

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 924 and 944

[Docket No. FV06-924-1 IFR]

#### **Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Suspension of Handling Regulations, Establishment of Reporting Requirements, and Suspension of the Fresh Prune Import Regulation**

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

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

**SUMMARY:** This rule suspends the minimum grade, size, quality, maturity, and inspection requirements prescribed under the Washington-Oregon fresh prune marketing order for the 2006 and future seasons. The marketing order regulates the handling of fresh prunes grown in designated Counties in Washington and in Umatilla County, Oregon, and is administered locally by the Washington-Oregon Prune Marketing Committee (Committee). During the suspension of the handling regulations, reports from handlers will be required to obtain information necessary to administer the marketing order. This rule also suspends fresh prune import inspection and minimum quality, grade, size, and maturity requirements. This rule is expected to reduce overall industry expenses and increase net returns to producers and handlers. This rulemaking action must be effective as soon as possible to ensure that the suspensions are in effect for the 2006 shipping season, expected to begin in early July.

**DATES:** Effective May 10, 2006; comments received by July 10, 2006 will be considered prior to the issuance of a final rule. Pursuant to the Paperwork

Reduction Act, comments on the information collection burden must be received by July 10, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov), or Internet: <http://www.regulations.gov>. All 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Northwest Marketing Field Office, Marketing Order Administration Branch, 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; 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, 1400 Independence, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 924, as amended (7 CFR 924), regulating the handling of fresh prunes grown in designated counties in Washington and in 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." This rule also is issued under section 8e of the Act regarding the establishment of inspection and quality,

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grade, size, or maturity requirements on imports of commodities that are similarly regulated under Federal marketing orders.

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. 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 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. A 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 date of the entry of the ruling.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule indefinitely suspends the handling regulations prescribed under the order for the 2006 and future seasons. Specifically, this rule suspends the minimum grade, size, quality, maturity, and inspection requirements under the order. In addition, the regulation of fresh prune imports under section 8e of the Act is suspended indefinitely.

Furthermore, this rule establishes a new handler reporting requirement. The new handler report provides the Committee with information that was previously available from the Federal-State Inspection Service (Inspection Service). As previously noted, the handling regulations include mandatory inspection. As a result of the handling

regulation suspension, information from the Inspection Service will no longer be available to the Committee to compile industry statistics and to assess handlers. The new handler reporting requirement will allow the Committee to obtain information directly from handlers similar to the information that was obtained previously from the Inspection Service.

Section 924.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for fresh prunes grown in the production area. Section 924.53 authorizes the modification, suspension, or termination of regulations issued under § 924.52.

Section 924.55 provides that whenever the handling of any variety of fresh prunes is regulated pursuant to § 924.52 or § 924.53, such prunes must be inspected by the Inspection Service, and certified as meeting the applicable requirements. The cost of the inspection and certification is borne by handlers.

Section 924.60 authorizes the Committee, with the approval of USDA, to require reports and other information from handlers that are necessary for the Committee to perform its duties.

Minimum grade, size, quality, maturity, and inspection requirements for fresh prunes regulated under the order are specified in § 924.319 (the section being suspended by this rule). When effective, § 924.319, with exemptions for certain varieties and types of shipments, provides that all fresh prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1 1/4 inches in diameter as measured by a rigid ring. The regulation includes a minimum quantity exemption, as well as specific tolerances for prunes that fail to meet color, minimum diameter, and quality requirements.

Regulation regarding the importation of fresh prunes into the United States under Section 8e of the Act is set forth in § 944.700.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington-Oregon fresh prunes 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 USDA reviews Committee recommendations, 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.

At its February 16, 2006, meeting, the Committee unanimously recommended suspending the handling regulations and establishing handler reporting requirements for the 2006 and future seasons. The Committee requested that this rule be effective by the beginning of the 2006 regulatory period (July 15, 2006), which is also the approximate date shipments of the 2006 Washington-Oregon fresh prune crop are expected to begin.

The objective of the handling regulation has been to ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification (mandated when the handling regulations are in effect) may exceed the benefits derived.

Fresh prune prices have been at low levels in recent seasons, and many producers have faced difficulty covering their production costs. As a consequence, the Committee has been exploring the possibility of reducing costs through the elimination of mandatory inspection for a number of years. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets, thereby affecting consumer demand. Also, there is some concern that, should overall quality decline, the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

After much consideration, the Committee recommended the suspension of the handling regulations for the 2006 and future seasons, but stipulated that the Committee would assess marketing conditions annually to determine if lifting the suspension is warranted. This suspension action will enable the industry to realize needed cost savings while the impact of the suspension is evaluated by the Committee. Should the market situation so dictate, the Committee may take appropriate action to recommend reinstating regulation.

This rule enables Washington-Oregon fresh prune handlers to ship prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. This allows handlers to decrease their total costs by eliminating the expenses associated with mandatory

inspection. This rule does not restrict handlers from seeking product inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect the suspension of the handling regulations has on market conditions and on producer returns each year the suspension is in effect, and, if necessary, make recommendations to USDA for changes.

The suspension of the handling regulations will result in the elimination of the inspection certificates being generated and forwarded to the Committee office by the Inspection Service. The Committee used these certificates as the basis for the collection of assessments from handlers and for compiling prune industry statistics. During the period handling regulations are suspended, inspection certificates will not be generated by the Inspection Service and provided to the Committee. As a consequence, handlers will need to submit reports directly to the Committee to facilitate the collection of assessments and the compilation of industry statistics.

Therefore, a new § 924.160 *Reports* is added which requires each handler to submit to the Committee, on or before October 30 of each year, a "Handler Statement for Washington-Oregon Fresh Prunes" containing the following information: (a) The handler's name and address; (b) the name and address of each producer; (c) the quantity, in field run tons, of early and late fresh prunes handled by each handler; (d) the assessment due and enclosed; (e) the name, telephone number, and signature of the authorized person completing the form; and (f) the date the form is signed.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. This reporting requirement will facilitate the Committee's ability to collect assessments needed to cover necessary program costs. Even though reporting requirements are increased, this rule, through the elimination of inspection and certification requirements, is expected to reduce overall industry expenses.

Consistent with the suspension of § 924.319, this rule also suspends § 924.110 of the rules and regulations in effect under the order. Section 924.110 contains provisions for handlers to apply for waivers from mandatory inspection when such inspection is not readily available from the Inspection Service. With the suspension of regulation, such waivers are no longer necessary.

Contained within the handling regulations (§ 924.319(b)) is a provision allowing the handling of any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of Stanley or Merton variety prunes, or 350 pounds net weight of any other variety of prunes, without regard to the inspection and assessment requirements issued under the order. Regardless of the suspension of handling regulations, the Committee desires that this provision remain effective for the purpose of providing a minimum quantity exemption from assessments. Thus, a new § 924.121 *Minimum quantity exemption* is established. This section essentially continues the provision with the same minimum quantity exemptions as in 924.319(b), but in regards to the assessment requirements contained § 924.41 only.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including fresh prunes, imports of that commodity must meet the same or comparable requirements. Section 944.700 contains the regulations for fresh prune imports. Since this rule indefinitely suspends the handling regulation for domestic fresh prunes, including grade, size, quality, and maturity requirements, the regulation of imported fresh prunes is suspended indefinitely as well.

### Initial 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 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 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.

Currently, there are 7 handlers of Washington-Oregon fresh prunes who are subject to regulation under the marketing order and approximately 100 fresh prune producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$6,500,000, and small agricultural

producers are defined as those having annual receipts of less than \$750,000.

Fresh prune production has been approximately 5,000 to 7,000 tons per year for the past several years. The Committee estimates that all Washington-Oregon fresh prune handlers combined ship less than \$6,500,000 worth of prunes on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, average annual producer receipts are approximately \$13,000, which is considerably less than the \$750,000 threshold. In view of the foregoing, it can be concluded that all of the handlers and producers of Washington-Oregon fresh prunes may be classified as small entities.

At its February 16, 2006, meeting, the Committee unanimously recommended suspending the handling regulations and establishing reporting requirements for the 2006 and future seasons.

This rule suspends the handling regulations specified in § 924.319, as well as the fresh prune import regulations specified in § 944.700. Furthermore, this rule implements a modified minimum quantity exemption as a new § 924.121, and adds a new reporting requirement as § 924.160. The suspension of the handling regulation will allow the Washington-Oregon fresh prune industry to market fresh prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. Authority for this action is provided in §§ 924.53 and 924.60.

The handling regulations help ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification exceeds the benefits derived. The Committee believes that the demands of wholesale buyers and consumers will drive handlers and producers to maintain a high level of product quality without the necessity of minimum quality standards and mandatory inspections. The Committee will review the suspension of handling regulations and all relevant related issues on an annual basis. The handling regulations can be reinstated by way of Committee recommendation and USDA approval through the informal rulemaking process.

Fresh prune prices have been at low levels in recent years, and many

producers have faced difficulty covering their production costs. In response to the adverse economic conditions being experienced by the industry, the Committee discussed the possibility of reducing costs through the elimination of mandatory inspection. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets. Also, should fruit quality decline, there is some concern among Committee members that the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

While acknowledging these concerns, the Committee believes that the benefits derived from suspending the regulations outweigh the potential costs. The Committee also believes that the current marketing situation makes regulation unnecessary, that the cost of regulation outweighs the benefits, and that the conditions leading to the suspension will perpetuate well into the future. Therefore, the Committee recommended that the suspension of the handling regulations be effective not only for the upcoming season, but for future seasons as well. The indefinite suspension will alleviate the need for annual rulemaking to maintain the suspension while allowing the Committee to monitor the impacts of the suspension and consider appropriate actions for ensuing seasons. If and when the industry experiences changes in the marketing environment that would make reinstating the handling regulations necessary, the Committee has the ability to quickly respond.

This rule enables handlers to ship prunes without regard to the minimum grade, size, quality, maturity, and inspection requirements for the 2006 and future seasons. This rule allows handlers to decrease costs by eliminating the costs associated with mandatory inspection. This rule, however, does not restrict handlers from seeking inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect that suspension of the handling regulations has on marketing conditions and on producer returns at their annual meeting each spring.

The suspension of the handling regulations results in the elimination of mandatory inspections and, in turn, the inspection certificates generated by the Inspection Service and provided to the Committee. The Committee has used such certificates for assessment billing purposes and for compiling industry statistics. As a result of this suspension of the handling regulations, the

Committee will require a report directly from each handler for the purpose of obtaining information on which to collect assessments and generate statistical information.

The Committee anticipates that this rule will not negatively impact small handlers and producers because it suspends minimum grade, size, quality, maturity, and inspection requirements. The total cost of inspection and certification for fresh shipments of Washington-Oregon fresh prunes during the 2005 marketing season is estimated by the Committee to have been \$0.23 per hundredweight, or approximately \$27,000 total. This represents approximately \$4,000 per handler. Since handlers may continue to have their prunes voluntarily inspected, the Committee expects that some handlers will continue to have at least a portion of their fresh prunes inspected and certified by the Inspection Service.

Alternatives to the suspension of the handling regulations considered by the Committee included maintaining the status quo, suspending regulations for one season only, and terminating the marketing order in its entirety. However, the Committee believes that the continuation of regulation would be a financial burden on the industry given the current market situation and outlook. Thus, continuing to regulate was not a viable option to the Committee. The Committee also discussed suspending regulation one season at a time, but rejected that option as well. Finally, the Committee considered terminating the order in its entirety, but declined to take that action. The Committee continues to believe that the order has purpose, even without handling regulations. Further, with the suspension of handling regulations, the Committee believes handler reports are needed to ensure the collection of information needed by the Committee to administer the order.

This action imposes some additional reporting and recordkeeping burden on handlers. However, any additional requirements on fresh prune handlers are expected to be offset by the elimination of the handling regulation and mandatory inspection. The elimination of inspection and certification requirements is expected to further reduce industry expenses, as well. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, 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. Like all Committee meetings, the February 16, 2005, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that AMS has received approval from the Office of Management and Budget (OMB), for the new information collection request for Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon—Marketing Order No. 924, under OMB No. 0581-XXXX. The additional burden will subsequently be merged into the information collection currently approved under OMB No. 0581-0189, Generic OMB Fruit Crops.

**Title:** Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon—Marketing Order No. 924.

**OMB Number:** 0581-NEW.

**Type of Request:** New 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 Washington-Oregon fresh prune order, which has been operating since 1960.

On February 16, 2006, the Committee unanimously recommended suspending the order's handling regulations. To ensure that the Committee obtains handler information that is necessary for operation of the order, the Committee also unanimously recommended establishing a new reporting requirement. Information will be reported on a new Committee form, Form No. 1, *"Handler Statement for Washington-Oregon Fresh Prunes,"* which requires handlers to report the total quantity of early and late fresh prunes handled during the season.

The new report is needed by the Committee to compile information that is essential for the collection of handler assessments and to provide shipment statistics to the industry. The Committee

previously used inspection certificates from the Inspection Service to obtain this information, but this source will no longer be available under the suspension of the handling regulations. This new report will help to ensure compliance with the order's provisions and assist the Committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS would be the secondary user.

The request for approval of the new information collections under the order is as follows:

*Form No. 1, "Handler Statement for Washington-Oregon Fresh Prunes."*

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 25 minutes per response.

*Respondents:* Washington-Oregon fresh prunes handlers.

*Estimated Number of Respondents:* 7.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 2.92 hours.

*Comments:* Comments are invited on: (1) Whether the 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 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the Washington-Oregon fresh prune order (Marketing Order No. 924), and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

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

#### Government Paperwork Elimination Act Compliance

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

The U.S. Trade Representative has reviewed this interim final rule and concurs with its issuance.

This rule invites comments on the suspension of the handling regulations and changes to the reporting requirements prescribed under the order, as well as the suspension of the prune import regulation. Any comments timely received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that suspension of the handling regulations and this interim final rule 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 good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule is a relaxation in the prune handling regulations and should be in place as soon as possible for the upcoming 2006 season; (2) handlers need to know as soon as possible that they are free to market their fresh prunes without regard to the handling regulations; (3) this issue has been widely discussed at various industry and association meetings and the Committee has kept the industry well informed; (4) handlers are aware of this rule, which was recommended at a public meeting; and (5) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Parts 924 and 944

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

■ For the reasons set forth in the preamble, 7 CFR parts 924 and 944 are amended as follows:

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

- 1. The authority citation for 7 CFR parts 924 and 944 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

##### §§ 924.110 and 924.319 [Suspended]

- 2. In part 924, §§ 924.110 and 924.319 are suspended indefinitely.
- 3. In Subpart—Rules and Regulations, new §§ 924.121 and 924.160 are added to read as follows:

##### § 924.121 Minimum quantity exemption.

Any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of prunes of the Stanley or Merton varieties, or 350 pounds net weight of prunes of any variety other than the Stanley or Merton varieties, and which meets each of the following requirements may be handled without regard to the assessment provisions in § 924.41:

- (a) The shipment consists of prunes sold for home use and not for resale, and
- (b) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

##### § 924.160 Reports.

Each person handling prunes shall submit to the Committee, on or before October 30 of each year, a "Handler Statement for Washington-Oregon Fresh Prunes" containing the following information:

- (a) The handler's name and address;
- (b) The name and address of each producer;
- (c) The quantity, in field run tons, of early and late fresh prunes handled by each handler;
- (d) The assessment due and enclosed;
- (e) The name, telephone number, and signature of the authorized person completing the form; and
- (f) The date the form is signed.

#### PART 944—FRUITS; IMPORT REGULATIONS

##### § 944.700 [Suspended]

- 5. Section 944.700 is suspended indefinitely.

Dated: May 3, 2006.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 06-4315 Filed 5-8-06; 8:45 am]

**BILLING CODE 3410-02-P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 1219

[Doc. No. FV-06-701-IFR]

#### Amendment to the Hass Avocado Promotion, Research, and Information Order: Adjust Representation on the Hass Avocado Board

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

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

**SUMMARY:** This interim final rule adjusts the number of members on the Hass Avocado Board (Board) to reflect changes in the production of domestic Hass avocados in the United States and the volume of Hass avocados imported into the U.S. over the 2003, 2004, and 2005 calendar years, which are three years after assessments commenced. These adjustments are required by the Hass Avocado Promotion, Research, and Information Order (Order). The result of the adjustment is one additional importer member and alternate and one less domestic producer member and alternate of Hass avocados that are subject to assessments. As a result of these changes, the Board membership would be composed of seven domestic producer members and alternates and five importer members and alternates. Currently, the Board is composed of eight domestic producer members and alternates, and four importer members and alternates. These changes to the Board are effective for the Secretary of Agriculture's 2006 appointments.

**DATES:** Effective May 10, 2006.

Comments received by July 10, 2006 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535-S, 1400 Independence Avenue, SW., Washington, DC 20250-0244; Fax: (202) 205-2800; or e-mail: [marlene.betts@usda.gov](mailto:marlene.betts@usda.gov); or Internet: <http://www.regulations.gov>. All comments should reference the docket number, the date and page number of this issue of the **Federal Register**, and will be made available for public inspection in the above office during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/rpb.html>.