit comments through the Federal e-Rulemaking Portal, go to *www.regulations.gov* and do the following. Click on the ''Advanced Docket Search'' button on the right side of the screen. Type in the Docket ID OSM–2008–0003 and click the ''Submit'' button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM–2008–0003, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

- *Mail/Hand-Delivery/Courier to:* Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240. Please include the rule Docket ID (OSM–2008–0003) with your comment.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for the rulemaking and considered. Comments sent to an address other than those listed above (see **ADDRESSES**) will not be included in the docket for the rulemaking.

For detailed instructions on submitting comments and additional information on the rulemaking process, see ''Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of this document.

If you wish to comment on the information collection aspects of this proposed rule, you may submit your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via e-mail to *OIRA_DOCKET@omb.eop.gov*, or via facsimile to 202–365–6566.

FOR FURTHER INFORMATION CONTACT: Danny Lytton, Chief, Reclamation Support Division, 1951 Constitution Ave., NW., Washington, DC 20240; Telephone: 202–208–2788.

SUPPLEMENTARY INFORMATION:

Background on the Reclamation Fee and the Abandoned Mine Land Program

On June 20, 2008, we published a proposed rule in the **Federal Register** (73 FR 35214) that would revise our regulations governing the AML program. We have received two requests to extend the comment period on the proposed rule. In response, we are extending the comment period to August 29, 2008.

As discussed in greater detail in the June 20, 2008, **Federal Register** notice, the proposed rule would revise our regulations to be consistent with the Tax Relief and Health Care Act of 2006, Public Law 109–432, enacted on December 20, 2006, which included the Surface Mining Control and Reclamation Act Amendments of 2006 (the ''2006 amendments''). The proposed rule reflects the extension of our statutory authority to collect reclamation fees for an additional fourteen years and to reduce the fee rates. The proposal also updates the regulations in light of the statutory amendments that change the activities State and Tribal reclamation programs may perform under the AML program, funding for reclamation grants to States and Indian tribes, and transfers to the United Mine Workers of America (UMWA) Combined Benefit Fund, the UMWA 1992 Benefit Plan, and the UMWA Multiemployer Health Benefit Plan. Finally, our proposed rule extends