

PART 950—[REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR part 950 is removed.

Dated: October 4, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–26347 Filed 10–11–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 981

[Docket No. FV96–981–3FIR]

Almonds Grown in California; Change in Quality Control Requirements

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 changing the quality control requirements currently prescribed under the California almond marketing order. The marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule removes the exemption from inspection for the Peerless variety of almonds sold inshell. This change is needed to bring the administrative rules and regulations into conformance with amendments to the marketing order recently approved by a majority vote of producers. In addition, this change will better reflect current industry practices because most almonds are already inspected, including the Peerless variety.

DATES: November 14, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1509, Fax # (202) 720–5698; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax # (209) 487–5906. 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 final rule is issued under Marketing Order No. 981 (7 CFR Part 981), as amended, regulating the handling of almonds grown in California, hereinafter referred to as the “order.” This 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 (Department) 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 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. A 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 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 action 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 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 115 handlers of almonds who are subject to regulation under the order and approximately 7,000 producers of almonds in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small

Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This rule finalizes a change in the order’s administrative rules and regulations to remove an exemption from inspection for the Peerless variety of almonds sold inshell as bleaching stock. It also modifies the definition of adjusted kernel weight so that adjusted kernel weight for the Peerless variety is based on actual weight, consistent with other almonds, rather than calculated with a predetermined conversion factor known as a shelling ratio. The majority of handlers already have all almonds inspected, including the Peerless variety. Therefore, this rule will better reflect current industry practice. In addition, this rule is needed to bring the administrative rules and regulations into conformance with amendments to the marketing order recently approved by a majority vote of producers. Since virtually all of the Peerless almonds sold inshell are currently inspected, there is little or no impact expected on small businesses.

Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rule was issued on August 14, 1996, and published in the Federal Register (61 FR 42990, August 20, 1996), with an effective date of August 21, 1996. That rule amended §§ 981.401 and 981.442 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended September 19, 1996. No comments were received.

The almond marketing order authorizes quality control provisions which include a requirement that almonds must be inspected prior to processing to determine the percentage of inedible kernels in each lot, and to determine the adjusted kernel weight of almonds in each lot. Inedible kernels are reported to individual handlers and the Board, and handlers are required to dispose of a quantity of almonds equal to their inedible obligation as determined by the inspection. Inedible kernels are disposed of to non-human consumption outlets for such uses as animal feed or crushing into oil. Adjusted kernel weight is reported to handlers by the Federal-State Inspection Service (FSIS). Handlers are then required to report adjusted kernel weight to the Board, who uses the information to report industry statistics.

The rules and regulations under the marketing order currently exempt from inspection the Peerless variety of almonds used as bleaching stock and sold inshell. When the quality control regulations were initially implemented, it was determined there was no need to establish the percentage of inedible kernels of almonds sold inshell, which at that time were predominately of the Peerless variety, because inedible kernels could not be removed from product sold inshell and thus could not be disposed of in non-human consumption outlets. Therefore, inshell almonds, including Peerless, are exempt from meeting the inedible disposition obligation. However, in order to determine the kernel weight of Peerless almonds sold inshell for reporting to the Board, a predetermined shelling ratio contained in the marketing order has been used in the absence of inspection. This shelling ratio converted the weight of inshell almonds to a shelled weight, or kernel weight. Over time, the total quantity and varieties of all almonds sold inshell have increased, while Peerless bleaching stock sales have declined. There has also been an increased desire and need to obtain an accurate product weight for growers, handlers, and the Board. Thus, it has become common industry practice to have inspections performed on Peerless almonds sold inshell, as with other varieties sold inshell, regardless of the inspection exemption.

Consistent with the Act, the almond marketing order was recently amended by a majority vote of producers to require that the weight of inshell almonds be determined by weighing a representative sample of such almonds. Previously, predetermined shelling ratios were used to determine the kernel weight. Thus, the shelling ratios were removed from the order. The purpose of the quality control amendments was to reflect current industry practices as referenced above, and to provide more accurate information for reporting purposes.

The amendments to the order necessitate conforming changes to the administrative rules and regulations. Section 981.442 of the quality control regulations is revised to remove an inspection exemption for Peerless inshell almonds. Thus, all almonds, regardless of form or variety, will be inspected.

In addition, § 981.401 is revised to remove the exemption for Peerless almonds from the definition of adjusted

kernel weight. Currently, the adjusted kernel weight of Peerless inshell almonds is based on a predetermined weight contained in the shelling ratio table that was removed from the marketing order. Since Peerless inshell almonds will be required to have inspection, the actual kernel weight will be determined, thus providing an accurate weight.

The information collection requirements contained in the referenced sections have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0581-0071.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 42990, August 20, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 61 FR 42990 on August 20, 1996, is adopted as a final rule without change.

Dated: October 7, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-26346 Filed 10-11-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 3010

Office of the Chief Financial Officer; Organization and Function

AGENCY: Office of the Chief Financial Officer, USDA.

ACTION: Final rule.

SUMMARY: This document removes the Organization and Function regulation that deals with the internal structure of the Office of Finance and Management (OFM). Under the reorganization of the Department of Agriculture, OFM no longer exists. The OFM functions have

been assigned to the Office of the Chief Financial Officer (OCFO) (60 FR 56392-56465, revising 7 CFR Part 2).

EFFECTIVE DATE: This final rule is effective October 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Richard Guyer, Director, Fiscal Policy Division, Office of the Chief Financial Officer, USDA room 3022, South Building, 14th and Independence Avenue, S.W., Washington, DC 20250, (202) 690-0291.

SUPPLEMENTARY INFORMATION: In support of the Department of Agriculture's regulatory reform initiative, it has been determined that this regulation is unnecessary. It deals with the internal structure of an organization, OFM, that was eliminated in the recent reorganization of USDA. The duties of OFM were delegated to the newly established OCFO.

Authority: 5 U.S.C. 301, 552

Impact Analysis

This rule relates to internal agency management. Therefore, pursuant to U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12866 and 12988. This action also is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), and, thus is exempt from the provisions of those Acts. Finally, this rule does not contain any requirements for collection of information on financial or property matters within the scope of the Paperwork Reduction Act (45 U.S.C. 3501 *et seq.*)

List of Subjects in 7 CFR Part 3010

General statement, Organization, Functions.

PART 3010—[REMOVED]

For reason set forth in the summary, 7 CFR Part 3010 is removed and reserved.

Dated: October 4, 1996.

Irwin T. David,

Acting, Chief Financial Officer.

[FR Doc. 96-26249 Filed 10-11-96; 8:45 am]

BILLING CODE 3410-KS-M