

1996, is adopted as a final rule without change.

Dated: September 25, 1996.  
Sharon Bomer Lauritsen,  
*Acting Director, Fruit and Vegetable Division.*  
[FR Doc. 96-25103 Filed 10-1-96; 8:45 am]  
BILLING CODE 3410-02-P

## 7 CFR Part 993

[Docket No. FV96-993-1 FIR]

### Dried Prunes Produced in California; 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 establishing an assessment rate for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 1996-97 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes produced in California. Authorization to assess prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**EFFECTIVE DATE:** August 1, 1996.

#### FOR FURTHER INFORMATION CONTACT:

Mary Kate Nelson, Marketing Assistant, Marketing Order Administration Branch, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209-487-5901; FAX 209-487-5906, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-9918; FAX 202-720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-2491; FAX 202-720-5698.

**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, 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable prunes beginning August 1, 1996, and continuing until amended, suspended, or terminated. 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 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 to review the Secretary's ruling on the petition, provided an action 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 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 1,400 producers of dried prunes in the production area and approximately 21 handlers subject to regulation under the marketing order. 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 California prune marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. 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 and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on June 27, 1996, and unanimously recommended 1996-97 expenditures of \$283,500 and an assessment rate of \$1.50 per salable ton of dried prunes. In comparison, last year's budgeted expenditures were \$275,280. The assessment rate of \$1.50 per salable ton is \$0.05 lower than last year's established rate. Major expenditures recommended by the Committee for the 1996-97 crop year include \$142,120 for salaries and wages, \$30,000 for research and development, \$22,000 for office rent, \$20,000 for travel, \$11,000 for an acreage survey, \$8,430 for the reserve for contingency, and \$6,500 each for office supplies and data processing. Budgeted expenses for these items in 1995-96 were \$131,320, \$30,000, \$22,000, \$20,000, \$10,500, \$19,310, \$5,000, and \$3,500, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of California dried prunes. Dried prune shipments for the year are estimated at 189,000 salable tons which should provide \$283,500 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses. Any funds not expended by the Committee during a crop year may be used, pursuant to § 993.81(c), for a period of five months subsequent to that crop year. At the end of such period, the excess funds are returned or credited to handlers.

An interim final rule regarding this action was published in the July 31, 1996, issue of the Federal Register (61 FR 39842). That interim final rule added § 993.347 to establish an assessment rate for the Committee. That rule provided

that interested persons could file comments through August 30, 1996. No comments were received.

This action will reduce the assessment obligation imposed on handlers. 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 from the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996-97 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

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.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 crop year began August 1, 1996, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such crop year; (3) handlers are aware of this

action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action which provided a 30-day comment period, and no comments were received.

#### List of Subjects in 7 CFR Part 993

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

Note: This section will appear in the Code of Federal Regulations.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

#### **PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA**

Accordingly, the interim final rule amending 7 CFR part 993 which was published at 61 FR 39842 on July 31, 1996, is adopted as a final rule without change.

Dated: September 25, 1996.  
Sharon Bomer Lauritsen,  
*Acting Director, Fruit and Vegetable Division.*  
[FR Doc. 96-25102 Filed 10-01-96; 8:45 am]  
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#### **DEPARTMENT OF TRANSPORTATION**

##### **Federal Aviation Administration**

##### **14 CFR Part 39**

[Docket No. 95-CE-83-AD; Amendment 39-9773; AD 96-20-07]

RIN 2120-AA64

**Airworthiness Directives; JanAero Devices B-Series Combustion Heaters, Models B1500, B2030, B3040, and B4050 (formerly owned by Janitrol, C&D, FL Aerospace, and Midland-Ross Corporation)**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule

**SUMMARY:** This amendment supersedes Airworthiness Directive (AD) 82-07-03, which currently requires repetitively testing (pressure decay) the combustion tube of JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, that are installed on aircraft, and overhauling any heater that does not pass one of these pressure decay tests. This action retains the pressure decay test and possible heater overhaul requirements of AD 82-07-03; and requires repetitive operational testing of the combustion air

pressure switch, and replacing any combustion pressure switch that does not pass one of these tests. Two occurrences of failure of the affected heaters prompted this action. In one case, an explosion resulted and the baggage compartment door was blown off the airplane. In the other case, a fire occurred in the baggage compartment while the airplane was in flight. The actions specified by this AD are intended to prevent an airplane fire or explosion caused by failure of the heater combustion tube assembly or combustion air pressure switch.

**DATES:** Effective November 14, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 14, 1996.

**ADDRESSES:** Service information that applies to this AD may be obtained from JanAero Devices, Airport Complex, P.O. Box 273, Fort Deposit, Alabama 36032; telephone (334) 227-8306; facsimile (334) 227-8596. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95-CE-83-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Haynes, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7377; facsimile (404) 305-7348.

#### **SUPPLEMENTARY INFORMATION:**

##### **Events Leading to This AD**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, that are installed on aircraft was published in the Federal Register on March 15, 1996 (61 FR 10703). The action proposed to supersede AD 82-07-03 with a new AD that would (1) retain the requirements of repetitively testing (pressure decay) the combustion tubes of the heaters, and overhauling any heater that does not pass one of these pressure decay tests; (2) require repetitive operational testing of the combustion air pressure switch, and replacing any combustion pressure switch that does not pass one of these tests; and (3) provide the option of installing a combustion air pressure