

issues. Like all Board meetings, the September 13, 2002 meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are 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 California walnut 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.

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 Board 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.

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) The 2002–03 marketing year began on August 1, 2002, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) this action decreases the assessment rate for merchantable California walnuts; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 2002, an assessment rate of \$0.0120 per kernelweight pound is established for California merchantable walnuts.

Dated: November 14, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29601 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV02–993–4 FIR]

Dried Prunes Produced in California; 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 Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 2002–03 and subsequent crop years from \$2.80 to \$2.60 per ton of salable dried prunes. The Committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, 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, 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, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the “order.” The marketing agreement and order are 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, California dried 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 dried prunes beginning on August 1, 2002, 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 to decrease the assessment rate established for the Committee for the 2002–03 and subsequent crop years from \$2.80 per ton to \$2.60 per ton of salable dried prunes.

The California dried prune marketing 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 California dried prunes. 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 in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001–02 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year 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 June 27, 2002, and unanimously recommended 2002–03 expenditures of \$386,880 and an assessment rate of \$2.60 per ton of salable dried prunes. In comparison, last year's budgeted expenditures were \$384,370. The assessment rate of \$2.60 per ton is \$0.20 lower than the rate currently in effect. The \$0.20 per ton decrease in the assessment rate will allow the Committee to meet its 2002–03 expenses. The Committee was able to recommend a lower assessment rate this year because salable prune production this year is expected to be 148,800 tons, 16,750 tons higher than production last year. Although 2002–03 recommended expenses are slightly higher than 2001–02 expenses, an assessment rate of \$2.60 per ton will provide sufficient funds for Committee operations this year.

The following table compares major budget expenditures recommended by the Committee on June 27, 2002, and major budget expenditures in the revised 2001–02 budget.

Budget expense categories	2001–02 (Revised)	2002–03
Total Personnel Salaries	\$226,315	\$232,575

Budget expense categories	2001–02 (Revised)	2002–03
Total Operating Expenses	123,700	136,850
Reserve for Contingencies	34,355	17,455

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by the estimated salable tons of California dried prunes. Production of dried prunes for the year is estimated at 148,800 salable tons, which should provide \$386,880 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses. Interest income also will be available if assessment income is reduced for some reason. The Committee is authorized to use excess assessment funds from the 2001–02 crop year (currently estimated at \$76,878) for up to 5 months beyond the end of the crop year to meet 2001–02 crop year expenses. At the end of the 5 months, the Committee refunds or credits excess funds to handlers (\$993.81(c)).

The assessment rate 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 this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year 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 will evaluate 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 2002–03 budget and those for subsequent crop years 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,205 producers of dried prunes in the production area and approximately 24 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 less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

An updated prune industry profile shows that 9 of the 24 handlers (37.5%) shipped over \$5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Fifteen of the 24 handlers (62.5%) shipped under \$5,000,000 of dried prunes and could be considered small handlers. An estimated 32 producers, or less than 3% of the 1,205 total producers, will be considered large growers with annual income over \$500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent crop years from \$2.80 per ton to \$2.60 per ton of salable dried prunes. The Committee unanimously recommended 2002–03 expenditures of \$386,880 and an assessment rate of \$2.60 per ton of salable dried prunes. The assessment rate is \$0.20 lower than the previous rate. The quantity of assessable dried prunes for the 2002–03 crop year is now estimated at 148,800 salable tons. Thus, the \$2.60 rate should provide \$386,880 in assessment income and be adequate to meet this year's expenses. Interest income also will be available to cover budgeted expenses if the 2002–03 expected assessment income falls short.

The following table compares major budget expenditures recommended by the Committee on June 27, 2002, and major budget expenditures in the revised 2001–02 budget.

Major budget expense categories	2001–02 (Revised)	2002–03
Total Personnel Salaries	\$226,315	\$232,575
Total Operating Expenses	123,700	136,850

Major budget expense categories	2001-02 (Revised)	2002-03
Reserve for Contingencies	34,355	17,455

The Committee reviewed and unanimously recommended 2002-03 expenditures of \$386,880. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee. An alternative to this action would be to continue with the \$2.80 per ton assessment rate, but the anticipated larger crop, with an assessment rate of \$2.80 per ton, would generate monies in excess of that needed to fund all the budget items. The assessment rate of \$2.60 per ton of salable dried prunes was determined by dividing the total recommended budget by the estimated salable dried prunes. The Committee is authorized to use excess assessment funds from the 2001-02 crop year (currently estimated at \$76,878) for up to 5 months beyond the end of the crop year to fund 2002-03 crop year expenses. At the end of the 5 months, the Committee refunds or credits excess funds to handlers (\$ 993.81(c)). Anticipated assessment income and interest income during 2002-03 will be adequate to cover authorized expenses.

The grower price for the 2002-03 season is expected to average above the estimated 2001-02 average grower price of about \$750 per salable ton of dried prunes. Based on estimated shipments of 148,800 salable tons, assessment revenue during the 2002-03 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action continues to decrease 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 California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 27, 2002, 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 California dried 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.

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 August 15, 2002 (67 FR 53293). Copies of that rule were also mailed or sent via facsimile to all prune handlers. Finally, the interim final rule was 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. The comment period ended on October 15, 2002, 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 993

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

Accordingly, the interim final rule amending 7 CFR part 993 which was published at 67 FR 53293 on August 15, 2002, is adopted as a final rule without change.

Dated: November 13, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02-29532 Filed 11-20-02; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572-AB65

Demand Side Management and Renewable Energy Systems

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is removing its regulations which

detail separate policies and requirements for loans for renewable energy systems and demand side management. Many of these requirements overlap provisions found elsewhere in part 1710. Others do not seem well suited for the smaller scale projects of this type that are becoming increasingly common in the industry. RUS believes that it is more appropriate to consider such small scale projects in this rapidly developing segment of the energy industry by proceeding on a case-by-case basis. By contrast, the balance of part 1710 affords a useful framework for considering utility-scale energy projects without regard to whether they are for demand side management or renewable resources.

EFFECTIVE DATES: November 21, 2002.

FOR FURTHER INFORMATION CONTACT:

Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave., SW., Washington, DC 20250-1569. Telephone: (202) 720-1921. FAX: (202) 720-7491. E-mail: gshultz@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be