

could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,205 total producers, would be considered large growers with annual incomes over \$750,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

Summary of Rule Change

This rule suspends for five years all provisions in the order and administrative rules and regulations concerning the prune reserve and voluntary producer diversion programs. These supply control programs have been and continue to be controversial in the industry. Furthermore, the industry has successfully reduced crop sizes through other means. Through industry and USDA funded tree pull programs, over 18,000 acres of prune plum trees have been removed, reducing production by at least 27,000 tons over the five-year suspension period.

This action would ensure that the reserve and diversion volume control programs are not implemented for the period of the suspension. During the five-year suspension period, the industry will have the opportunity to determine whether these provisions should be modified, terminated, or remain the same. In the absence of further rulemaking, these provisions will automatically come back into effect at the end of the suspension period. Authority to suspend these provisions of the marketing order and administrative rules and regulations is provided in § 993.90(a) of the order.

Impact of Regulation

Regarding the impact of this rule on affected entities, this action could reduce the reporting and recordkeeping burden on California prune handlers and producers and reduce some of the PMC's administrative costs. Although the prune reserve and producer diversion programs have not been implemented since the 1970's and handlers and producers have not been required to file reports pertaining to these programs, suspending these provisions would reduce the potential reporting burden on handlers and producers. Suspension of the provisions eliminates the possibility of requiring handlers and producers to file reports associated with the programs. It would also reduce some of the potential PMC administrative costs of managing these programs. The PMC estimates that 21 California prune handlers would be subject to these provisions and to filing reports pertaining to these programs. Also, if a producer diversion program was implemented, it is estimated that as

many as 300 producers would file forms applicable to this program. If handlers filed reports under the prune reserve program, their estimated burden would be 57 hours. If growers filed reports under the diversion program, their estimated burden would be 75.58 hours. Thus, there is a potential for reducing the estimated annual burden of 132.58 hours. The benefits of this interim final rule would apply to all prune handlers and producers, regardless of their size of operation.

The forms applicable to these programs are as follows: (1) Form PMC 4.1, Reserve Prunes Held—Handler; (2) Form PMC 4.2, Prune Reserve Tonnage Sales Agreement; (3) Form PMC 4.5, Certificate of Insurance Coverage; (4) Form PMC 5.1, Notice of Proposed Intent to Store Reserve Prunes; (5) Form PMC 8.44, Request for Replacement of Draft; (6) Form PMC 8.443, Claim for Reserve Pool Proceeds; (7) Form PMC 9.1, Notification of Desire for Deferment of Reserve Withholding; (8) Form PMC 10.1, Application for Prune Plum Diversion; (9) No form number, Proof of Diversion; and (10) No form number, Notification of Report of Diversion.

It should be noted that if the PMC determines this action is having an unfavorable impact on the industry, it could meet and recommend rescinding the suspension. Also, as previously mentioned, the provisions would automatically come back into effect at the end of the suspension period.

Alternatives Considered

The PMC and industry members discussed at the PMC's April 3, 2003, meeting different alternatives to this action. The PMC discussed the possibility of amending the marketing order provisions relating to reserve and producer diversion programs but determined it would prefer to eliminate the prune reserves and producer diversion provisions from the order and administrative rules and regulations in a more timely fashion. During the suspension, the industry will have the opportunity to consider possible order amendments to these volume control provisions. Another alternative would be to terminate the marketing order. Many on the PMC and in the industry deemed termination too drastic an action and preferred to preserve the marketing order and make necessary changes to it to meet current industry needs and to reflect current industry marketing practices.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the applicable forms being suspended by this rule were approved previously by the Office of Management

and Budget and assigned OMB No. 0581-0178. 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, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The PMC's April 3, 2003, meeting where this issue was deliberated was widely publicized throughout the prune industry and all interested persons were invited to attend the meetings and participate in the industry's deliberations. Like all PMC meetings, this meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these changes on small businesses.

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.

A 60-day comment period is provided to allow interested persons to respond to this rule. All written comments timely received will be considered before a final determination is made on this matter.

After consideration of all relevant material presented, including the PMC's recommendation, and other information, it is found that the provisions being suspended would not tend to effectuate the declared policy of the Act during the August 1, 2003, through July 31, 2008.

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) This rule should be implemented as soon as possible so California dried prune producers and handlers can plan accordingly; (2) this rule relaxes requirements in the order and administrative rules and regulations related to volume control activities; (3) these changes were unanimously recommended at a public meeting and interested parties had an opportunity to provide input; and (4) a 60-day comment period is provided and all