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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 993

[Doc. No. AMS–SC–23–0021]

#### Dried Prunes Produced in California; Suspension of the Marketing Order

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

**ACTION:** Final rule.

**SUMMARY:** This final rule suspends the Federal marketing order regulating dried prunes produced in California (Order) effective August 1, 2023, through July 31, 2030. After operating for 18 years without handling regulations, the Prune Administrative Committee (Committee) recommended the Agricultural Marketing Service (AMS) indefinitely suspend the Order. After reviewing the Committee's recommendation, AMS determined that regulatory suspension with a sunset provision of seven years is appropriate. This suspension period extends through the end of the 2029–2030 crop year and provides industry sufficient time to assess whether the Order's reinstatement is beneficial. If no recommendation is made by the Committee to reinstate the Order by the end of the 2029–2030 crop year, AMS will proceed to terminate the Order.

**DATES:** This rule is effective March 25, 2024, except for amendatory instruction 3 staying part 993, which is effective August 1, 2023, through July 31, 2030, stay part 993.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Sasselli, Marketing Specialist, or Barry Broadbent, Acting Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, or Email: [Jeremy.Sasselli@usda.gov](mailto:Jeremy.Sasselli@usda.gov) or [Barry.Broadbent@usda.gov](mailto:Barry.Broadbent@usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty

Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: [Richard.Lower@usda.gov](mailto:Richard.Lower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). 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 produced in California. Part 993 (referred to as 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 Committee locally administers the Order and is comprised of producers and handlers of dried prunes operating within the area of production, and one public member.

AMS is issuing this final rule in conformance with Executive Orders 12866 and 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian Tribes.

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

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 final rule suspends the Order's regulatory provisions. The Committee recommended this action at its March 22, 2023, meeting. Section 993.90(a) of the Order provides that the Secretary shall terminate or suspend the operation of any or all of the provisions of the Order, whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the Order, and such meetings are open to the public where interested persons may express their views at these meetings. AMS reviews Committee recommendations, including information provided by the Committee and from other available sources, and determines whether such recommendations would tend to effectuate the declared policy of the Act.

On May 27, 2005, following a recommendation from the Committee, AMS indefinitely suspended handling and reporting requirements under the Order, extended the temporary suspension of outgoing inspection and volume control regulations, and extended the temporary suspension of the Prune Import Regulation (70 FR 30610). Since 2005, the Committee has

continued to perform the administrative duties prescribed under the Order, including the collection of assessments, conducting Committee nominations, and assessing whether to recommend a marketing policy, which may include handling regulations.

On March 22, 2023, the Committee held a public meeting to consider the future of regulation under the Order. The Committee determined that the 2005 suspension of handling and volume regulations did not adversely impact the marketing of California prunes and that there is no value in funding the administrative duties prescribed under the Order when the handling regulations and reserve control provisions are not in effect. The Committee discussed terminating the Order but rejected the idea because its members believe the sector of industry is not yet ready to terminate, given the length of time and expense that would be required to establish a new marketing order should regulation again be deemed necessary in the future. In addition, several Committee members expressed the opinion that future market conditions may warrant regulation, particularly volume control, and urged the Committee not to terminate the Order at this time. After much deliberation, the Committee voted unanimously to indefinitely suspend the Order with the expectation that the Order would either remain indefinitely suspended or AMS would at a future time act to terminate the Order if no recommendation for reinstatement is submitted by industry. In the event of no such recommendation for reinstatement, the Committee would take the necessary steps to ensure an orderly and complete termination of the Order.

The Committee recommended to AMS the Order's suspension for an indefinite period to allow for the reinstatement of regulation to remain an option and to provide industry time to assess the market environment and other external factors affecting California prunes. Under the suspension, handlers would no longer be required to pay assessments. The Committee believes this cost savings benefits both small and large handlers, and that producers will also be relieved of some costs because such payments are often passed onto them by handlers.

After reviewing the Committee's recommendation and supporting materials, AMS included a sunset provision that if no recommendation is received by July 31, 2030, AMS will then issue a rule proposing termination of the Order. The Committee agrees that a suspension period of seven years is

adequate time for the California prune industry to assess future market conditions and reestablishment of the Order, if warranted.

This final rule lifts the portions of the Order currently under suspension and suspends the entire Order for seven years, beginning in the 2023–2024 crop year, which started on August 1, 2023, and ending with the 2029–2030 crop year, which ends on July 31, 2030. If industry does not recommend reinstating the Order by the end of the suspension period, AMS will issue a proposal to terminate the Order.

#### **Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this final 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 businesses 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 600 producers of dried prunes in the production area and 27 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$3,500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$34,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the average producer price for California dried prunes for the 2021 crop was \$2,000 per ton. NASS further reported 2021 crop year production for California dried prunes was 74,000 tons. The estimated total 2021–22 crop year value of California dried prunes is \$148,000,000 (74,000 tons times \$2,000 per ton equals \$148,000,000). Dividing the estimated total crop value by the estimated number of producers (600) yields an estimated average receipt per producer of \$246,667, which is considerably lower than the \$3,500,000 SBA small agricultural producer threshold.

In addition, according to USDA Market News data, the reported average terminal market price for 2022 for California dried prunes was \$39.04 per carton. Dividing the average carton price

by the 28-pound carton size yields an estimated price per pound of \$1.39. (\$39.04 average price divided by 28 pounds). Multiplying \$1.39 per pound by 2,000 pounds yields \$2,780 per ton, which, when multiplied by total estimated 2021 production of 74,000 tons, yields estimated total handler receipts of \$205,720,000. Dividing this figure by the 27 regulated handlers yields estimated average annual handler receipts of \$7,619,259, well below the \$34 million SBA threshold for small agricultural service firms. Therefore, using the above data, the majority of producers and handlers of California dried prunes may be classified as small entities.

This final rule suspends all provisions of the Order starting August 1, 2023, through July 31, 2030. On March 22, 2023, the Committee voted unanimously to indefinitely suspend the Order after determining that the 2005 suspension of handling regulations, volume control and reporting requirements did not negatively impact the marketing of California prunes and that the costs to continue the Order outweighs its benefit to industry. The Committee believes the suspension will provide a cost savings to large and small handlers and producers.

After reviewing the Committee's recommendation and other supporting material, AMS included a sunset provision that if no recommendation for reinstatement is received during the suspension period, AMS will proceed to terminate the Order.

This action suspends the Federal marketing order regulating dried prunes produced in California through July 31, 2030. Authority for this action is provided in section 993.90(a) of the Order.

Committee meetings are widely publicized throughout the production area. The California dried prune industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Similarly, the March 22, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable Crops. OMB's three-year approval of the forms in the Vegetable Crops package expires March 31, 2024. AMS's submission of the renewal package prior to its expiration will retain prune forms but will drawdown the information collection burden to

zero during the time when respondents will not be completing and submitting the forms during the seven-year suspension. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule does not impose any 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.

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.

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

A proposed rule concerning this action was published in the **Federal Register** on October 12, 2023 (88 FR 70608). Copies of the proposed rule were also mailed or sent via email to California prune handlers. A copy of the proposed rule was made available through the internet by AMS via <https://www.regulations.gov>. A 30-day comment period ending November 13, 2023, was provided for interested persons to respond to the proposal. AMS received two comments. The first comment was in support of the proposal. The second commenter presented an alternative to the proposed suspension to transfer all remaining marketing order provisions over to the State of California Department of Food and Agriculture. In response to the second comment, the Committee determined, and AMS agrees, that there is no value in funding the administrative duties prescribed under the Order when the handling regulations and reserve control provisions are not in effect. Additionally, AMS determined that the suspension period, as established herein, will provide ample time for the consideration of other marketing programs should the prune industry choose to seek out such alternatives and request that AMS terminate the Order prior to the end of the suspension period. However, if no such request to terminate early is submitted or, conversely, a petition for reinstatement is not received during the suspension period, AMS will proceed with terminating the Order at end of the 2029–2030 crop year.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this rule tends to effectuate the declared policy of the Act.

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

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

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 993 as follows:

#### PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

- 1. The authority citation for part 993 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

- 2. Effective March 25, 2024, in part 993, lift the suspension of May 27, 2005, on §§ 993.21d, 993.41, 993.48, 993.49, 993.50, 993.51, 993.52, 993.53, 993.54, 993.55, 993.56, 993.57, 993.58, 993.59, 993.62, 993.65, 993.72, 993.73, 993.74, 993.75, 993.97, 993.104, 993.105, 993.106, 993.107, 993.108, 993.149, 993.150, 993.156, 993.157, 993.158, 993.159, 993.162, 993.165, 993.172, 993.173, 993.174, 993.400, 993.409, 993.501, 993.503, 993.504, 993.505, 993.506, 993.515, 993.516, 993.517, 993.518, 993.601, and 993.602.

#### PART 993—[STAYED]

- 3. Effective August 1, 2023, through July 31, 2030, stay part 993.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2024–03630 Filed 2–22–24; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

[Docket No. FAA–2022–1135]

#### Airworthiness Criteria: Special Class Airworthiness Criteria for the Blackshape S.p.A., Model BK160–200 Very Light Airplane

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Issuance of final airworthiness criteria.

**SUMMARY:** The FAA announces the airworthiness criteria for the Blackshape S.p.A., Model BK160–200 Very Light Airplane (VLA). This document sets forth the airworthiness criteria that the FAA finds to be appropriate and applicable for the VLA design.

**DATES:** These airworthiness criteria are effective February 23, 2024.

**FOR FURTHER INFORMATION CONTACT:** Tara Fitzgerald, Certification Coordination Section, AIR–613, Certification Engagement Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration; telephone 781–238–7130; email [tara.fitzgerald@faa.gov](mailto:tara.fitzgerald@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

The European Union Aviation Safety Agency (EASA) submitted an application to the FAA, on behalf of Blackshape S.p.A., on February 10, 2020, for a type certificate for the Model BK160–200 VLA. Under 14 CFR 21.17(b), VLA are a special class of aircraft that utilize airworthiness criteria the FAA finds to be appropriate to the specific type design.

The BK160–200 is a single reciprocating engine airplane (Lycoming IO–320–D1B with constant speed Hartzell propeller), full carbon composite low wing design, with a retractable tri-cycle landing gear. It has conventional control systems (elevator, aileron, rudder, flaps, and longitudinal trim) and provides seats for two persons in a tandem seat configuration with a maximum takeoff gross weight (MTGW) of 850 kilograms (kg) (1,874 pounds). It also has advanced avionic displays, a stall speed of 50 knots, a rechargeable lithium-ion battery, and will perform night visual flight rules (VFR) operations.

#### Discussion of Comments

The FAA issued a notice of proposed airworthiness criteria for the Blackshape