

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 922

[Docket No. FV05-922-1 FIR]

#### Apricots Grown in Designated Counties in Washington; 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 Apricot Marketing Committee (Committee) for the 2005-2006 and subsequent fiscal periods from \$2.50 per ton to \$1.00 per ton of fresh apricots handled. The Committee locally administers the marketing order which regulates the handling of apricots grown in designated counties in Washington. Assessments upon apricot handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** October 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Portland, Oregon; Telephone: (503) 326-2724; Fax: (503) 326-7440; or George J. 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; 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, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491; Fax: (202) 720-8938; or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 922 (7 CFR 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."

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, handlers in designated counties in Washington 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 Washington apricots beginning April 1, 2005, 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

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 2005-2006 and subsequent fiscal periods from \$2.50 per ton to \$1.00 per ton of fresh Washington apricots handled under the order.

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 of Washington apricots. 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 is formulated and discussed at a public meeting. Thus, all directly affected persons have 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 \$2.50 per ton of apricots handled. This assessment rate would continue 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 10, 2005, and unanimously recommended 2005-2006 expenditures of \$10,594—the same as approved for the 2004-2005 fiscal period—and a decreased assessment rate of \$1.00 per ton of apricots handled. The \$1.00 assessment rate is \$1.50 lower than the rate approved for the 2004-2005 and subsequent fiscal periods. Based on the Committee's 2005-2006 crop estimate of 3,800 tons, assessment income should approximate \$3,800. The Committee recommended the lower assessment rate after taking into account the potential economic impact the anticipated crop shortfall might have on the apricot industry, and also to reduce the Committee's authorized monetary reserve to a level commensurate with program requirements. The anticipated \$3,800 assessment revenue, when combined with \$6,794 from the monetary reserve, is adequate to cover budgeted expenses for the 2005-2006 fiscal period. By drawing funds from the

reserve (\$13,962 on April 1, 2005), the Committee estimates that by the end of the current fiscal period the reserve will approximate \$7,168. This amount is within the maximum permitted by the order of approximately one fiscal period's operational expenses (\$ 922.42).

The major expenditures recommended by the Committee for the 2005–2006 fiscal period include staff salaries (\$5,892), rent and maintenance (\$864), compliance (\$100), and Committee travel and compensation (\$1,000). These budgeted expenses are the same as those approved for the 2004–2005 fiscal period.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committees or other available information.

Although this 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 the Committee's meetings are available from the Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's 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 2005–2006 budget has been reviewed and approved by USDA, which will also review, and as appropriate, approve, budgets for subsequent fiscal periods.

#### 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 272 apricot producers within the regulated production area and approximately 28 regulated handlers. 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 \$6,000,000.

For the 2004 apricot season, Washington Agricultural Statistics Service reported that the total 6,400 ton apricot utilization sold for an average of \$973 per ton. Based on the number of producers in the production area (272), the average annual producer revenue from the sale of apricots in 2004 can thus be estimated at approximately \$22,894. In addition, based on information from the Committee and USDA's Market News Service, 2004 f.o.b. prices ranged from \$14.50 to \$18.50 per 24-pound loose-pack container, and from \$18.00 to \$24.00 for 2-layer tray pack containers. With about half of the 2004 season fresh apricot pack-out of 4,911 tons in loose-pack containers and about half in tray-pack containers (weighing an average of about 20 pounds each), each of the industry's 28 handlers would have averaged less than \$225,000 from the sale of fresh apricots. Thus, the majority of producers and handlers of Washington apricots 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 2005–2006 and subsequent fiscal periods from \$2.50 to \$1.00 per ton of fresh apricots handled. The Committee unanimously recommended 2005–2006 expenditures of \$10,594. With the 2005–2006 crop estimate of 3,800 tons, the Committee anticipates assessment income of \$3,800, which, when combined with \$6,794 from the monetary reserve, will be adequate to cover budgeted expenses for the 2005–2006 fiscal period. At this assessment rate and expense level, the Committee's reserve fund will approximate \$7,168 by March 30, 2006. This amount is within the maximum permitted by the order of approximately one fiscal period's operational expenses (\$ 922.42).

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the programs.

A review of historical information and preliminary information pertaining to

the upcoming crop year indicates that the producer price for the 2005–2006 season could range from about \$973 per ton to about \$1,100 per ton for Washington apricots. Therefore, the estimated assessment revenue for the 2005–2006 fiscal period as a percentage of total producer revenue could range between 0.09 and 0.10 percent.

This action 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 apricot industry and all interested persons were invited to attend and participate in the Committee's deliberations on all issues. Like all marketing order committee meetings, the May 10, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on June 27, 2005, (70 FR 36812). Copies of that publication were mailed or distributed via facsimile to all Committee members and made available to handlers at the office of the Committee. The interim final rule was also made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. No comments were received during the comment period that ended on August 26, 2005.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ama.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 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR part 922 which was published at 70 FR 36812 on June 27, 2005, is adopted as a final rule without change.

Dated: September 14, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05-18584 Filed 9-16-05; 8:45 am]

BILLING CODE 3410-02-P

#### DEPARTMENT OF ENERGY

##### 10 CFR Part 300

RIN 1901-AB11

##### Guidelines for Voluntary Greenhouse Gas Reporting

**AGENCY:** Office of Policy and International Affairs, U.S. Department of Energy.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Department of Energy (DOE) published interim final General Guidelines for its Voluntary Reporting of Greenhouse Gases Program on March 24, 2005 (70 FR 15169), and published in the same issue of the **Federal Register** a notice of availability inviting public comment on draft Technical Guidelines needed to fully implement the revised Voluntary Reporting of Greenhouse Gases Program (70 FR 15164). DOE today is delaying the effective date of the guidelines to address the comments received by DOE in response to the March 24, 2005 **Federal Register** notice and to align the effective date with the likely availability of final reporting forms being developed by the Energy Information Administration.

**DATES:** The effective date of the rule establishing 10 CFR part 300 published in the **Federal Register** at 70 FR 15169 on March 24, 2005, is delayed until June 1, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Mark Friedrichs, PI-40, Office of Policy and International Affairs, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, or e-mail: 1605bguidelines.comments@hq.doe.gov.

**SUPPLEMENTARY INFORMATION:** As DOE explained in the notice of interim final rulemaking, the Technical Guidelines that supplement the General Guidelines will provide the specificity necessary for DOE to fully implement the greenhouse gas emissions inventory and emissions reduction elements of the voluntary reporting guidelines (70 FR 15171). DOE received a substantial number of written comments on the Interim Final General Guidelines and draft Technical Guidelines, and DOE expects to issue final General and Technical Guidelines by the end of 2005. At that time, the Energy Information Administration (EIA) will prepare reporting forms that conform to the Final General Guidelines and Final Technical Guidelines and begin developing the electronic reporting software necessary to implement the revised Program.

Because DOE does not expect to issue final guidelines until the end of the calendar year, and because the Office of Management and Budget (OMB) clearance process under the Paperwork Reduction Act for EIA's revised reporting forms will take at least 120 days following the issuance of the final guidelines, DOE is delaying the September 20, 2005 effective date of the rule published on March 24, 2005 until June 1, 2006. This delay in the effective date will allow EIA time to complete the development of revised reporting forms, including an opportunity for public review, after the final General and Technical Guidelines are issued at the end of 2005. Once EIA has completed the development of its planned electronic reporting system, approximately 9 to 12 months after the guidelines are finalized, reporting entities would be able to use it to report under the revised guidelines. Since it is unlikely that entities will be able to report under the revised guidelines by July 1, 2006, DOE will revise the General Guidelines to provide that entities may use DOE's October 1994 guidelines for reporting in calendar year 2006. Entities that wish to report their emissions and reductions for 2005, or prior years, using the revised guidelines will be able to do so during the normal 2007 reporting cycle.

Issued in Washington, DC, on September 13, 2005.

Karen A. Harbert,

Assistant Secretary, Policy and International Affairs.

[FR Doc. 05-18628 Filed 9-15-05; 9:21 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. FAA-2005-20944; Directorate Identifier 2003-NE-64-AD; Amendment 39-14247; AD 2005-18-01]

RIN 2120-AA64

##### Airworthiness Directives; General Electric Company CT7-5, -7, and -9 Series Turboprop Engines

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) CT7-5A2, -5A3, -7A, -7A1, -9B, -9B1, and -9B2 turboprop engines, with stage 2 turbine aft cooling plate, part number (P/N) 6064T07P01, 6064T07P02, 6064T07P05, or 6068T36P01 installed. This AD requires a onetime eddy current inspection (ECI) of certain P/N stage 2 turbine aft cooling plate boltholes. This AD results from reports of six stage 2 turbine aft cooling plates found cracked during inspection. We are issuing this AD to prevent stage 2 aft cooling plate separation, resulting in uncontained engine failure and damage to the airplane.

**DATES:** This AD becomes effective October 24, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 24, 2005.

**ADDRESSES:** You can get the service information identified in this AD from General Electric Aircraft Engines CT7 Series Turboprop Engines, 1000 Western Ave., Lynn, MA 01910; telephone (781) 594-3140, fax (781) 594-4805.

You may examine the AD docket on the Internet at <http://dms.dot.gov> or in Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine