

response to unusual conditions or unforeseen circumstances in delivering technical services such as highly complex technical situations, emergency conditions, serious threats to human health or the environment, or major resource limitations. In these cases, NRCS will set a case-specific TSP payment rate based on the Department's determination of the scope, magnitude, and timeliness of the technical services needed.

■ 6. Section 652.6 is amended by redesignating paragraphs (b) through (e) as paragraphs (d) through (g), adding new paragraphs (b) and (c), and amending redesignated paragraph (e) by adding a second sentence to read as follows:

§ 652.6 Department delivery of technical services.

* * * * *

(b) The Department may also enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument with technical service providers to provide related technical assistance services that accelerate conservation program delivery. Related technical assistance services may include activities or services that facilitate the development, processing, or implementation of a program contract, such as recording conservation planning decisions and specifications.

(c) NRCS may enter into agreements with other agencies or with a non-Federal entity to provide technical services to eligible participants.

* * * * *

(e) * * * Any contract, contribution agreement, cooperative agreement, or other appropriate instrument entered into under this section shall be for a minimum of one year, shall not exceed three years in duration, and may be renewed upon mutual agreement of the parties.

* * * * *

Signed this 9th day of January 2009, in Washington, DC.

Arlen L. Lancaster,

Chief, Natural Resources Conservation Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 944, 980, and 999

[Docket No. AMS-FV-07-0110; FV07-944/980/999-1 FR]

Fruit, Vegetable, and Specialty Crops—Import Regulations; Proposed Revision to Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the reporting requirements for imports of commodities regulated under section 608(e) (hereinafter referred to as “8e”) of the Agricultural Marketing Agreement Act of 1937. These changes require that the inspection certificates generated for each lot of such commodities include the entry number from the U.S. Customs and Border Protection (CBP or Customs) documentation that accompanies that lot. The changes also require that importers of raisins, dates, and dried prunes report products exempt from 8e import regulations on AMS Form FV-6—“Importers’ Exempt Commodity Form,” which is the same form that is currently used by importers of all other commodities exempt from 8e import regulations. These changes are intended to streamline the tracking of imported products and provide uniformity in electronic reporting systems used by the industries and the Department of Agriculture (USDA).

DATES: *Effective Date:* February 17, 2009.

FOR FURTHER INFORMATION CONTACT: Rick Lower or Jared Burnett, 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:

Richard.Lower@usda.gov or JaredK.Burnett@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 final rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act.”

Section 8e provides that whenever certain commodities are regulated under Federal marketing orders, imports of those commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. To ensure that these requirements are met, the Act also authorizes USDA to perform inspections and issue inspection certificates for such imported commodities.

Parts 944, 980, and 999 of title 7 of the Code of Federal Regulations (CFR) specify the information that should be included on each inspection certificate issued for regulated imports of fruits, vegetables, and specialty crops, respectively. Part 999 further specifies which forms importers should use to report to USDA and CBP imports of raisins, dates, and dried prunes that may be exempt from other 8e requirements. Exempt commodities are those which may be imported for purposes such as processing, donation to charitable organizations, or animal feed.

USDA is issuing this rule in conformance with Executive Order 12866.

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

Customs Entry Number

Under the import regulations contained in parts 944, 980, and 999, inspection certificates issued for imports of certain fruits, vegetables, and specialty crops, respectively, must include specific information about the lot being inspected. In addition to stating whether the lot meets the import requirements, such information as the date and place of inspection; the name of the applicant; and the variety, quantity, and identifying marks of the lot inspected are required.

Previously, many inspectors have noted the customs entry number pertaining to the lot being inspected, which is taken from the Customs documentation accompanying that lot, in the “Remarks” section or elsewhere on the inspection certificate. The unique entry number is generated for each lot by CBP, and may be found on any one of the various forms used to report imported lots of fruit, vegetable, and specialty crop commodities. USDA has found that the entry number provides an efficient way to identify individual lots of commodities and to cross-reference all the documents pertaining to each lot. If, for instance, a certain lot fails to meet

import regulations when first presented, it may be reworked and presented for inspection a second time. The entry number is used to tie both the original and any succeeding inspections to that lot. Additionally, if a lot that fails to meet import requirements is diverted to another market or destroyed, USDA and the importer can use the entry number to track that lot through the process.

This final rule makes the inclusion of the Customs entry number on all pertinent inspection certificates mandatory. Including the entry number on inspection certificates is intended to allow importers to more easily demonstrate that the requirements have been met for each lot of regulated commodity imported into the United States. This action should also allow USDA to more easily track imported lots.

Form FV-6

Under the import regulations contained in parts 944, 980, and 999, individual lots of some imported commodities may be exempt from 8e regulations if they are to be used in the processing of other products or consumed through some other exempted use, such as by charitable organizations or as animal feed. However, importers and receivers are still required to declare their intent to import those commodities into the United States to CBP and USDA. Most commodities are reported using the generic Form FV-6—"Importer's Exempt Commodity Form."

Exempt imports of two commodities—raisins and dates—were previously reported on forms unique to those commodities. Exempt imports of raisins were reported on Raisin Form No. 1—"Raisins—Section 8e Entry Declaration" and Raisin Form No. 2—"Raisins—Section 8e Certification of Processor of Reseller." Exempt imports of dates were reported on Date Form No. 1—"Dates—Section 8e Entry Declaration" and Date Form No. 2—"Dates—Section 8e Certification of Processor of Reseller."

The 8e regulations for dried prunes were indefinitely suspended on May 27, 2005. The suspended language in § 999.200 specified that exempt imports of dried prunes be reported on Prune Form No. 1—"Prunes—Section 8e Entry Declaration" and Prune Form No. 2—"Prunes—Section 8e Certification of Processor of Reseller."

This rule changes the reporting requirements for imported lots of raisins, dates, and dried prunes that are exempt from other 8e regulations by replacing the commodity-specific import declaration forms described

above with the generic Form FV-6. The information collected on Raisin, Date, and Prune Forms 1 and 2 is the same as that collected for other commodities reported on Form FV-6. In its conversion to the use of electronic reporting systems, USDA is adopting the use of an electronic Form FV-6 to monitor imports of regulated commodities that are exempt from the import requirements. Replacing the existing raisin, date, and dried prune Forms 1 and 2 with the generic Form FV-6 will enable USDA to streamline its operations by collecting information electronically and eliminating unnecessary forms.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), 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 rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

Small agricultural business firms, which include importers and receivers of these commodities, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$6,500,000. It is likely that the majority of these importers and receivers may be classified as small entities.

This rule revises the reporting requirements for imports of commodities regulated under section 8e by requiring that the entry number from the CBP documentation that accompanies each shipment is included on all inspection certificates pertaining to that lot. Specifically, regulations under part 944 pertaining to imports of avocados, grapefruit, table grapes, kiwifruit, oranges, fresh prunes (plums), and olives; part 980 pertaining to Irish potatoes, onions, and tomatoes; and part 999 pertaining to dates, walnuts, dried prunes, raisins, and filberts (hazelnuts) are revised.

Requiring that the Customs entry number be included on the inspection certificates should have very little impact on importers or receivers. The Customs documentation containing the entry number assigned to each shipment

normally accompanies the shipment and should be available at the time of inspection. The inspector will note the entry number on the inspection certificate. This is already being done by many inspectors. The inspection certificate is completed by Federal or Federal-State employees. Therefore, there is no regulatory burden on small entities.

This action further modifies part 999 by requiring that importers and receivers of raisins, dates, and dried prunes report products exempt from 8e import regulations on Form FV-6—"Importer's Exempt Commodity Form," instead of the commodity-specific forms previously prescribed for those shipments. Form FV-6 is the same form that is currently used by importers and receivers to report exempted shipments of all other section 8e commodities. There are an estimated 329 importers and receivers of all exempt commodities. These changes are intended to streamline the tracking of imported products and provide uniformity in electronic reporting systems used by the industries and USDA.

It is estimated that 5 importers and 5 receivers of imported raisins for processing, and 5 importers and 10 receivers of imported dates for processing, will be required to replace Raisin and Date Forms No. 1 and 2 with Form FV-6 as a result of this rule. As mentioned above, the domestic order regulations for dried prunes have been suspended. Therefore, the section 8e regulations for imported dried prunes are also suspended. It is unknown how many dried prune importers and receivers would be affected by this rule if the suspension is lifted.

Replacing Raisin, Date, and Prune Forms 1 & 2 with the generic Form FV-6 will eliminate the need to stock various commodity-specific forms. Use of an electronic Form FV-6 should further improve business efficiency for those required to file the reports as well as for USDA.

Raisin, Date, and Prune Forms No. 1 and 2 were previously approved by the Office of Management and Budget (OMB) under OMB No. 0581-0178, "Vegetable and Specialty Crop Marketing Orders" for 48.5 burden hours. Form FV-6 is currently approved by OMB under OMB No. 0581-0167, "Specified Commodities Imported into the United States Exempt from Import Requirements." This rule removes 48.5 burden hours from OMB No. 0581-0178, and transfers burden to OMB No. 0581-0167. This information collection has been submitted to OMB for approval.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by the industry and public sector agencies.

A proposed rule concerning this action was published in the Federal Register on May 30, 2008 (73 FR 31036). The proposal was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period ending July, 29, 2008, was provided for interested persons to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses. No comments were received.

A conforming change to the introductory text of § 999.1(e) was inadvertently omitted from the Federal Register publication of the proposed rule. In that text, the reference to Date Form No. 1 should have been changed to refer to Form FV-6. Accordingly, that modification to the proposed rule is made in this final rule. Additional miscellaneous changes are also made for clarity.

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 matters presented, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

■ For the reasons set forth above, 7 CFR parts 944, 980, and 999 are amended as follows:

■ 1. The authority citation for 7 CFR parts 944, 980, and 999 continue to read as follows:

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

PART 944—FRUITS; IMPORT REGULATIONS

■ 2. In § 944.400, amend paragraph (d) by redesignating paragraphs (d)(3) through (d)(7) as paragraphs (d)(4) through (d)(8) and adding a new paragraph (d)(3) to read as follows:

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, oranges, prune variety plums (fresh prunes), and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(d) * * *

(3) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

■ 3. In § 944.401, amend paragraph (i), by redesignating paragraphs (i)(3) through (i)(8) as paragraphs (i)(4) through (i)(9) and adding a new paragraph (i)(3) to read as follows:

§ 944.401 Olive Regulation 1.

(i) * * *

(3) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

PART 980—VEGETABLES; IMPORT REGULATIONS

■ 4. In § 980.1, amend paragraph (g)(4), by redesignating paragraphs (g)(4)(iii) through (g)(4)(vii) as paragraphs (g)(4)(iv) through (g)(4)(viii) and adding a new paragraph (g)(4)(iii) to read as follows:

§ 980.1 Import regulations; Irish potatoes.

(g) * * *

(4) * * *

(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

■ 5. In § 980.117, amend paragraph (f)(5), by redesignating paragraphs (f)(5)(iii) through (f)(5)(vii) as paragraphs (f)(5)(iv) through (f)(5)(viii) and adding a new paragraph (f)(5)(iii) to read as follows:

§ 980.117 Import regulations; onions.

(f) * * *

(5) * * *

(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

■ 6. In § 980.212, amend paragraph (f)(5), by redesignating paragraphs (f)(5)(iii) through (f)(5)(vii) as paragraphs (f)(5)(iv) through (f)(5)(viii) and adding a new paragraph (f)(5)(iii) to read as follows:

§ 980.212 Import regulations; tomatoes.

(f) * * *

(5) * * *

(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

§ 999.1 [Amended]

■ 7. Amend § 999.1 by:

■ A. Redesignating paragraphs (c)(2)(iii) through (c)(2)(v) as paragraphs (c)(2)(iv) through (c)(2)(vi) and adding a new paragraph (c)(2)(iii).

■ B. Revising the introductory text of paragraph (e).

■ C. Removing the phrase “(c)(2)(iv)” in paragraph (e)(1) and adding the phrase “(c)(2)(v)” in its place.

■ D. Revising paragraph (e)(2).

■ E. Revising paragraph (e)(3).

■ F. Removing the phrase “Date Form No. 2” in paragraph (e)(4) and adding the phrase “Form FV-6” in its place.

■ G. Removing the phrase “Date Form No. 2 ‘Dates for Processing—Section 8e Certification of Processor or Reseller’” in paragraph (f) and adding the phrase “Form FV-6—‘Importer’s Exempt Commodity Form’” in its place.

■ H. Removing the phrase “Date Form No. 1 ‘Dates—Section 8e Entry Declaration’”, in the first sentence in paragraph (g), and adding the phrase “Form FV-6—‘Importer’s Exempt Commodity Form’” in its place.

■ I. Removing the phrase “Date Form No. 1”, from the second sentence in paragraph (g), and adding the phrase “Form FV-6” in its place.

■ The additions and revisions read as follows:

§ 999.1 Regulation governing the importation of dates.

* * * * *

- (c) * * *
- (2) * * *

(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * *

(e) *Importation.* No person may import dates into the United States unless he or she first files with the Collector of Customs at the port at which the Customs entry is filed, as a condition of each such importation, either an inspection certificate or an executed Form FV-6—'Importer's Exempt Commodity Form.'

- (1) * * *

(2) *Dates for processing and dates prepared or preserved—importation.* Any person may import dates for processing and dates prepared or preserved exempt from the grade, inspection, and certification requirements of this section if the importer first files as a condition of such importation an executed Form FV-6—'Importer's Exempt Commodity Form.' The importer shall promptly transmit a copy of the executed Form FV-6 to the Fruit and Vegetable Division.

(3) *Dates for processing—Sale by importer.* No importer or other person may import, sell, or use any dates for processing other than for use as set forth in paragraph (a)(4) of this section or as otherwise permitted by this section. Each importer of dates for processing shall obtain from each purchaser, no later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the dates were delivered, an executed Form FV-6.

* * * * *

■ 8. In § 999.100, amend paragraph (c)(2), by redesignating paragraphs (c)(2)(iv) and (c)(2)(v) as paragraphs (c)(2)(v) and (c)(2)(vi), respectively, and adding a new paragraph (c)(2)(iv) to read as follows:

§ 999.100 Regulations governing imports of walnuts.

* * * * *

- (c) * * *
- (2) * * *

(iv) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

§ 999.200 [Amended]

■ 9. In § 999.200, lift the suspension of May 27, 2005, and amend the section as follows:

■ A. Remove the phrase "Prune Form No. 1 'Prunes—Section 8e Entry Declaration'" in paragraph (b)(5), and add in its place the phrase "Form FV-6—'Importer's Exempt Commodity Form.'"

■ B. Redesignate paragraphs (c)(2)(iii) through (c)(2)(v) as paragraphs (c)(2)(iv) through (c)(2)(vi) and add a new paragraph (c)(2)(iii).

■ C. Remove the phrase " 'Prunes—Section 8e Entry Declaration,' prescribed in paragraph (e)(2) of this section as Prune Form No. 1" in the second sentence of paragraph (e)(1), and add the phrase "Form FV-6—'Importer's Exempt Commodity Form;'" in its place;

■ D. Remove the phrase " 'Prunes—Section 8e Certification of Processor or Reseller,' prescribed in paragraph (e)(3) of this section as Prune Form No. 2" in the fifth sentence of paragraph (e)(1), and add the phrase "Form FV-6—'Importer's Exempt Commodity Form'" in its place.

■ E. Remove paragraphs (e)(2) and (e)(3).

■ F. Redesignate paragraph (e)(4) as paragraph (e)(2).

■ G. Revise newly designated paragraph (e)(2).

■ The additions and revisions read as follows:

§ 999.200 Regulation governing the importation of prunes.

* * * * *

- (c) * * *
- (2) * * *

(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

- (e) * * *

(2) *Manufacturing Grade Substandard Prune—sale by other than importer.* Each wholesaler or other reseller of manufacturing grade substandard prunes should, for his or her protection, obtain from each purchaser and hold in his or her files an executed Form FV-6—'Importer's Exempt Commodity Form' covering each sale during the calendar year.

* * * * *

§ 999.200 [Suspended]

■ 10. Suspend § 999.200 indefinitely.

§ 999.300 [Amended]

■ 11. Amend § 999.300 as follows:

■ A. Redesignate paragraph (c)(2)(iv) through (c)(2)(vi) as paragraphs (c)(2)(v) through (c)(2)(vii) and add a new paragraph (c)(2)(iv).

■ B. Remove the phrase " 'Raisins—Section 8e Entry Declaration' prescribed in paragraph (e)(2)(i) of this section as 'Raisin Form No. 1'" in the second sentence of paragraph (e)(2), and add the phrase "Form FV-6—Importer's Exempt Commodity Form" in its place.

■ C. Remove the phrase " 'Raisins—Section 8e Certification of Processor or Reseller,' prescribed in paragraph (e)(2)(ii) of this section as 'Raisin Form No. 2'" in the fifth sentence of paragraph (e)(2), and add the phrase "Form FV-6" in its place.

■ D. Remove the phrase "Raisin Form No. 2" in the seventh sentence of paragraph (e)(2), and add the phrase "Form FV-6" in its place.

■ E. Remove paragraphs (e)(2)(i) and (e)(2)(ii).

■ The addition reads as follows:

§ 999.300 Regulation governing importation of raisins.

* * * * *

- (c) * * *
- (2) * * *

(iv) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

■ 12. In § 999.400, amend paragraph (c)(3) by redesignating paragraphs (c)(3)(iv) through (c)(3)(vi) as paragraphs (c)(3)(v) through (c)(3)(vii) and adding a new paragraph (c)(3)(iv) to read as follows:

§ 999.400 Regulation governing the importation of filberts.

* * * * *

- (c) * * *
- (3) * * *

(iv) The Customs entry number pertaining to the lot or shipment covered by the certificate;

* * * * *

Dated: January 13, 2009.

James E. Link,
Administrator, Agricultural Marketing Service.

[FR Doc. E9-1008 Filed 1-15-09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1491

RIN 0578-AA46

Farm and Ranch Lands Protection Program

AGENCY: Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC),