

procedures used in connection with implementing a diversion program. These changes will also provide for more timely and efficient implementation if a diversion program is needed in the future. These changes were unanimously recommended by the Committee at a meeting on November 29, 2001.

Volume Regulation Authority

Section 993.54 of the order provides authority for volume control in the form of reserve pooling. Volume control regulation is designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California prune crop may be sold by handlers to any market (salable or free tonnage) while the remaining percentage must be held by handlers in a reserve pool (or reserve) for the account of the Committee. Reserve prunes are disposed of through various programs authorized under the order. Net proceeds generated from sales of reserve prunes are distributed to the reserve pool's equity holders, primarily producers.

Diversion Program Authority

The order also provides authority under § 993.62 for prune producers to participate in a voluntary prune plum diversion program when a reserve pool is implemented. Under this program, prune producers can elect to divert part of their prune plum crop from normal prune or prune product markets in lieu of placing prunes in a reserve pool. Section 993.62 also authorizes establishment of rules and regulations to implement and administer a diversion program.

Section 993.162 contains the rules and regulations necessary for governing the implementation of a diversion program.

Prune Marketing Committee Recommendations

Because a diversion program has not been implemented since the 1970's, the administrative rules and regulations contain several outdated provisions. Section 993.162(a) of the regulations currently establishes specific dryaway ratios by producing regions within the production area. Dryaway ratios represent the ratio of the weight of fresh prune plums needed to produce dried prunes, and are the basis for computing the dried weight equivalent of diverted fresh prune plums. The ratios range from 2.6 to 3.25 pounds of fresh plums to make a pound of French prunes, depending on the producing region. For

non-French prunes, the dryaway ratio is established at 3.5 pounds of plums for one pound of non-French prunes for the entire production area.

The dryaway ratios can change from year to year depending upon weather conditions, fruit maturity at time of harvest, fruit solids and other factors. The dryaway ratios used in the early 1970's are no longer valid. Expanding production together with limited dehydration capacity has forced some growers to begin harvesting earlier and continue later than in the past. This has resulted in dryaway ratios higher than those currently specified. Because of this, and to provide more flexibility, the Committee recommended removing the specific dryaway ratios for non-French prunes from § 993.162(a) of the regulations and adding language that will allow the Committee to compute dryaway ratios for the applicable producing regions based on a survey of at least eight commercial prune dehydrators geographically dispersed within the production area.

When the Committee believes a diversion program is needed, the Committee will obtain annual average dryaway ratios from commercial dehydrators surveyed and compute a five-year average dryaway ratio for each dehydrator. The Committee will then add together the participating commercial dehydrators' five-year average dryaway ratios for each producing region within the production area, and divide the total dryaway ratio by the number of participating commercial dehydrators to obtain each year's average dryaway ratio by producing region. In the event any of the annual dryaway ratios for any of the crop years are abnormally high or low in any year, the Committee could replace the abnormal year's data with that of an earlier year. After the computations are made, the resulting ratios will be announced and commercial dehydrators will be notified by letter prior to the beginning of any crop year in which reserve pooling and a diversion program was being contemplated. This will result in more accurate dryaway ratios in determining the dried weight equivalent of fresh prune plums being diverted.

No change to the dryaway ratio for non-French prunes was recommended. Production of these prunes is small (0.06 percent of total prune production), little data is available, and it is believed that the currently listed ratio of 3.5 to 1 is accurate.

As previously mentioned, dryaway ratios for French prunes are calculated and applied to various producing regions within the production area.

Section 993.162(a) of the regulations currently contains reference to 13 counties that no longer produce prunes. Prune production has shifted within the production area over the years. Thus, the Committee recommended updating the prune producing regions and condensing them into fewer regions. The regions used in determining dried weight equivalents for a diversion program in § 993.162(a) will be realigned as follows:

French Prunes

—North Sacramento Valley—The counties of Butte, Glenn, Shasta, and Tehama.

—South Sacramento, Napa, Sonoma, and Santa Clara Valleys and the counties of Amador, Colusa, Lake, Placer, Solano, Sutter, Yolo, Yuba, Napa, Sonoma, San Benito, and Santa Clara.

—San Joaquin Valley—The counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

This final rule also will allow the Committee to assign any new counties of production to one of these three regions or remove counties when production ceases. When prune acreage ceases to exist in a county, the Committee will remove that county from the existing production region, with the approval of the Secretary, and announce the removal to the industry. In like manner, if there were new producing counties within the State, the Committee will, with the approval of the Secretary, be allowed to assign them to one of the existing regions based on geographic proximity and/or production/dehydration characteristics, instead of listing the counties in the rules and regulations. These assignments also will be announced to the industry. This process will allow the Committee to make timely changes to the producing regions so they reflect the current industry situation. Section 993.162(a) is modified to reflect these changes.

The region for non-French prunes will continue to include all counties within the production area because specific information on growing regions within the State is not maintained.

Section 993.162(b) of the regulations currently establishes the following eligible diversion methods: (1) Disposing of harvested prune plums under Committee supervision for nonhuman use at a location and in a manner satisfactory to the Committee; and (2) Leaving unharvested the entire production of prune plums from a solid block of bearing trees designated by the producer applying for the diversion. This final rule will specifically