

affected persons have an opportunity to participate and provide input.

The Washington Apricot Marketing Committee met on May 25, 1995, and unanimously recommended 1995-96 expenses of \$9,594, which is \$4,008 less in expenses than the \$13,602 amount that was recommended for the 1994-95 fiscal year.

Shipments of fresh apricots for the current fiscal year are estimated at 5,150 tons. Funds in the reserve, estimated at \$16,798, will be adequate to cover the recommended expense amount.

The Washington Cherry Marketing Committee also met on March 25, 1995, and unanimously recommended 1995-96 expenses of \$55,393. This represents a decrease of \$44,820 from the \$100,213 recommended for the previous fiscal year.

The Committee anticipates shipments of 41,000 tons of fresh sweet cherries. Funds in the reserve, estimated at \$112,995, will be adequate to cover budgeted expenses.

The Washington-Oregon Fresh Prune Marketing Committee also met on March 25, 1995, and unanimously recommended a 1995-96 expense amount of \$10,018. In comparison, this represents a decrease of \$8,742 in expenses from the \$18,760 that was recommended for 1994-95 fiscal year.

Shipments of fresh prunes for the current fiscal year are estimated at 4,900 tons. Funds in the reserve, estimated at \$16,204, will adequately cover recommended expenses.

Each Committee unanimously voted against having assessment rates for their respective programs for the 1995-96 fiscal year. In comparison, assessment rates for the 1994-95 fiscal year were \$0.50 per ton for fresh apricots, \$1.00 per ton for sweet cherries, and \$1.00 per ton for fresh prunes.

Major expense categories for the Committees are for the administration of these marketing orders. Administrative expenses include \$43,000 for salaries, \$2,700 for travel, and \$15,600 for office operations. The stone fruit marketing Committees share office expenses, based on an agreement among the Committees.

Since no assessment rates are being recommended at this time, no additional costs will be imposed on handlers. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including information and recommendations submitted by the Committees 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 action until 30 days after publication in the **Federal Register** because: (1) The 1995-96 fiscal year for the Committees began April 1, 1995, and the Committees need to have approval to pay their respective expenses which are incurred on a continuous basis; (2) this action is similar to previously recommended budgets; and (3) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects

7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 924

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

For the reasons set forth in the preamble, 7 CFR parts 922, 923, and 924 are amended as follows:

1. The authority citation for 7 CFR parts 922, 923, and 924 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: These sections will not appear in the Code of Federal Regulations.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

2. A new § 922.234 is added to read as follows:

§ 922.234 Expenses and assessment rate.

Expenses of \$9,594 by the Washington Apricot Marketing Committee are authorized for the fiscal year ending March 31, 1996. Any unexpended funds may be carried over as a reserve.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

3. A new § 923.235 is added to read as follows:

§ 923.235 Expenses and assessment rate.

Expenses of \$55,393 by the Washington Cherry Marketing Committee are authorized for the fiscal year ending March 31, 1996. Any unexpended funds may be carried over as a reserve.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

4. A new § 924.235 is added to read as follows:

§ 924.235 Expenses and assessment rate.

Expenses of \$10,018 by the Washington-Oregon Fresh Prune Marketing Committee are authorized for the fiscal year ending March 31, 1996. Any unexpended funds may be carried over as a reserve.

Dated: July 26, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-18787 Filed 7-31-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 948

[Docket No. FV95-948-1FIR]

Irish Potatoes Grown in Colorado; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that generated funds to pay those expenses. Authorization of this budget enables the Colorado Potato Administrative Committee, Northern Colorado Office (Area III) (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado. 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.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, Colorado potatoes are subject to assessments. Funds to administer the Colorado potato marketing order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes during the 1995-96 fiscal period, which began July 1, 1995, and ends June 30, 1996. This final 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 the Secretary 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 the Secretary 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 85 producers of Colorado Area III potatoes under the marketing order and approximately 15 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Colorado Area III potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Colorado Potato Administrative Committee, Northern Colorado Office (Area III), the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Colorado Area III potatoes. 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. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado Area III potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

In Colorado, both a State and a Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. All expenses in this category are financed under the State order. The jointly operated programs consume about equal administrative time and the two orders continue to split administrative costs equally.

The Committee met on April 13, 1995, and unanimously recommended a 1995-96 budget of \$27,362.50, \$3,037.50 more than the previous year. Budget items for the 1995-96 Federal portion of the administrative budget which have increased compared to those budgeted for 1994-95 (in parentheses) are: Audit, \$450 (\$400), medical insurance, \$685 (\$620), office equipment, \$4,500 (\$2,000), payroll tax, \$902.50 (\$880), Federal meetings, \$500 (\$400), and \$300 for other salary for

which no funding was recommended last year.

The Committee also unanimously recommended an assessment rate of \$0.02 per hundredweight, the same as last season. This rate, when applied to anticipated potato shipments of 1,200,500 hundredweight, will yield \$24,010 in assessment income. This, along with \$1,500 in interest income, \$1,200 in rent from the sublease of office space to the State inspection service, and \$652.50 from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1995-96 fiscal period, estimated at \$35,195, will be within the maximum permitted by the order of two fiscal periods' expenses.

An interim final rule was published in the **Federal Register** on May 31, 1995 (60 FR 28318). That interim final rule added \$948,213 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through June 30, 1995. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal period began on July 1, 1995. The marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

Note: This section will not appear in the Code of Federal Regulations.

PART 948—IRISH POTATOES GROWN IN COLORADO

Accordingly, the interim final rule adding § 948.213 which was published at 60 FR 28318, May 31, 1995, is adopted as a final rule without change.

Dated: July 26, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-18786 Filed 7-31-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 993

[Docket No. FV95-993-11FR]

Dried Prunes Produced in California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 993 for the 1995-96 crop year. Authorization of this budget enables the Prune Marketing Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning August 1, 1995, through July 31, 1996. Comments received by August 31, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and

Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918; or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209-487-5901.

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 produced in California. 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.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California prunes are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable prunes handled during the 1995-96 crop year, which begins August 1, 1995, and ends July 31, 1996. This interim final 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 the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting 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 the Secretary 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 1,360 producers of California dried prunes under this marketing order, and approximately 20 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of California dried prune producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 crop year was prepared by the Prune Marketing Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. 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 of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of dried California prunes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met June 22, 1995, and unanimously recommended a 1995-96 budget of \$275,280, \$5,080 more than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Executive salaries, \$87,980 (\$83,850), clerical salaries, \$19,440 (\$18,650), office rent, \$22,000 (\$21,500), postage and messenger, \$5,500 (\$5,000), rental of equipment, \$3,000 (\$500), purchase of equipment, \$5,000 (\$4,500), acreage survey, \$10,500 (\$10,000), and reserve for contingencies, \$19,310 (\$19,250). Items which have decreased compared to the amount budgeted for 1994-95 (in parentheses) are: Employee benefits \$15,400