

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV99-981-1 PR]

Almonds Grown in California; Revision of Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on a revision to the administrative rules and regulations of the California almond marketing order (order) pertaining to reporting requirements. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the order. The almond marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). Under the terms of the order, almond handlers are required to report to the Board, on ABC Form 1, the total adjusted kernel weight of almonds received by them for their own account within seven prescribed reporting periods per year. This rule would change the reporting procedures to require handlers to report this information to the Board monthly, or 12 times per year. Additional, more accurate and timely information would thus be available to the Board and industry, facilitating improved decision making and program administration.

DATES: Comments must be received by March 8, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 205-6632; or E-mail: moabdocket_clerk@usda.gov. 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:

Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 690-3919, Fax: (202) 205-6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 205-6632, or E-mail: Jay_N_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the "order." The marketing 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 proposal 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 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This proposal invites comments on a revision to the administrative rules and regulations pertaining to reporting requirements under the California almond order. This rule would change the reporting procedures to require handlers to report their receipts of almonds from growers on a monthly basis rather than seven times per year as currently prescribed. This proposal was unanimously recommended by the Board at a meeting on September 16, 1998.

Section 981.72 of the order provides authority for the Board to require handlers to report to the Board their receipts of almonds from growers. Section 981.472 of the order's administrative rules and regulations currently requires that each handler report to the Board, on ABC Form 1, the total adjusted kernel weight of almonds, by variety, received by it for its own account within seven prescribed reporting periods per year. The report must be submitted to the Board by the 5th calendar day after the close of the following applicable periods—August 1 to August 31; September 1 to September 30; October 1 to October 31; November 1 to November 30; December 1 to December 31; January 1 to March 31; and April 1 to July 31.

The crop year under the almond order runs from August 1 through July 31 of the following year. Most almonds are harvested by growers and received by handlers during the fall months. Thus, handlers have been required to report their almond receipts to the Board on a monthly basis from August through December, and then just twice for the remainder of the crop year.

California almond production has increased significantly in recent years. Between 1983 and 1992, the average size of the almond crop was about 465 million pounds. Since 1992, the average size of the almond crop has grown to about 570 million pounds. With the increase in crop size, more almonds than anticipated are being received by handlers from January through July. Information collected from handlers on the amount of almonds received reflects crop size which provides a basis for the industry's marketing decisions. Thus, the Board recommended that handlers be required to report the amount of almonds received on a monthly basis, or 12 times per year. This reporting change would provide the Board with additional, more accurate and timely information which would facilitate improved decision making and program administration. Appropriate changes would be made to § 981.472 of the order's administrative rules and regulations.

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 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 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 California almonds who are subject to regulation under the order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CAR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000.

Currently, about 58 percent of the handlers ship under \$5,000,000 worth of almonds and 42 percent ship over \$5,000,000 worth on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately \$156,000. In view of the foregoing, it can be concluded that the majority of handlers

and producers of California almonds may be classified as small entities.

This rule would revise § 981.472 of the order's administrative rules and regulations to specify that handlers must submit reports concerning receipts of almonds, on ABC Form 1, on a monthly basis, as opposed to seven times per year. Additional, more accurate and timely information would thus be available to the Board and industry, facilitating improved decision making and program administration.

Requiring handlers to submit this information monthly would impose an additional reporting burden on both small and large handlers. It is estimated that it takes a handler 15 minutes to complete a receipt report, or ABC Form 1. Currently, handlers must submit seven such reports annually creating an estimated total burden per handler of 1.75 hours per year, or a total industry burden of approximately 201.25 hours per year. Requiring handlers to submit five additional reports per year would create an additional burden per handler of 1.25 hours per year, or an additional total industry burden of approximately 143.75 hours per year. Although this action would create an additional burden on California almond handlers, the benefits of collecting additional, more accurate and timely information far outweigh the estimated increased reporting burden. The Board would be able to utilize this information to make improved marketing decisions. This rule would not place any additional burden on almond growers. Finally, 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 accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule are being submitted to the Office of Management and Budget (OMB) for approval. This rule would not become effective until this additional information collection is approved by the OMB. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

Other alternatives to this proposed action include not changing the reporting requirement concerning almond receipts. However, this alternative would leave the Board with less timely information. Another alternative would be to revert back to the reporting requirement prior to 1993 when handlers were required to report almond receipts twice a month during harvest (July through November), once

during December, and then twice for the remainder of the crop year. However, the Board believes that requiring handlers to submit the receipt report monthly would best meet the industry's informational needs at this time.

The Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the September 16, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Board itself is composed of ten members, of which five are producers and five are handlers.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Administrative and Finance Committee met on September 16, 1998, prior to the Board meeting, and discussed this issue. That committee meeting was also a public meeting, and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request a revision to a currently approved information collection for almonds grown in California.

Title: Almonds Grown in California, Marketing Order 981.

OMB Number: 0581-0071.

Expiration Date of Approval: August 31, 1999.

Type of Request: Revision of a currently approved information collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the California almond marketing order program, which has been operating since 1950.

On September 16, 1998, the Board unanimously recommended to increase the reporting frequency for ABC Form 1, Report of Receipts (§§ 981.72 and 981.472 (a)). Under the current terms of the order, almond handlers are required to report to the Board, on ABC Form 1, the total adjusted kernel weight of almonds received by them for their own account within seven prescribed reporting periods per year. This change

in reporting procedures would require handlers to report information to the Board monthly, or 12 times per year. Additional, more accurate and timely information would thus be available to the Board and industry, facilitating improved decision making and program administration. This form will be completed by 115 handlers regulated under the marketing order. The time required to complete this form is estimated to average 15 minutes per response. Using this form increases the estimated total annual burden on handlers by 144 hours, from 201 to 345 hours. Also, the number of total annual responses supplied by handlers for the entire almond information collection under the order increases from 6,022 to 6,597.

These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information and AMS is the secondary user.

This proposed revision to the currently approved information requirements issued under the order is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.401 hours per response.

Respondents: California almond growers, handlers, and accepted users of inedible almonds.

Estimated Number of Respondents: 7,658.

Estimated Number of Responses per Respondent: .86.

Estimated Total Annual Burden on Respondents: 2,656 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or

other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0071 and the California Almond Marketing Order No. 981, and be sent to USDA in care of the docket clerk at the address referenced above. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this proposal will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

A 60-day comment period is provided to allow interested persons to respond to this proposal.

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 CAR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

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

2. In § 981.472, paragraph (a) is revised to read as follows:

§ 981.472 Report of almonds received.

(a) Each handler shall report to the Board, on or before the 5th calendar day of each month, on ABC Form 1, the total adjusted kernel weight of almonds, by variety, received by it for its own account for the preceding month.

* * * * *

Dated: December 28, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-34 Filed 1-4-99; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-64]

Atlantic City Electric Company, Austin Energy, Central Maine Power Company, Delmarva Power & Light Company, South Mississippi Electric Power Association, and Washington Electric Cooperative, Inc.; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Atlantic City Electric Company, Austin Energy, Central Maine Power Company, Delmarva Power & Light Company, South Mississippi Electric Power Association, and Washington Electric Cooperative, Inc. (petitioners). The petition has been docketed by the Commission and has been assigned Docket No. PRM-50-64. The petitioners are all non-operating joint owners of nuclear plants who have concerns about potential safety impacts that could result from economic deregulation and restructuring of the electric utility industry. The petitioners are requesting that the enforcement provisions of NRC regulations be amended to clarify NRC policy regarding the potential liability of joint owners if other joint owners become financially incapable of bearing their share of the burden for safe operation or decommissioning of a nuclear power plant.

DATES: Submit comments by March 22, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemaking and Adjudications staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905 (e-mail: CAG@nrc.gov).

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-7163 or Toll Free: 1-800-368-5642 or E-mail: DLM1@NRC.GOV.