

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 922

[FV95-922-1IFR]

#### Apricots Grown in Designated Counties in Washington; Temporary Suspension of Grade Requirements for Apricots of the Patterson Variety

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule suspends, for the 1995 season only, the minimum grade requirements (Washington No. 1) currently in effect for fresh shipments of the Patterson variety of apricots grown in Washington. The suspension will enable handlers of Patterson variety apricots to ship more fruit to the fresh market, taking into consideration the significant hail damage experienced by this variety during the growing season. This action will improve returns to producers of the Patterson variety of apricots. This rule was recommended by the Washington Apricot Marketing Committee (Committee), the agency responsible for the local administration of the marketing order for Washington apricots.

**DATES:** Effective: July 1, 1995.

Comments received by July 24, 1995 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:**

Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724 or Britthany Beadle, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5331.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the "order." This 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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 the Secretary 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 the Secretary 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 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 30 handlers of Washington apricots subject to regulation under the order and approximately 400 producers of Washington apricots in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of apricot handlers and producers may be classified as small entities.

Section 922.52 [7 CFR 922.52] authorizes the issuance of regulations for grade, size, quality, maturity, pack, markings, and container for any variety or varieties of apricots grown in any district or districts of the production area. Section 922.53 [7 CFR 922.53] authorizes the modification, suspension, or termination of the regulations issued under section 922.52.

Minimum grade, color, and size requirements for Washington apricots regulated under the order are specified in section 922.321 Apricot Regulation 21 (7 CFR 922.321). Section 922.321 provides that no handler shall handle any container of apricots unless such apricots grade not less than Washington No. 1, except for shipments that are exempt from regulation. In addition, this section provides that, with the exception of exempt shipments, apricots shipped must be reasonably uniform in color, and be at least 1 5/8 inches in diameter, except for the Blenheim, Blenril, and Tilton varieties which must be at least 1 1/4 inches in diameter.

This rule suspends the minimum grade requirements for fresh shipments

of the Patterson variety of apricots for the 1995 season. The grade requirements for the Patterson variety currently specified in section 922.321 will resume April 1, 1996, for the 1996 and future seasons. Color and size requirements for the Patterson variety will remain unchanged.

The Committee met on May 11, 1995, and unanimously recommended the suspension of grade requirements for the Patterson variety. The Committee requested that this suspension be made effective by July 1, 1995, since the harvest of the Patterson variety is expected to begin shortly thereafter.

The Committee meets prior to each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington apricots 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 Department reviews Committee recommendations and 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.

Information available to the Committee indicates that the Patterson variety of apricots experienced severe hail damage this season. The excessive damage was a result of location and stage of fruit development. The Patterson variety is the latest variety of apricots produced within the production area. Earlier varieties of apricots did not experience significant hail damage.

This suspension will enable handlers to ship a larger portion of the Patterson variety to the fresh market this season, than if the minimum grade requirements were not suspended. Without suspension of the grade requirements for the Patterson variety, most of the fruit could not be shipped to fresh markets. Last year, 151 tons of the Patterson variety were shipped into the fresh market. Information available to the Committee indicates that with suspension of the grade requirements for the Patterson variety, approximately 125 tons might be shipped to the fresh market. Since the Patterson variety is the latest variety of apricots shipped within the production area, the suspension of the grade requirements for this variety should not adversely affect the marketing of other varieties.

Suspension of the grade requirements for the Patterson variety is intended to increase fresh shipments to meet

consumer needs and improve returns to producers.

Based on the above information, the Administrator of the AMS has determined that this interim final rule will not have a significant impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of the Patterson variety of apricots grown in designated counties in Washington.

After consideration of all available information, it is found that this 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 action suspends the current grade requirements for the Patterson variety of Washington apricots; (2) the Committee unanimously recommended this rule at a public meeting and all interested persons had an opportunity to provide input; (3) shipment of the Patterson variety of apricots is expected to begin in early July, and this rule should apply to the entire season's shipments; (4) handlers of the Patterson variety of apricots are aware of this rule and they need no additional time to comply with the relaxed requirements; and (5) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

#### **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 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 922.321, paragraph (a)(1) is revised to read as follows:

##### **§ 922.321 Apricot Regulation 21.**

(a) \* \* \*

(1) *Minimum grade and maturity requirements.* Such apricots that grade not less than Washington No. 1 and are

at least reasonably uniform in color: *Provided*, That the grade requirement shall not apply to apricots of the Patterson variety handled during the 1995 season through March 31, 1996: *Provided further*, That such apricots of the Moorpark variety in open containers shall be generally well matured; and

\* \* \* \* \*

Dated: June 15, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95–15109 Filed 6–21–95; 8:45 am]

BILLING CODE 3410–02–P

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 72**

**RIN 3150–AE17**

#### **Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations, in accordance with the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). The amendments are necessary to ensure that local authorities will be notified in the event of an accident so that they may take appropriate action. The regulation will provide a level of preparedness at these facilities that is consistent with NRC's defense-in-depth philosophy.

**EFFECTIVE DATE:** September 20, 1995.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301–415–6534).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On May 27, 1986 (51 FR 19106), following Commission approval, the proposed revision to 10 CFR part 72 relating to licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), including requirements for emergency planning, was published in the **Federal Register** for comment.