

information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Further, the Committee's meeting was widely publicized throughout the avocado industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the April 19, 2006, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on December 22, 2006. Copies of the rule were mailed by the Committee's staff to all Committee members and avocado handlers. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended February 20, 2007. 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/maob.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 Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (71 FR 76897, December 22, 2006) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 915 which was published at 71 FR 76897 on December 22, 2006, is adopted as a final rule without change.

Dated: March 29, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. AMS-FV-07-0031; FV07-922-1 IFR]

Apricots Grown in Designated Counties in Washington; Suspension of Container Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends the container regulations prescribed under the Washington apricot marketing order by extending the temporary 2006 season suspension indefinitely. The marketing order regulates the handling of fresh apricots grown in designated counties in the State of Washington, and is administered locally by the Washington Apricot Marketing Committee (Committee). This indefinite suspension of the container regulations will continue to provide the apricot industry with increased marketing flexibility by allowing handlers to pack and ship apricots in any size, shape, or type of container. After evaluating the impact the temporary 2006 season container regulation suspension has had on the industry, the Committee determined that container regulations no longer contribute to the orderly marketing of the fresh apricot crop.

DATES: Effective April 1, 2007. Comments received by June 4, 2007 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent 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; 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 made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW., Third Avenue, Suite 385, Portland, Oregon 97204-

2807; Telephone: (503) 326-2724; Fax: (503) 326-7440; or E-mail: Robert.Curry@usda.gov or GaryD.Olson@usda.gov.

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 Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491; Fax: (202) 720-8938; or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 922 (7 CFR part 922) regulating the handling of apricots grown in designated counties in 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. 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. 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 indefinitely extends the temporary 2006 season container regulation suspension (§ 922.306), which ends on March 31, 2007. As it effectively did during the 2006 shipping season, this regulatory suspension will provide additional flexibility to the apricot industry by allowing handlers to

pack apricots in any type, shape, or size container. The container regulations prescribed under § 922.306 will remain suspended for the 2007 and future seasons unless the Committee recommends, and USDA approves, action to reinstate the regulations. For the 2006 season, the Committee recommended a temporary suspension of the regulations rather than an open-ended suspension to help ensure that a thorough analysis of the 2006 shipping season would be completed prior to any potential future action regarding the issue of container regulation suspension. The Committee has reviewed the 2006 shipping season and determined that the industry can successfully market its fresh apricot crop without the container regulations in place. Consequently, the Committee has concluded that the Washington apricot industry is now best served by an open-ended suspension of § 922.306. To facilitate prompt reinstatement of the container regulations in the future should market conditions warrant such, the Committee recommended that the 2006 temporary regulation suspension be extended rather than replaced by a permanent removal of the regulations from the order.

Section 922.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, pack, and container for any variety of apricots grown in the production area. Section 922.52(a)(3) specifically authorizes the establishment of the container regulations found in § 922.306. Section 922.53 authorizes the modification, suspension, or termination of regulations issued pursuant to § 922.52.

Authority to regulate the size, weight, dimension and pack of containers used in the marketing of fresh apricots was included in the order when promulgated in 1957. Container regulatory authority was included in the order to provide container standardization, to enhance orderly marketing conditions, and to provide for increased producer returns.

The Committee meets prior to each season to consider recommendations for modification, suspension, or termination of any regulatory requirements for Washington apricots that are 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 the Committee recommendations along with any supportive information submitted by the Committee, as well as information from other available resources, and determines whether modification, suspension, or termination of the

regulatory requirements would tend to effectuate the declared policy of the Act.

During such a review at its February 15, 2007, meeting, the Committee determined, and unanimously recommended, that the 2006 season container regulation suspension—effective from April 1, 2006, through March 31, 2007—be extended indefinitely. For a seamless extension of the suspension, the Committee recommended that this rule be effective by April 1, 2007.

When effective, § 922.306 provides that apricots must be handled domestically in (1) open containers or telescopic fiberboard cartons weighing 28 pounds or greater; (2) closed containers with 14 pounds or more of apricots packed in a row-faced or tray-pack configuration; (3) closed containers with 12 pounds (or more) of random sized, non row-faced apricots; or (4) closed containers with 24 pounds or more of loose-packed apricots.

In reaching a consensus to extend the 2006 regulatory suspension, Committee members found that arguments made in favor of the suspension at the meeting a year ago are still appropriate. They noted that container standardization had contributed to orderly marketing in the past, but buyers today are increasingly interested in non-traditional packaging options designed for better handling and greater consumer acceptance. Furthermore, handler members stated that they now enjoy a greater latitude in choosing the optimum container weight for a particular pack or customer. Committee members were unanimous in the opinion that this indefinite extension of the container regulation suspension will continue to provide the industry with the flexibility needed to meet the challenges of marketing fresh apricots.

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 rule 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.

There are approximately 300 apricot producers within the regulated production area and approximately 22 regulated handlers. Small agricultural producers are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000.

Data from the Washington Agricultural Statistics Service shows that the total 5,900 ton Washington apricot utilization sold for an average of \$969 per ton in 2005 with a total value of \$5,715,000. Based on the number of producers in the production area (300), the average annual producer revenue from the sale of apricots in 2005 can thus be estimated at approximately \$19,050. In addition, based on information from the Committee and USDA's Market News Service, 2005 f.o.b. prices ranged from \$15.00 to \$20.00 per 24-pound loose-pack container, and from \$14.00 to \$24.00 for 2-layer tray pack containers. Assuming that equal quantities of the 2005 season fresh apricot pack-out of 4,471 tons went into loose-pack (24-pound) containers and tray-pack containers (weighing an average of about 20 pounds each), average gross receipts per handler from the sale of fresh apricots would have been approximately one half of the annual sales figure that the SBA uses to define the minimum size of a large agricultural service business (\$750,000). Thus, the majority of producers and handlers of Washington apricots may be classified as small entities.

At its February 15, 2007, meeting the Committee recommended that the temporary suspension of the order's container regulations (§ 922.306)—effective from April 1, 2006, through March 31, 2007—be indefinitely extended to cover the 2007 shipping season as well as all future seasons. Section 922.52(a)(3) of the order specifically authorizes the establishment of container regulations. Further, § 922.53 authorizes the modification, suspension, or termination of regulations issued pursuant to § 922.52. This indefinite extension of the container regulation suspension is expected to continue to provide the apricot industry with increased marketing flexibility by allowing handlers to pack and ship apricots in any size, shape, or type of container. Container regulations have been utilized in past seasons to provide a degree of standardization and thus have helped in providing the industry with orderly marketing conditions.

However, changing market dynamics and the experience gained through the 2006 suspension have convinced the Committee that container standardization is no longer necessary to ensure orderly marketing. Last year, rather than seeking an indefinite suspension of the regulations, the Committee recommended a temporary suspension so that it could conduct a thorough evaluation of the impact the relaxation would have on the industry during the 2006 shipping season prior to taking any further action for subsequent seasons. In reviewing the 2006 season at the February 15, 2007, meeting, the Committee easily reached a consensus that an indefinite continuation of the container regulation suspension would best fit the industry's marketing needs.

The Committee anticipates that this rule will not negatively impact small businesses. This rule extends the suspension of the container requirements found under § 922.306 of the order's rules and regulations and should continue to provide enhanced marketing opportunities.

The Committee discussed—and subsequently rejected—alternatives to its recommendation to extend the container regulation suspension. These included allowing the reinstatement of the regulations (by not taking any action) and continuing with annual and temporary regulatory suspensions such as recommended for the 2006 season. With a successful season behind them, Committee members were unanimous in their decision to recommend to USDA an extension of the container regulations suspension for an indefinite period.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apricot 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 15, 2007,

meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.am.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.

This rule invites comments on an indefinite extension of the suspension of the container regulations under the Washington apricot marketing order. Any comments 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 the suspension of the order's container regulations should be indefinitely extended in order to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule extends the 2006 season container regulation suspension for Washington apricots to include the 2007 and future shipping seasons; (2) the indefinite extension of the container regulation suspension was unanimously recommended by the Committee at a public meeting and all interested persons had an opportunity to express their views and provide input; (3) Washington apricot handlers are aware of this recommendation, are currently operating under relaxed regulatory conditions, and need no additional time to comply with the continued relaxed requirements; (4) this rule should be in effect by April 1, 2007, to ensure a seamless continuation of the current container regulation suspension; 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 Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 922.306 [Suspended]

■ 2. In part 922, § 922.306 is suspended indefinitely.

Dated: March 29, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–6224 Filed 4–3–07; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 926

[Docket No. AMS–FV–06–0173; FV06–926–1 FIR]

Data Collection, Reporting and Recordkeeping Requirements Applicable to Cranberries Not Subject to the Cranberry Marketing Order; Suspension of Provisions Under 7 CFR Part 926

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule suspending Part 926 in the Code of Federal Regulations, which requires persons engaged in the handling or importation of fresh cranberries or cranberry products, but not subject to the reporting requirements of the Federal cranberry marketing order (7 CFR part 929), to report sales, acquisition, and inventory information to the Cranberry Marketing Committee (Committee), and to maintain adequate records of such activities. The establishment of these requirements is authorized under section 8(d) of the Agricultural Marketing Agreement Act of 1937 (Act). The Committee, which administers marketing order 929, regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, has been delegated by USDA to collect such information authorized under Part 926. Based on information provided by the Committee, USDA has determined that the