

# Rules and Regulations

## Federal Register

Vol. 75, No. 207

Wednesday, October 27, 2010

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 924

[Doc. No. AMS-FV-10-0054; FV10-924-2  
FIR]

#### Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Suspension of Reporting and Assessment Requirements

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that suspended the reporting and assessment requirements prescribed under the Washington-Oregon fresh prune marketing order. 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 Fresh Prune Marketing Committee (Committee). On June 1, 2010, the Committee unanimously voted to terminate Marketing Order No. 924. Since the only regulatory actions then in effect were the reporting and assessment requirements, the Committee included a recommendation to immediately suspend those activities while USDA processes the termination request. The reporting and assessment requirements will remain suspended until reinstated or permanently terminated.

**DATES:** Effective October 28, 2010.

#### FOR FURTHER INFORMATION CONTACT:

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326-7440, or *E-mail*: *Robert.Curry@ams.usda.gov* or *GaryD.Olson@ams.usda.gov*.

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>; or by contacting Antoinette Carter, 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*: *Antoinette.Carter@ams.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."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

Marketing Order No. 924 has been in effect since 1960 and has provided the fresh prune industry in Washington and Oregon with authority for grade, size, quality, maturity, pack, and container regulations, as well as authority for inspection requirements. The order also authorizes production research and marketing research and development projects, as well as the necessary reporting and recordkeeping functions required for operation. Based on the Committee's recommendation, USDA suspended the order's handling regulations in May 2006. These handling regulations required that certain varieties of fresh prunes meet minimum grade standards. The Committee believed that the costs of inspection outweighed the benefits provided from having the regulatory requirements in effect.

Following the regulatory suspension, the Committee continued to levy assessments in order to maintain its functionality. The Committee felt that it should continue to fund its full

operational capability in order to gauge the merits of the handling regulation suspension. When it recommended suspension of the handling regulations, the Committee also recommended the establishment of reporting requirements for the purpose of tracking shipments and collecting assessments. Prior to the handling regulation suspension, the Committee relied on the Federal-State Inspection Service to provide it with copies of the certificates that accompany each lot of inspected fresh prunes. The inspection certificates contained information necessary for the Committee to collect assessments from each of the regulated handlers. A new section 924.160 and Committee form "Handler Statement for Washington-Oregon Fresh Prunes" were implemented in the **Federal Register** on May 9, 2006, at 71 FR 26817. The Committee used this form to collect fresh prune shipment information and to monitor market and crop conditions, thus helping it to make a determination regarding the impact of non-regulation on the industry.

Based on its analysis that the regulatory suspension has not negatively impacted the marketing of fresh prunes over the last four years, and the fact that the Washington-Oregon fresh prune industry has been decreasing in size and volume in recent years, the Committee determined that there is no longer a need for the order, and thus recommended termination at the meeting held in Prosser, Washington, on June 1, 2010.

In addition, the Committee determined that there is no need to continue collecting assessments and requiring reports for the sole purpose of maintaining its functionality, thus recommended that the assessment rate and reporting requirements be immediately suspended. This action will relieve the industry of the assessment and reporting burden during the pendency of the termination process.

The Committee recommended a budget of \$6,085 for the remainder of the period leading to order termination. The budgeted amount was established on the basis of the amount remaining in the Committee's monetary reserve. The budget in its entirety will provide for such operating expenses as are necessary during the termination

process, including a final financial review and management compensation.

In an interim rule published in the **Federal Register** on July 23, 2010, and effective on July 24, 2010 (75 FR 43040, Doc. No. AMS-FV-10-0054, FV10-924-2 IR), §§ 924.160 and 924.236 were suspended.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 six handlers of Washington-Oregon fresh prunes subject to regulation under the order and approximately 56 fresh prune producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

Based on information compiled by both the Committee and the National Agricultural Statistics Service, the average producer price for fresh prunes in 2009 was approximately \$385 per ton. With 4,260 tons of fresh prunes shipped from the Washington and Oregon production areas in 2009, this equates to average producer revenue of about \$30,000. In addition, AMS Market News Service reported that 2009 f.o.b. prices ranged from \$12.00 to \$18.00 per 30-pound container, thus the entire Washington-Oregon fresh prune industry handled less than \$7,000,000 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.

The Committee made the recommendation to suspend the reporting and assessment requirements as an adjunct to the recommendation to terminate the order. As such, the only other alternative would have been to continue to assess handlers and to require reports, options not seriously

considered since additional funds are not required.

This action continues in effect the action that suspended the reporting and assessment obligations imposed on handlers. During any period when effective, assessments are applied uniformly on all handlers and some of the costs may be passed on to producers. This suspension of the reporting and assessment requirements reduces the burden on handlers and should also reduce the burden on producers.

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

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 June 1, 2010, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before September 21, 2010. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b1fd84>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 43039, July 23, 2010) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 924

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 rule that amended 7 CFR part 924 and was published at 75 FR 43039 on July 23, 2010, is adopted as a final rule, without change.

Dated: October 21, 2010.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010-27196 Filed 10-26-10; 8:45 am]

**BILLING CODE 3410-02-P**

#### DEPARTMENT OF TRANSPORTATION

##### 14 CFR Part 97

**[Docket No. 30750; Amdt. No. 3397]**

#### Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective October 27, 2010. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of October 27, 2010.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800