

New York. They also offer him, as compensation for his time and effort, a free trip to San Francisco. The attorney may accept the travel expenses to New York, but not the expenses to San Francisco. The lecture relates to his official duties under paragraphs (a)(2)(i)(E)(1) and (a)(2)(i)(E)(2) of § 2635.807, but because he is not a covered noncareer employee as defined in § 2636.303(a) of this chapter, the expenses associated with his travel to New York are not a prohibited form of compensation as to him. The travel expenses to San Francisco, on the other hand, not incurred in connection with the speaking activity, are a prohibited form of compensation. If the attorney were a covered noncareer employee he would be barred from accepting the travel expenses to New York as well as the travel expenses to San Francisco.

Example 4 to paragraph (a)(2)(iii): An advocacy group dedicated to improving treatments for severe pain asks the National Institutes of Health (NIH) to provide a conference speaker who can discuss recent advances in the agency's research on pain. The group also offers to pay the employee's travel expenses to attend the conference. After performing the required conflict of interest analysis, NIH authorizes acceptance of the travel expenses under 31 U.S.C. 1353 and the implementing General Services Administration regulation, as codified under 41 CFR chapter 304, and authorizes an employee to undertake the travel. At the conference the advocacy group, as agreed, pays the employee's hotel bill and provides several of his meals. Subsequently the group reimburses the agency for the cost of the employee's airfare and some additional meals. All of the payments by the advocacy group are permissible. Since the employee is speaking officially and the expense payments are accepted under 31 U.S.C. 1353, they are not prohibited compensation under § 2635.807(a)(2)(iii). The same result would obtain with respect to expense payments made by non-Government sources properly authorized under an agency gift acceptance statute, the Government Employees Training Act, 5 U.S.C. 4111, or the foreign gifts law, 5 U.S.C. 7342.

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[FR Doc. 01-29800 Filed 11-29-01; 8:45 am]

BILLING CODE 6345-01-U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

RIN 0560-AG40

Amendments to the Tobacco Marketing Quota Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule; correction.

SUMMARY: This is a correction of a document the United States Department of Agriculture (USDA) Farm Service Agency (FSA) published in the **Federal**

Register of October 23, 2001 that amended its tobacco marketing quota regulations. In that rule, a paragraph number was left out of the instruction for revision number 5. This document adds that paragraph number.

EFFECTIVE DATE: October 23, 2001.

FOR FURTHER INFORMATION CONTACT: Joe Lewis, Jr. (202) 720-0795

SUPPLEMENTARY INFORMATION: FSA published a document entitled, "Amendments to the Tobacco Marketing Quota Regulations" on October 23, 2001, (66 FR 53509). The paragraph number in revision number 5 was listed as § 723.206(c)(1), but should have been § 723.206(c)(1)(i). This correction adds that sub-paragraph number.

In rule FR Doc. 01-26543 published on October 23, 2001, (66 FR 53507) make the following correction: On page 53509, revise instruction 5 to read as follows:

"5. Revise § 723.206(c)(1)(i) to read as follows:"

Signed at Washington, DC on November 7, 2001.

James R. Little,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01-29706 Filed 11-29-01; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. FV01-924-1 FIR]

Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, OR; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreases the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) for the 2001-2002 and subsequent fiscal periods from \$1.50 to \$1.00 per ton of fresh prunes handled. The Committee locally administers the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. Authorization to assess fresh prune handlers enables the Committee to incur expenses that are reasonable

and necessary to administer the program. The fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, 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) 720-8938.

Small businesses may request information on complying with this regulation 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) 720-8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 924, as amended (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, 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 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, Washington-Oregon fresh prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable fresh prunes beginning April 1, 2001, 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 continues to decrease the assessment rate established for the Committee for the 2001–2002 and subsequent fiscal periods from \$1.50 to \$1.00 per ton of fresh prunes handled.

The Washington-Oregon fresh prune marketing 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 Washington-Oregon fresh prunes. 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 in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue 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 June 5, 2001, and unanimously recommended 2001–2002 expenditures of \$7,804 and an assessment rate of \$1.00 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were \$7,803. The assessment rate of \$1.00 is \$0.50 lower than the rate that was in effect for 2000–2001. At the rate of \$1.50 per ton and an estimated 2001–2002 fresh prune production of 4,850 tons, the projected reserve on March 31, 2002, would have exceeded the maximum level authorized by the order (approximately one fiscal period's operational expenses). The reserve on March 31, 2001, was \$9,047.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include \$3,461 for salaries, \$1,000 for travel, \$528 for

rent and maintenance, and \$475 for its annual audit. Budgeted expenses for these items in 2000–2001 were \$3,360, \$1,000, \$528, and \$475, respectively.

The assessment rate recommended by the Committee was derived for the purpose of reducing the operating reserve to a level consistent with the order. As mentioned earlier, fresh prune shipments for the year were estimated at 4,850 tons which should provide \$4,850 in assessment income. This income, along with approximately \$2,954 from the Committee's authorized reserve, will be adequate to cover the Committee's budgeted expenses of \$7,804. With the decreased assessment rate, the reserve of \$9,047 (as of March 31, 2001) will be reduced by as much as \$2,945, thus leaving a balance of about \$6,102 at the end of the 2001–2002 fiscal period. The order permits an operating reserve in an amount not to exceed approximately one fiscal period's operational expenses (§ 924.42).

The assessment rate will 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 is effective for an indefinite period, the Committee will 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 Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA will evaluate Committee 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 2001–2002 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final 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, the AMS has prepared this final 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 producers of fresh prunes in the production area and approximately 12 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The standard for determining small agricultural producers was increased from \$500,000 to \$750,000 in August 2001.

Based on production and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, the average annual producer revenue is approximately \$18,000. In addition, based on Committee records, all of the Washington-Oregon fresh prune handlers ship under \$5,000,000 worth of fresh prunes. In view of the foregoing, it can be concluded that the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from \$1.50 to \$1.00 per ton of fresh prunes handled. The Committee unanimously recommended 2001–2002 expenditures of \$7,804 and an assessment rate of \$1.00 per ton of fresh prunes handled. The assessment rate of \$1.00 is \$0.50 lower than the rate that was in effect for 2000–2001. The quantity of assessable fresh prunes for the 2001–2002 fiscal period is estimated at 4,850 tons. Thus, the \$1.00 rate should provide \$4,850 in assessment income which along with funds from the Committee's authorized reserve will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include \$3,461 for salaries, \$1,000 for travel, \$528 for rent and maintenance, and \$475 for its annual audit. Budgeted expenses for these items in 2000–2001 were \$3,360, \$1,000, \$528, and \$475, respectively.

With a rate of \$1.50 per ton and an estimated 2001–2002 fresh prune production of 4,850 tons, the projected reserve on March 31, 2002, would exceed the maximum level authorized by the order (approximately one fiscal period's operational expenses). As of March 31, 2001, the Committee's reserve

was \$9,047. With assessment income of \$4,850 from the current rate and expenditures of \$7,804, the Committee may draw up to \$2,945 from its reserve, thus leaving the reserve at approximately \$6,102 on March 31, 2002.

The Committee considered alternative levels of assessment but determined that decreasing the assessment rate to \$1.00 per ton would be adequate to reduce the reserve to a level lower than approximately one fiscal period's expenses. The Committee decided that an assessment rate of more than \$1.00 per ton, but less than \$1.50 per ton, would not decrease the reserve to an adequate level. Prior to arriving at this assessment rate, the Committee considered information from various sources, including the Committee's Finance and Executive Committees.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2001–2002 marketing season could range between \$160 and \$275 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 2001–2002 fiscal period as a percentage of total grower revenue should range between 0.36 and 0.63 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh 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.

The USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on August 13, 2001. Copies of the rule were mailed to all Committee members. In addition, the rule was

made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended October 12, 2001, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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.

List of Subjects in 7 CFR Part 924

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

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 924 which was published at 66 FR 42413 on August 13, 2001, is adopted as a final rule without change.

Dated: November 26, 2001.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–29705 Filed 11–29–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV01–931–1 FR]

Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) for the 2001–2002 and subsequent fiscal periods from \$0.02 to \$0.025 per standard box of

fresh Bartlett pears. The Committee locally administers the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate remains in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATES: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 141 and Order No. 931 (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and 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 order now in effect, fresh Bartlett pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable fresh Bartlett pears beginning July 1, 2001, and will continue until modified, 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