

Native American member. Although not previously expressed clearly in Federal regulations, this has always been the policy under which FDIPIR has operated on all participating reservations. In the same section, amended language makes clear that Indian tribal organizations (or State agencies) must serve all Indian tribal households living in "near areas" and meeting other eligibility requirements. Indian tribal organizations and State agencies must accept official documentation of an individual's membership in an Indian tribe in determining the household's eligibility for program benefits.

The Department received no comments on the interim rule, and is adopting the interim rule as final without change.

List of Subjects

7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 254

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the interim rule amending 7 CFR Parts 253 and 254, which was published at 59 FR 1447 on January 11, 1994, is adopted as a final rule without change.

Dated: December 21, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99-33620 Filed 12-28-99; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV00-993-1 IFR]

Dried Prunes Produced in California; Changes in Producer District Boundaries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule realigns the boundaries of seven districts established for independent producer

representation on the Prune Marketing Committee (Committee) under Marketing Order No. 993. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes grown in California. Due to shifts in the production areas, the current seven production districts for independent producer representation on the Committee are out of balance. The realignment provides for more equitable independent producer representation on the Committee, consistent with current industry demographics.

EFFECTIVE DATE: The interim final rule is effective December 30, 1999. Comments which are received by January 28, 2000 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698; 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 available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

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 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 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 8c(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 in equity 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.

Paragraph (a) of § 993.128 of the order's administrative rules and regulations lists and describes the boundaries of each of the seven independent grower districts. This rule realigns the boundaries of the seven districts based on a unanimous recommendation of the Committee made on November 30, 1999. To be consistent with current industry demographics, this rule ensures that, insofar as practicable, each district represents an equal number of independent producers and an equal volume of prunes grown by such producers.

Section 993.24 of the order provides that the Committee shall consist of 22 members, of which 14 shall represent producers, 7 shall represent handlers, and 1 shall represent the public. The 14 producer member positions are apportioned between cooperative producers and independent producers. The apportionment, insofar as is practicable, is the same as the percentage of the total prune tonnage handled by the cooperative and independent handlers during the year preceding the year in which nominations are made is to the total handled by all handlers. In recent years

and currently, cooperative producers and independent producers each have been eligible to nominate seven members.

Section 993.28(a) of the order provides that, for independent producers, the Committee shall, with the approval of the Secretary of Agriculture, divide the production area into districts giving, insofar as practicable, equal representation throughout the production area by numbers of independent producers and

production of prune tonnage by such producers. When revisions are required, the Committee must make its recommendations to the Secretary of Agriculture to change the district boundaries prior to January 31 of any year in which nominations are to be made. Nominations are made in all even-numbered years.

Since the last redistricting in 1994, the number of producers and volume of production in most districts has changed, causing imbalances among

some districts. Prune orchards were planted to replace other crops which expanded the acreage base to new geographic areas and intensified the prune plantings in other districts. Thus, redistricting is needed to bring the districts in line with order requirements and current California prune industry demographics.

This rule establishes new district alignments as shown below:

District	Counties in prior district alignment	Counties in new district alignment
1	Colusa, Glenn	Colusa, Glenn, Solano, Yolo.
2	Sutter (Central)	Sutter (North). ¹
3	Sutter (South), Yolo	Sutter (South). ¹
4	Alpine, Amador, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sonoma, Tehama and Trinity.	Alpine, Amador, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sonoma, Tehama and Trinity.
5	Butte, Sutter (North)	Butte.
6	Yuba	Yuba.
7	Fresno, Kings, Merced, San Benito, San Joaquin, Santa Clara, Solano, Tulare & all other counties not included in Districts 1, 2, 3, 4, 5, & 6.	Fresno, Kern, Kings, Madera, Merced, San Benito, San Joaquin, Santa Clara, Tulare & all other counties not included in Districts 1, 2, 3, 4, 5, & 6.

¹ The north/south boundary of Sutter County will be changed to Franklin Road.

The Committee calculated the percentage of total independent prune growers and the percentage of total independent grower prune tonnage for each proposed new district. The two percentages were averaged for each district to determine a representation factor for each district. The optimal representation factor for each district is 14.29 percent (100 percent divided by 7 districts).

The representation factors for the seven old and the seven new districts are shown below, based on the 1998–99 crop year (August 1–July 31) data.

District	Representation factor	
	Old districts (percent)	New districts (percent)
1	9.75	15.62
2	11.94	16.87
3	12.5	16.37
4	10.33	10.33
5	23.97	12.35
6	14.43	14.43
7	17.02	13.97

The redistricting is desirable because it allows each district to approximate the optimal representation factor, while maintaining a continuous geographic boundary for each district.

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.

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 1,250 producers of dried prunes in the production area and approximately 20 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 less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Last year, 13 of the 20 handlers (65%) shipped under \$5,000,000 of dried prunes and could be considered small handlers. An estimated 1,141 producers (91 percent) of the 1,250 producers, could be considered small growers with annual income less than \$500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This rule realigns the boundaries of the seven districts established for independent producer representation on

the Committee. To be consistent with current industry demographics, this rule ensures that, insofar as practicable, each district represents an equal number of independent producers and an equal volume of prunes grown by such producers.

Shifts in the prune production area have lead to greater differences among the current districts than is desirable for equitable independent producer representation. As shown below, District 1 represents less than 10% of California's independent prune producers/production while District 5 represents nearly 24% as currently defined.

The representation factors for the seven old and the seven new districts are shown below, based on the 1998–99 crop year (August 1–July 31) data.

District	Representation factor ¹	
	Old districts (percent)	New districts (percent)
1	9.75	15.62
2	11.94	16.87
3	12.5	16.37
4	10.33	10.33
5	23.97	12.35
6	14.43	14.43
7	17.02	13.97

¹ The optimal representation factor for each district is 14.29 percent (100 percent divided by 7 districts).

The economic vagaries of prune production are responsible for the

current imbalance among production districts. When the average grower return per ton reached \$1,121 in 1993, prune tree sales by nurseries jumped to 1.5 million trees from a normal maintenance and replacement level of about 300,000 trees. Prune orchards were planted to replace other crops which expanded the acreage base to new geographic areas and intensified the prune plantings in others. Non-bearing acreage increased from 8,000 acres in 1993 to 26,000 acres in 1998.

More recently, grower prices have steadily declined from 1993's peak of \$1,121 per ton to \$763 in 1998. This led to the removal of over 5,000 acres in 1998 alone. The overall result is a shift in prune production which leaves

imbalance in the composition of independent producer districts.

The recommended realignment of district boundaries will yield more equitable representation. Currently, the representation factors for the districts range from 9.75% to 23.97%. The revised alignment narrows this range to 10.33% to 16.87%. The California prune industry considered other district alignments; however, none would not have improved the balance among districts as much as this rule. Since the weather-reduced 1998-99 prune crop (102,000 tons) was the smallest since 1986, the Committee also did a representation factor analysis on the more typical 1997-98 crop (205,000 tons) to ensure that the short crop year did not produce atypical results. The

results were consistent as far as each district's percent of the total. Another alternative considered was to do nothing, but this would not have done anything to correct the representation factor imbalance, and this was not acceptable.

The Committee unanimously recommended this change at its November 30, 1999, meeting. Since the last redistricting in 1994, the number of producers and volume of production in most districts has changed causing imbalances among some districts. Thus, redistricting is needed to bring the districts in line with order requirements and current California prune industry demographics.

This rule establishes new district alignments as shown below:

District	Counties in prior district alignment	Counties in new district alignment
1	Colusa, Glenn	Colusa, Glenn, Solano, Yolo.
2	Sutter (Central)	Sutter (North). ¹
3	Sutter (South), Yolo	Sutter (South). ¹
4	Alpine, Amador, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sonoma, Tehama and Trinity.	Alpine, Amador, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sonoma, Tehama and Trinity.
5	Butte, Sutter (North)	Butte.
6	Yuba	Yuba.
7	Fresno, Kings, Merced, San Benito, San Joaquin, Santa Clara, Solano, Tulare & all other counties not included in Districts 1, 2, 3, 4, 5, & 6.	Fresno, Kern, Kings, Madera, Merced, San Benito, San Joaquin, Santa Clara, Tulare & all other counties not included in Districts 1, 2, 3, 4, 5, & 6.

¹ The north/south boundary of Sutter County will be changed to Franklin Road.

At the November 30, 1999, meeting, the Committee discussed the financial impact of this change on handlers and producers. All independent producers regardless of size will continue to have representation and the overall representation will be more equitable as previously explained. There will be no additional costs generated by this rule. Since this rule affects only independent producers, there is no expected impact on handlers.

This rule will realign the boundaries of seven independent grower districts. This rule allows each district to approximate the optimal representation factor, while maintaining a continuous geographic boundary for each district.

This rule will impose no additional reporting or recordkeeping requirements on either small or large entities. 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, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 30, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of 22 members, of which 7 are handlers, 14 are producers and 1 is a public representative.

Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Committee's Ad-Hoc Redistricting Subcommittee met on November 2, 1999, and discussed this issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may

be viewed at the following website: <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.

After consideration of all relevant information presented, including the Committee's unanimous recommendation and other available information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on realigning the independent producer districts as currently prescribed in § 993.128(a) of the administrative rules and regulations. Any comments received will be considered prior to finalization of this rule.

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) The order requires that

independent producer nomination meetings be held for each of the seven districts prior to March 8, 2000, for the term of office beginning June 1, 2000, and this action should be in place before those meetings. The first meeting is scheduled on January 18, 2000; (2) the industry is aware of this action, which was unanimously recommended by the Committee at an open meeting on November 30, 1999; and (3) this rule provides a 30-day comment period, which is considered appropriate in view of the above, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 993

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

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

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 993.128, paragraph (a) is revised to read as follows:

§ 993.128 Nominations for membership.

(a) *Districts.* In accordance with the provisions of § 993.28, the districts referred to therein are described as follows:

District No. 1. The counties of Colusa, Glenn, Solano and Yolo.

District No. 2. That portion of Sutter County north of a line extending along Franklin Road easterly to the Yuba County line and westerly to the Colusa County line.

District No. 3. That portion of Sutter County south of a line extending along Franklin Road easterly to the Yuba County line and westerly to the Colusa County line.

District No. 4. The counties of Alpine, Amador, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sonoma, Tehama and Trinity.

District No. 5. All of Butte County.

District No. 6. All of Yuba County.

District No. 7. The counties of Fresno, Kern, Kings, Madera, Merced, San Benito, San Joaquin, Santa Clara, Tulare and all other counties not included in Districts 1, 2, 3, 4, 5 and 6.

* * * * *

Dated: December 21, 1999.

James R. Frazier,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–33642 Filed 12–28–99; 8:45 am]

BILLING CODE 3410–02–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 99–096–1]

Change in Disease Status of Portugal Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations governing the importation of pork and pork products by adding Portugal to the list of regions where African swine fever exists. We are taking this action because there has been an outbreak of African swine fever in Portugal. This action will restrict the importation of pork and pork products into the United States from Portugal and is necessary to prevent the introduction of African swine fever into the United States.

DATES: Interim rule effective November 5, 1999. We invite you to comment on this docket. We will consider all comments that we receive by February 28, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–096–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–096–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; or phone (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations lists regions of the world where African swine fever (ASF) exists or is reasonably believed to exist. Section 94.8 also restricts the importation of pork and pork products into the United States from the listed regions.

Prior to the effective date of this interim rule, Portugal was considered free of ASF. However, on November 5, 1999, a suspected outbreak of ASF was detected in Portugal. The outbreak was confirmed by laboratory tests on November 15, 1999. On November 19, 1999, it was reported by the Director General of Veterinary Services of Portugal's Ministry of Agriculture. Therefore, in order to prevent the introduction of ASF into the United States, we are amending the regulations by adding Portugal to the list of regions in 94.8 where ASF exists or is reasonably believed to exist. We are making this action effective retroactively to November 5, 1999, which was the initial date of detection. As a result of this action, the importation, into the United States, of pork and pork products that left Portugal on or after November 5, 1999, will be restricted.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of ASF into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider