

PART 652—TECHNICAL SERVICE PROVIDER ASSISTANCE

■ 1. The authority citation for part 652 is revised to read as follows:

Authority: 16 U.S.C. 3842, 7 U.S.C. 6962a.

■ 2. Subpart A is amended by adding a new § 652.8 to read as follows:

* * * * *

§ 652.8 Limited Exception to Certification Requirements for State, Local and Tribal Government Partners.

(a) In carrying out its duties to deliver technical services, the Department may enter into agreements, as provided for below, with State, local, and tribal governments (including conservation districts) approving such governmental entities to provide technical services when the Department determines that such a partnership is an effective means to provide technical services.

(b) In the case of conservation districts, the cooperative working agreements between NRCS and the conservation districts will be amended to ensure that district employees have the requisite training or experience in order to provide technical services. For other governmental entities, the Department will enter into memoranda of understanding to ensure that employees of the governmental entity have the requisite training or experience to carry out the technical services. The governmental entity is not required to be certified under the provisions of this regulation in order to provide technical services nor do the other provisions of this regulation apply to any partnership relationship entered into under the authority of this section. The responsibilities of the parties will be governed by the terms of the cooperative working agreement or the memoranda of understanding and the contribution agreement, if any.

(c) Any cooperative working agreement entered into with a conservation district or any memoranda of understanding entered into with a State, local, or tribal government will set forth the specific terms of the Department's approval of such an entity to provide technical services in partnership with the Department, as well as the scope of the relationship. If the Department is providing any financial resources to effectuate such a partnership, the Department will use a contribution agreement to memorialize the relationship, which will include in its terms the requirement that any technical services provided will meet NRCS standards and specifications. Conservation districts and other governmental entities must contribute at

least 50 percent of the resources needed for implementing the contribution agreement.

(d) Governmental entities that are technical service providers shall not be eligible to receive payment under a program contract or agreement for technical services provided to a program participant if the governmental entity has entered into a memorandum of understanding or contribution agreement under this section to provide technical services to that program participant.

Signed in Washington, DC, on June 27, 2003.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV03-993-2 IFR]

Dried Prunes Produced in California; Temporary Suspension of the Prune Reserve and the Voluntary Producer Prune Plum Diversion Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends the prune reserve and the voluntary producer prune plum diversion provisions in the California Dried Prune Marketing Order (order) and the administrative rules and regulations related to volume control restrictions for a five-year period. The order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (PMC). Suspension of these provisions will ensure that volume control restrictions would not be implemented under these provisions. During the five-year suspension period, the industry will have the opportunity to determine whether these provisions should be modified, terminated, or continue unchanged. In the absence of additional rulemaking to modify or terminate these provisions, they would come back into effect automatically at the end of the five-year period.

DATES: Effective August 1, 2003, through July 31, 2008. Comments received by September 8, 2003 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 E-mail:

moab.docketclerk@usda.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.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT:

Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George 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, or 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 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. 993 (7 CFR part 993), both as amended, regulating the handling of dried prunes produced in California, 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 (Department) 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 the date of the entry of the ruling.

This rule suspends for five years all provisions in the order and administrative rules and regulations concerning the prune reserve and voluntary producer prune plum diversion. These changes were unanimously recommended by the PMC. This action is needed to ensure that reserve percentages would not be established, and that a prune plum diversion program would not be implemented pursuant to these provisions. During the five-year suspension period, the industry will have the opportunity to determine whether these provisions should be modified, terminated, or remain unchanged.

Marketing Order Authority To Suspend

Section 993.90(a) states in part: "The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he/she finds that such provisions do not tend to effectuate the declared policy of the act."

Volume Regulation Provisions

Section 993.54 of the order provides authority for volume regulation through establishing salable and reserve percentages of prunes received by handlers (prune reserve). When the prune reserve is in effect, the salable percentage of the California prune crop may be sold to any market while the reserve percentage must be held by the handlers for the account of the PMC. Reserve prunes may be sold to meet either domestic or foreign trade demand or for use in outlets noncompetitive with normal outlets for salable prunes. Net proceeds from sales of reserve prunes are ultimately distributed to producers. The prune reserve is designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns.

Voluntary Prune Plum Diversion Program

Section 993.62 of the order authorizes a producer diversion program, which prune producers may use when a prune reserve is implemented. Section 993.162 of the administrative rules and regulations specifies implementing procedures. Under the producer diversion program, any prune producer may divert prune plums of his own production for eligible purposes and receive a diversion certificate from the PMC. The certificate may be submitted to any handler in lieu of reserve prunes and the handler may apply the quantity represented by the certificate towards his reserve obligation. Participation in this program would reduce a producer's expenses to convert prune plums into dried prunes that would ultimately be placed in a relatively low value prune reserve.

Background and Action Taken

The prune reserve was last implemented in 1974 and the producer diversion program was last used in 1971. These programs were controversial in the 1970s and have become increasingly so since then. Some of the independent prune handlers who are also prune producers now oppose any regulatory marketing restrictions because they want to sell all of the prunes they have produced. If additional tonnage is needed, such handlers would buy prunes from other producers to meet their market demand. In addition, if a prune reserve is implemented, it may require these handlers to contract for additional tonnage in order to meet their reserve obligation.

Recently in 2001, when the PMC recommended using supply control techniques, some of the independent handlers and producers opposed the use of these programs. Ultimately, the supply control programs were not implemented at that time. Also, some in the industry do not support the use of these supply control provisions because the industry has successfully reduced crop sizes through other means.

Through industry and USDA funded tree pull programs, the industry has removed over 18,000 acres of prune plum trees; thus reducing the annual prune production by at least 27,000 tons of prunes over the five-year suspension period.

During the five-year suspension period, the industry will have the opportunity to either recommend that these provisions be terminated through rulemaking procedures, or recommend modifications to the provisions to make

them more acceptable to all segments of the industry. In the interim, the suspension of these provisions would ensure that these provisions are not implemented. In the absence of any additional action, the provisions will automatically come back into effect at the end of the suspension period.

The PMC unanimously recommended this action at an April 3, 2003, meeting. This interim final rule suspends §§ 993.21d, 993.36(i), 993.54, 993.55, 993.56, 993.57, 993.58, 993.59, 993.62, 993.65 of the order, and §§ 993.156, 993.157, 993.158, 993.159, 993.162, 993.165 and 993.172(e) of the administrative rules and regulations in effect under the order. Portions of §§ 993.33 and 993.41(b) of the order and portions of §§ 993.173(a)(6), 993.173(b)(3), and 993.173(c)(1) of the administrative rules and regulations are also suspended. These sections of the order and administrative rules and regulations pertain to the various requirements of the prune reserve and producer diversion programs.

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 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.

Industry Profile

There are approximately 1,205 producers of dried prunes in the production area and approximately 21 handlers subject to regulation under the marketing 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 having annual receipts of less than \$5,000,000.

Eight of the 21 handlers (38 percent) shipped over \$5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Thirteen of the 21 handlers (62 percent) shipped less than \$5,000,000 worth of dried prunes and

could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,205 total producers, would be considered large growers with annual incomes over \$750,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

Summary of Rule Change

This rule suspends for five years all provisions in the order and administrative rules and regulations concerning the prune reserve and voluntary producer diversion programs. These supply control programs have been and continue to be controversial in the industry. Furthermore, the industry has successfully reduced crop sizes through other means. Through industry and USDA funded tree pull programs, over 18,000 acres of prune plum trees have been removed, reducing production by at least 27,000 tons over the five-year suspension period.

This action would ensure that the reserve and diversion volume control programs are not implemented for the period of the suspension. During the five-year suspension period, the industry will have the opportunity to determine whether these provisions should be modified, terminated, or remain the same. In the absence of further rulemaking, these provisions will automatically come back into effect at the end of the suspension period. Authority to suspend these provisions of the marketing order and administrative rules and regulations is provided in § 993.90(a) of the order.

Impact of Regulation

Regarding the impact of this rule on affected entities, this action could reduce the reporting and recordkeeping burden on California prune handlers and producers and reduce some of the PMC's administrative costs. Although the prune reserve and producer diversion programs have not been implemented since the 1970's and handlers and producers have not been required to file reports pertaining to these programs, suspending these provisions would reduce the potential reporting burden on handlers and producers. Suspension of the provisions eliminates the possibility of requiring handlers and producers to file reports associated with the programs. It would also reduce some of the potential PMC administrative costs of managing these programs. The PMC estimates that 21 California prune handlers would be subject to these provisions and to filing reports pertaining to these programs. Also, if a producer diversion program was implemented, it is estimated that as

many as 300 producers would file forms applicable to this program. If handlers filed reports under the prune reserve program, their estimated burden would be 57 hours. If growers filed reports under the diversion program, their estimated burden would be 75.58 hours. Thus, there is a potential for reducing the estimated annual burden of 132.58 hours. The benefits of this interim final rule would apply to all prune handlers and producers, regardless of their size of operation.

The forms applicable to these programs are as follows: (1) Form PMC 4.1, Reserve Prunes Held—Handler; (2) Form PMC 4.2, Prune Reserve Tonnage Sales Agreement; (3) Form PMC 4.5, Certificate of Insurance Coverage; (4) Form PMC 5.1, Notice of Proposed Intent to Store Reserve Prunes; (5) Form PMC 8.44, Request for Replacement of Draft; (6) Form PMC 8.443, Claim for Reserve Pool Proceeds; (7) Form PMC 9.1, Notification of Desire for Deferment of Reserve Withholding; (8) Form PMC 10.1, Application for Prune Plum Diversion; (9) No form number, Proof of Diversion; and (10) No form number, Notification of Report of Diversion.

It should be noted that if the PMC determines this action is having an unfavorable impact on the industry, it could meet and recommend rescinding the suspension. Also, as previously mentioned, the provisions would automatically come back into effect at the end of the suspension period.

Alternatives Considered

The PMC and industry members discussed at the PMC's April 3, 2003, meeting different alternatives to this action. The PMC discussed the possibility of amending the marketing order provisions relating to reserve and producer diversion programs but determined it would prefer to eliminate the prune reserves and producer diversion provisions from the order and administrative rules and regulations in a more timely fashion. During the suspension, the industry will have the opportunity to consider possible order amendments to these volume control provisions. Another alternative would be to terminate the marketing order. Many on the PMC and in the industry deemed termination too drastic an action and preferred to preserve the marketing order and make necessary changes to it to meet current industry needs and to reflect current industry marketing practices.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the applicable forms being suspended by this rule were approved previously by the Office of Management

and Budget and assigned OMB No. 0581-0178. 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 PMC's April 3, 2003, meeting where this issue was deliberated was widely publicized throughout the prune industry and all interested persons were invited to attend the meetings and participate in the industry's deliberations. Like all PMC meetings, this meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these changes 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.

A 60-day comment period is provided to allow interested persons to respond to this rule. All written comments timely received will be considered before a final determination is made on this matter.

After consideration of all relevant material presented, including the PMC's recommendation, and other information, it is found that the provisions being suspended would not tend to effectuate the declared policy of the Act during the August 1, 2003, through July 31, 2008.

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 should be implemented as soon as possible so California dried prune producers and handlers can plan accordingly; (2) this rule relaxes requirements in the order and administrative rules and regulations related to volume control activities; (3) these changes were unanimously recommended at a public meeting and interested parties had an opportunity to provide input; and (4) a 60-day comment period is provided and all

comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 993

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

■ For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In Part 993, §§ 993.21d, 993.54, 993.55, 993.56, 993.57, 993.58, 993.59, 993.62, 993.65, 993.156, 993.157, 993.158, 993.159, 993.162, 993.165, and 993.172(e) are suspended in their entirety.

§ 993.33 [Suspended in part]

■ 3. In the first sentence of § 993.33, the words, “salable and reserve percentages, and on any matters pertaining to the control or disposition of reserve prunes or to prune plum diversion pursuant to § 993.62,” are suspended.

■ 4. In § 993.36, paragraph (i) is suspended.

§ 993.41 [Amended]

■ 5. Section 993.41 is amended as follows:

■ a. Suspending paragraph (b)(2) in its entirety.

■ b. Suspending the words “and reserve” in paragraph (b)(3).

■ c. Suspending words “without regard to possible diversions of prune plums by producers” in paragraph (b)(4).

■ d. Suspending paragraphs (b)(10), (b)(11), and (b)(12) in their entirety.

§ 993.173 [Amended]

■ 6. In § 993.173, paragraph (a)(6) the words “itemized as to salable and reserve prunes by category” are suspended and in paragraph (c)(1) the words “and the tonnage of reserve prunes by size in each category,” are suspended.

Dated: July 2, 2003.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–17276 Filed 7–8–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE196; Special Conditions No. 23–136–SC]

Special Conditions: CenTex Aerospace, Inc.: Raytheon/Beech Model 58, Installation of Full Authority Digital Engine Control (FADEC) System and the Protection of the System From the Effects of High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to CenTex Aerospace, Inc.: 7805 Karl May Drive; Waco, Texas 76708 for modifications to the Raytheon/Beech Model 58 airplane. The airplanes, modified by CenTex, will have a novel or unusual design feature(s) associated with the installation of engines that use an electronic engine control system in place of the engine's mechanical system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is: June 9, 2003.

Comments must be received on or before August 8, 2003.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE196, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE196. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Wes Ryan, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: 816–329–4127, fax: 816–329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these

procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket No. CE196.” The postcard will be date stamped and returned to the commenter.

Background

On December 9, 2002, CenTex Aerospace applied for a Supplemental Type Certificate to modify the Raytheon/Beech Model 58. The modified Model 58 Baron will be powered by two reciprocating engines equipped with electronic engine control systems with full authority capability in place of the hydromechanical control systems.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, CenTex Aerospace must show that the modified Model 58 Baron meets the applicable provisions of the original certification basis of the Model 58, as listed on Type Certificate No. 3A16 issued June 18, 1957; exemptions, if any; and the special conditions adopted by this rulemaking action. The model 58 was originally certified under CAR 3, as amended to May 15, 1956, and Paragraphs 23.1385(c), 23.1387(a) and 23.1387(e) of FAR Part 23 as amended by Amendment 23–12. Noise