

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. AMS-FV-07-0087; FV07-924-1 FIR]

Fresh Prunes Grown in Designated Counties in Washington and in 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 decreased the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from \$1.75 to \$1.00 per ton of prunes handled. The Committee locally administers the marketing order, which regulates the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. Assessments upon fresh prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: November 13, 2007.

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, OR 97204; 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. 924 (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.”

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 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 prunes beginning April 1, 2007, 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

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20 days after the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2007–2008 and subsequent fiscal periods from \$1.75 to \$1.00 per ton of prunes handled.

The 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 in designated counties in Washington and in Umatilla County, Oregon. 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 was formulated and discussed at a public meeting, thus all directly affected persons had an opportunity to participate and provide input.

For the 2004–2005 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of \$1.75 per ton of fresh prunes handled. This assessment rate continues 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 May 29, 2007, and unanimously recommended 2007–2008 expenditures of \$9,043 and a decreased assessment rate of \$1.00 per ton. In comparison, last year’s budgeted expenditures were \$5,600, and the assessment rate of \$1.00 is \$0.75 lower than the rate that had been in effect since the 2004–2005 fiscal period. The Committee recommended the assessment rate change for the purpose of reducing its monetary reserve to a level commensurate with the maximum permitted by the order of approximately one fiscal period’s operational expenses (7 CFR 924.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include \$4,800 for the management fee, \$1,000 for Committee travel expenses, \$3,000 for the annual financial audit, and \$100 for compliance. In comparison, budgeted expenses for the 2006–2007 season were \$4,200, \$800, \$500, and \$100,

respectively. In addition, the Committee also budgeted an additional \$343 this fiscal period to cover the cost of insurance, bonds, equipment maintenance, and other possible miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington-Oregon prunes. Applying the \$1.00 per ton assessment rate to the Committee's 4,400-ton crop estimate should provide \$4,400 in assessment income. This assessment income in addition to approximately \$4,643 from the Committee's reserve would be adequate to cover the recommended \$9,043 budget for the 2007–2008 fiscal period. As of March 31, 2007, there was \$8,815 in the Committee's reserve. The assessment rate established with this rule 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 the 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. USDA would evaluate the 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 2007–2008 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, 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.

There are approximately 215 producers of fresh prunes in the regulated production area and approximately 10 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (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.

Based on information compiled by both the Committee and the National Agricultural Statistics Service, the average annual revenue from the sale of fresh prunes was approximately \$8,440 per producer in 2006. This estimate is based on 215 producers with a total utilized production of 5,200 tons selling for an average of \$349 per ton. In addition, based on Committee records and 2006 f.o.b. prices ranging from \$14.00 to \$16.50 per 30-pound container as reported by AMS Market News Service, the entire Washington-Oregon fresh prune industry handled less than \$6,500,000 worth of prunes last season. In view of the foregoing, the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2007–2008 and subsequent fiscal periods from \$1.75 to \$1.00 per ton. The Committee unanimously recommended 2007–2008 expenditures of \$9,043 and the \$1.00 per ton assessment rate at the May 29, 2007, meeting. The assessment rate of \$1.00 is \$0.75 lower than the rate that had been in effect since the 2004–2005 fiscal period. With an estimated 2007–2008 prune crop of 4,400 tons, income from the \$1.00 assessment combined with funds from the Committee's monetary reserve should be adequate to cover budgeted expenses. The Committee recommended the lower assessment rate to help decrease the monetary reserve. Funds in the reserve (\$8,815 as of March 31, 2007) will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include \$4,800 for the management fee, \$1,000 for Committee travel expenses, \$3,000 for the annual financial audit, and \$100 for compliance.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Higher assessment

rates were considered, but not recommended because of the potential of generating too much income and thus maintaining the reserve fund at an amount higher than program requirements allow.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2007–2008 season could average about \$325 per ton. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue could approximate 0.31 percent.

This rule continues in effect the action that decreased 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 and participate in the Committee's deliberations on all issues. Like all Committee meetings, the May 29, 2007, 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. Furthermore, 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.

An interim final rule concerning this action was published in the **Federal Register** on July 13, 2007 (72 FR 38463). Copies of that rule were also made available to Committee members and other industry members by Committee staff and through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on September 11, 2007, 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

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

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

■ Accordingly, the interim final rule amending 7 CFR part 924 which was published at 72 FR 38463 on July 13, 2007, is adopted as a final rule without change.

Dated: October 9, 2007.

Lloyd C. Day,
Administrator, Agricultural Marketing Service.

[FR Doc. E7-20145 Filed 10-11-07; 8:45 am]
BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-28958; Directorate Identifier 2007-CE-070-AD; Amendment 39-15227; AD 2007-21-09]

RIN 2120-AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10-VT Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

As a result of a fault report from a Stemme S10-VT operator, an investigation of the differential fuel pressure sensor 11AB-K01 was performed. The fault report describes a fuel leak through the air pressure line into the airbox. The fuel escaped through the drainage tubes. As a result of this investigation, the possibility of a leak to the engine compartment cannot be excluded.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective November 1, 2007.

On November 1, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this proposed AD by November 13, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2007-0191-E, dated July 13, 2007 (referred to after this as "the MCAI"), to correct an

unsafe condition for the specified products. The MCAI states:

As a result of a fault report from a Stemme S10-VT operator, an investigation of the differential fuel pressure sensor 11AB-K01 was performed. The fault report describes a fuel leak through the air pressure line into the airbox. The fuel escaped through the drainage tubes. As a result of this investigation, the possibility of a leak to the engine compartment cannot be excluded.

Differential fuel pressure sensor type 11AB-KD was designed end of year 2003 after the end of production of the old differential fuel pressure sensor 11AB-K01. The old differential fuel pressure sensor 11AB-K01 was installed into the serial production until April 2004. The differential fuel pressure sensor 11AB-K01 has a life time limitation of 5 years. The new differential fuel pressure sensor 11AB-KD has no life time limitation.

Stemme AG has issued Service Bulletin A31-10-081, describing the repetitive inspection and ultimate replacement of the old differential fuel pressure sensor 11AB-K01. Some 32 installation kits (11AB-KIT) containing the type 11AB-KD sensor were provided to different owners of Stemme S10-VT aircraft in the period between April 2003 and May 2007. The Stemme-Group has no information about the installation of these kits.

You may obtain further information by examining the MCAI in the AD.

Relevant Service Information

STEMME F & D has issued Service Bulletin A31-10-081, Am.-Index: 01.a, dated June 25, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making