

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 993

[Docket No. FV03-993-1 IFR]

#### Dried Prunes Produced in California; Changes in Reporting Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule changes the reporting requirements specified under the administrative rules and regulations of the Federal marketing order for California dried prunes (order). The order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule allows California prune handlers to report their shipments less frequently and submit less detailed information than is currently required. Handlers will report shipments once every three months (quarterly), rather than monthly, and will no longer report export shipment destination countries. Also, the reporting of type of pack will be changed from "carton, visipak, and other" to "bulk and consumer pack" to reveal less marketing information. This action will reduce the information collection burden upon handlers, while still enabling the Committee to collect information necessary for program administration.

**DATES:** Effective June 25, 2003. Comments must be received by August 25, 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 (USDA) 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 modifies language in the order's administrative rules and regulations to allow California prune handlers to report their shipments quarterly, rather than monthly. Also, handlers will only be required to report their export market shipments to the Committee by region, rather than by country. The amount of information disseminated by the Committee is also reduced. The Committee will no longer report the export shipments to the industry by country, and the regions that handlers ship into will only be reported once a year, when the marketing policy is prepared. Also, the reporting of type of pack is changed from "carton, visipak, and other" to "bulk and consumer pack". These changes will reduce the information collection burden upon handlers and the Committee's administrative costs because of the switch to quarterly distribution. This action was unanimously recommended by the Committee at a meeting on April 3, 2003.

#### Marketing Order Authority

Section 993.72 of the order provides authority for the Committee to require handlers to file such reports of acquisitions, sales, uses, and shipments of prunes, as may be requested by the Committee. Also, pursuant to § 993.36(c), one of the Committee's duties is to assemble data on the producing, handling, shipping, and marketing conditions relative to prunes in connection with the performance of its official duties. To prevent the release of proprietary business information, the