

represents a \$4,156 decrease in expenses, and no change in the assessment rate from the amounts recommended for the current fiscal year.

The assessment rate, when applied to anticipated pear shipments of 3,152,300 standard boxes or equivalent, will yield \$63,046 in assessment income. Assessment income, combined with \$4,000 from other income sources, and \$25,208 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. The withdrawal of \$25,208 from the Committee's authorized reserve fund will result in no reserve remaining at the end of the 1995-96 fiscal year.

Major expense categories for the 1995-96 fiscal year include \$44,135 for salaries, \$9,195 for unshared contingency, and \$4,989 in employee health benefits.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

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 is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year began on July 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable Bartlett pears handled during the fiscal year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: 7 U.S.C. 601-674.

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

2. A new § 931.230 is added to read as follows:

§ 931.230 Expenses and assessment rate.

Expenses of \$92,254 by the Northwest Fresh Bartlett Pear Marketing Committee, are authorized, and an assessment rate of \$0.02 per standard box or equivalent of assessable pears is established for the fiscal year ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: July 31, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

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7 CFR Part 981

[FV94-981-3FIR]

Almonds Grown in California; Release of the Reserve Established for the 1994-95 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule relaxing volume regulations imposed on California almond handlers for the 1994-95 crop year by releasing reserve almonds into salable channels. Volume regulations were imposed under the authority of the Federal marketing order which regulates the handling of almonds grown in California and is locally administered by the Almond Board of California (Board). During the 1994-95 season, handlers were required to withhold as a reserve, from normal competitive markets, 10 percent of the almonds which they received from growers. The remaining 90 percent of the crop could be sold by handlers to any market at any time. The interim final rule relaxed these regulations on handlers by releasing the reserve percentage to the salable category and

was necessary to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs.

DATES: Effective on September 6, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, 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) 720-1509, or fax (202) 720-5698; or Martin Engeler, Assistant Officer-in-Charge, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, or fax (209) 487-5906.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), both as amended, hereinafter referred to as the "order," regulating the handling of almonds grown in California. 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 (Department) is issuing this rule in accordance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable and reserve percentages may be established for almonds during any crop year. This rule revises the salable and reserve percentages for marketable California almonds during the 1994-95 crop year. 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 115 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated 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 handlers and producers of California almonds may be classified as small entities.

This rule finalizes the relaxation of volume regulations imposed on California almond handlers for the 1994-95 crop year (July 1 through June 30). During the 1994-95 season, handlers were required to withhold, from normal domestic and export markets, 10 percent of the merchantable almonds which they received from growers (reserve percentage). The remaining 90 percent of almonds received by handlers could be sold to any market at any time (salable percentage). Volume regulations were recommended by the Board and imposed on handlers to lessen the impact of a large almond supply for the 1994-95 season. Salable and reserve percentages were established through publication of a final rule in the **Federal Register** on December 9, 1994 [59 FR 63693]. On May 12, 1995, the Board determined that volume regulations on almond handlers were no longer necessary and recommended that the entire reserve be released to provide a sufficient quantity of almonds to meet anticipated trade demand and carryover needs.

The interim final rule was issued on May 25, 1995, and published in the **Federal Register** (60 FR 28520, June 1, 1995), with an effective date of May 25, 1995. That rule provided a 30-day comment period which ended July 3, 1995. No comments were received.

Section 981.47 of the almond marketing order provides authority for the Secretary, based on recommendations by the Board and the analysis of other available information, to establish salable and reserve percentages for almonds during a crop year. To aid the Secretary in fixing the salable and reserve percentages, section 981.49 of the order requires the Board to submit information to the Department on estimates of the marketable production of almonds, combined domestic and export trade demand for the year, carryin inventory at the beginning of the year, and the desirable carryover inventory at the end of the year. Authority for the Board to recommend revisions in the volume regulation percentages is provided in section 981.48 of the order. Such revisions must be recommended by May 15.

The Board met in July of 1994 to review projected crop estimates and marketing conditions for the 1994-95 almond season. A very large crop of 640 million kernelweight pounds was projected for the season. Estimated shipments for the two prior seasons were 535.9 million pounds for 1992 crop almonds and 497.7 million pounds for 1993 crop almonds.

Variations in production from season-to-season can cause wide fluctuations in prices. For example, the Board estimated that grower prices increased from \$1.26 per pound for 1992 crop almonds to \$2.00 per pound for the smaller, 1993 crop almonds. The large 1994 California almond crop estimate caused early speculation of grower prices in the \$1.15 per pound range. Such swings in supplies and price levels can result in market instability and uncertainty for growers, handlers, buyers, and consumers. The long term goal of the almond industry is to increase almond consumption and demand, and the Board believes this is best achieved in the presence of stable and orderly market conditions. Thus, the Board recommended that the volume regulation provisions of the order be utilized for the 1994-95 season as a supply management tool, with 10 percent of the 1994 crop almonds being held by handlers as a reserve.

On May 12, 1995, the Board met in Modesto, California, and unanimously recommended releasing the reserve established for the 1994-95 crop year. Thus, the salable percentage will increase from 90 to 100 percent and the reserve percentage will decrease from 10 to 0 percent. The Board considered a number of factors in arriving at its recommendation to release the reserve. The 1994-95 almond crop is now

estimated at 727 million pounds, far above the initial 640 million pound estimate. Shipments for the year are expected to exceed 600 million pounds. Further, it appears that production in the rest of the world is well below normal. Production in Spain, the world's second largest producer of almonds, fell well below usual and is estimated to have been about 75 million pounds. Spain, California's biggest competitor in the world almond markets, became the United States' fourth largest export market.

At the meeting, the Board also considered a crop estimate for California almonds for the 1995-96 season provided by the California Agricultural Statistics Service (CASS). That forecast is based on a survey of 200 growers. CASS released its crop estimate of 430 million kernelweight pounds on May 11. The estimate is relatively small compared with normal almond production for a year. An extremely wet spring that prohibited successful pollination of almond trees during the critical bloom period as well as crop losses due to trees having been blown over by high winds have resulted in the predicted small yield in California. Very short carryin inventories of 1993 crop almonds into the current season combined with reduced production from California competitors resulted in higher than anticipated demand for California almonds.

On June 28, 1995, CASS released another forecast, which is based on actual almond counts from across the State. This forecast for the 1995-96 crop year is 310 million kernelweight pounds of almonds, 120 million pounds less than estimated in the previous estimate. Although this forecast was not available when the Board recommended releasing the reserve, this estimate further supports releasing the reserve.

As required under the order, the Board revised a number of estimates that had been considered when volume regulation was first recommended in July 1994. The Board's current estimates of marketable supply, combined domestic and export trade demand for 1994-95, and desirable carryover to be available for the 1995-96 crop year are shown below. The Board considered these revised estimates in arriving at its recommendation to release the 1994-95 reserve. The estimates used by the Board to establish the original volume regulations for the year are shown for comparison.

MARKETING POLICY ESTIMATES—1994 CROP

[Kernelweight basis in millions of pounds]

	12/9/94 Initial esti- mates	5/12/95 Revised esti- mates
Estimated Production:		
1. 1994 Production	640.0	727.1
2. Loss and Exempt— 3.0%	19.2	21.8
3. Marketable Produc- tion	620.8	705.3
Estimated Trade Dem- and:		
4. Domestic	175.0	152.8
5. Export	381.4	449.0
6. Total	556.4	601.8
Inventory Adjustment:		
7. Carryin 7/1/94	99.6	102.6
8. Desirable Carry- over 6/30/95	100.0	206.1
9. Adjustment (Item 8 minus item 7)	0.4	103.5
Salable/Reserve:		
10. Adjusted Trade Demand (Item 6 plus item 9)	556.8	705.3
11. Reserve (Item 3 minus item 10)	64.0	0
12. Salable % (Item 10 divided by item 3×100)	190	100.0
13. Reserve % (100% minus item 12)	110	0

¹ Percent.

As previously mentioned and reflected in the table, estimated almond crop production for the 1994–95 season increased from 640 to 727.1 million kernelweight pounds. Estimated weight losses resulting from the removal of inedible kernels by handlers and losses during manufacturing also increased from 19.2 to 21.8 million kernelweight pounds. Therefore, marketable production is expected at 705.3 million kernelweight pounds.

The Board's estimated trade demand (or shipments) also increased from 556.5 million kernelweight pounds to a total of 601.8 kernelweight pounds. If the estimates are achieved, this would set a new record for the California almond industry. Although estimated domestic trade demand decreased from 175 to 152.8 million kernelweight pounds, estimated export trade demand increased sharply from 381.4 to 449 million kernelweight pounds. Almond production in the rest of the world was well below normal, contributing to a significant increase in the amount of California almonds shipped into export markets.

The Board also revised its inventory estimates. The carryin figure—supplies of salable almonds carried in from the 1993–94 crop year—was slightly revised

from 99.6 to 102.6 million kernelweight pounds. The desirable carryout figure—supplies of salable almonds to be carried out on June 30 for early season shipment during the 1995–96 crop year—was revised from 100 to 206.1 million kernelweight pounds. With the projected short crop for the upcoming season, the carryout figure was significantly increased to provide a more adequate supply of almonds available to meet early market needs. After taking into account the carryin and desirable carryover figures, the adjusted trade demand was increased from 556.8 to 705.3 million kernelweight pounds, an amount equal to the Board's estimate of marketable production.

The order also permits the Board to recommend the establishment of a percentage of reserve almonds that can be exported. However, export is currently the largest market for California almonds and is not considered a secondary or noncompetitive outlet. For the 1994–95 crop year, exports were included in the trade demand and the export market was not an authorized reserve outlet. The percentage of reserve almonds available for export was established at 0 percent in the final rule previously cited that established volume regulation for the 1994–95 crop. The export percentage is not changed as a result of this action.

The Board believed that immediate release of the reserve will positively impact market stability by increasing the amount of almonds available to the market prior to the harvest of the 1995 crop, and by augmenting the overall supply available for the upcoming season. The interim final rule is expected to facilitate a smooth transition into the 1995–96 season. Since market stability is of paramount importance in achieving long-term industry health, the Board concluded that there are no viable alternatives to its recommendation.

This rule is not expected to impose any additional costs on handlers or producers because release of the reserve will eliminate the need for handlers to store almonds and will allow the product to enter an eager market in a smooth fashion. Therefore, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented, including the Board's recommendation, and other available information, it is found that finalizing the interim final rule, without

change, as published in the **Federal Register** (60 FR 28520, June 1, 1995) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 60 FR 28520 on June 1, 1995, is adopted as a final rule without change.

Dated: July 31, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

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7 CFR Part 982

[Docket No. FV95–982–1IFR]

Filberts/Hazelnuts Grown in Oregon and Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 982 for the 1995–96 marketing year. Authorization of this budget enables the Filbert/Hazelnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by September 6, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. 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.