

that the Committee may determine, with the approval of the Secretary, and announce which method(s) of diversion may be used whenever a program is implemented. Another change will remove from the regulations outdated deposit fees for diversion program participants and authorize the Committee to compute such fees based on current program administration costs.

The changes to the prune producing regions, addition of acceptable diversion methods, and the Committee's authority to determine which methods of diversion are to be used are not expected to have a significant impact on growers or handlers, either small or large. These changes will update the regulations to reflect changes in the industry and to facilitate administration and implementation of a voluntary diversion program, if recommended in the future.

The changes regarding deposit fees will allow the Committee to collect charges from diversion program participants that reflect actual administrative costs incurred by the Committee. The fees specified in the regulations are outdated and will not cover the Committee's actual costs if a diversion program was needed to be implemented in the future. These changes will help to ensure that the growers participating in a future diversion program will pay the administrative costs of the program, as specified in § 993.62(g) of the order. Because growers participating in a diversion program are the beneficiaries of the program, it is appropriate that they pay the administrative fees of the program. In addition, because the diversion program is voluntary, growers will determine individually whether the costs will outweigh the benefits prior to their participation. It is not known how many growers will participate in a diversion program, since there has not been one implemented under the marketing order since the 1970's.

This final rule will be applied to small and large entities equally, regardless of size. The Committee believes that these actions will benefit the prune industry by updating the regulations to reflect changes in the industry, and by providing a process that will facilitate timelier implementation of a diversion program, if recommended.

The Committee discussed alternatives to this change on November 29, 2001, including taking no action. However, that will leave any future diversion program a less viable supply management tool due to outdated program elements. Another alternative

was to update the data on dryaway ratios, prune producing regions, and diversion application charges through informal rulemaking the next time a diversion program was considered, rather than changing to a formula or survey procedure as stated herein. This alternative was not recommended because the Committee believed that this final rule would provide for more flexibility in administering a future diversion program.

This action will allow the Committee to survey commercial prune dehydrators to estimate costs applicable to drying prune plums. The reporting and record keeping burdens are necessary for compliance purposes and for developing statistical data to administer a future program. This rule will impose some additional reporting or recordkeeping requirements on both small and large California prune plum commercial dehydrators. It is estimated that between 8 and 15 commercial dehydrators will be requested to furnish information on their annual average dryaway ratios to the Committee, and that it will take an average of 15 minutes per response to furnish this information. The total estimated annual burden of collecting this information is estimated to be 225 minutes (3 hours and 45 minutes) for the industry. However, the Committee believes that the burden to complete a commercial dehydrator dryaway ratio survey will be outweighed by obtaining and using updated dryaway ratio data for French prunes when dryaway ratios are used to determine the dried weight equivalent of fresh prune plums from normal markets.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS is seeking approval by the Office of Management and Budget (OMB) for the additional burden imposed by the commercial dryaway ratio survey. Upon OMB approval, the additional burden will be merged into the information collection currently approved under OMB No. 0581-0178, Vegetable and Specialty Crop Marketing Orders. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. 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, the Committee's Supply Management Subcommittee meeting on November 28, 2001, and the Committee meeting on November 29, 2001, where this action was deliberated, were both

public meetings widely publicized throughout the prune industry. All interested persons, both large and small, were invited to attend the subcommittee and Committee meetings and participate in the industry's deliberations.

A proposed rule concerning this action was published in the **Federal Register** on October 28, 2002, (67 FR 65732). Copies of this rule were mailed or sent via facsimile to all Committee members, alternates and dried prune handlers. Finally, the Office of the Federal Register and USDA made the rule available through the Internet. The rule provided a comment period that ended December 27, 2002. No comments were received. Accordingly, no changes will be made to the rule as proposed.

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 matter 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.

■ 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 § 993.162, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 993.162 Voluntary prune plum diversion.

(a) *Quantity to be diverted.* The Committee shall indicate the quantity of prune plums that producers may divert pursuant to § 993.62 whenever it recommends to the Secretary that diversion operations for a crop year be permitted. Whenever diversion operation for a crop year have been authorized by the Secretary, the Committee shall notify producers, commercial dehydrators, and handlers, known to it of such authorization and diversion program procedures. The