

Rules and Regulations

Federal Register

Vol. 60, No. 227

Monday, November 27, 1995

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55 and 59

[Docket No. PY-93-001]

Voluntary and Mandatory Egg and Egg Products Inspection; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule published on September 21, 1995 (60 FR 49166-49171) which amended the voluntary and mandatory egg and egg products inspection regulations.

EFFECTIVE DATE: November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, Poultry Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456, 202-720-3271.

SUPPLEMENTARY INFORMATION:

Background

As published, the final rule contained changes to the voluntary and mandatory egg and egg products inspection programs authorized by the Agricultural Marketing Act of 1946, as amended, and the Egg Products Inspection Act in response to new technology and current production and processing practices within the egg products industry.

Need for Correction

The final rule that is the subject of this correction inadvertently capitalized the word "salmonella" everywhere it appeared in part 59.

Correction of Publication

As published, the final rule contained an error in amendatory language number 13, on page 49168, third column revising § 59.5 which may prove to be misleading and is in need of

clarification and new amendatory language number "13a." is added to read as follows.

§ 59.5 [Corrected]

13. Section 59.5 is amended by revising the definition for the term "Dirty egg" or "Dirties" and by adding alphabetically two new terms to read as follows:

* * * * *

§§ 59.575 and 59.580 [Corrected]

13a. In § 59.575 paragraphs (c) and (d)(6) and in § 59.580, paragraph (b), the word "salmonellae" is removed and the word "Salmonellae" is added in its place everywhere it appears.

Dated: November 20, 1995.

D. Michael Holbrook,
Director, Poultry Division.

[FR Doc. 95-28772 Filed 11-24-95; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 927

[FV95-927-2FIR]

Winter Pears Grown in Oregon, Washington, and California; Revision of Reporting 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 the interim final rule which reduced the reporting requirements for handlers who have shipped less than 2,500 standard western pear boxes during any two-week reporting period of the shipping season. This action decreases the reporting burden on such handlers while maintaining the information collection necessary for the efficient operation of the program. This rule was recommended by the Winter Pear Control Committee (Committee), the agency responsible for the local administration of the marketing order for winter pears.

EFFECTIVE DATE: December 27, 1995.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2522-S, PO Box 96456, Washington, DC 20090-6456;

telephone: (202) 720-5331; or Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 927 (7 CFR part 927), regulating the handling of winter pears grown in Oregon, Washington, and 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity 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 Administrator of 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 90 handlers of winter pears subject to regulation under the order and approximately 1,800 producers of winter pears in the regulated production area. Small agricultural service firms 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 whose annual receipts are less than \$500,000. The majority of winter pear handlers and producers may be classified as small entities.

This rule finalizes changes in the reporting requirements prescribed under the winter pear marketing order. The Winter Pear Control Committee (Committee) meets prior to each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for winter pears which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information submitted by the Committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The Committee met on June 2, 1995, and unanimously recommended revising § 927.125 of the winter pear marketing order. This section governs the reporting requirements for handlers of winter pears.

Section 927.70 authorizes the Committee, subject to the approval of the Secretary, to request information from handlers necessary to perform its duties under the order. Section 927.125 provides that each handler shall furnish to the Committee, as of every other Friday, a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" containing information used by the Committee for the collection of assessments and the development of statistical data.

This rule revises the reporting requirements to allow handlers who have shipped less than 2,500 standard western pear boxes during any two-week period of the shipping season to report less frequently while maintaining

the information collection necessary for the efficient operation of the program.

The interim final rule was issued on September 11, 1995, and published in the Federal Register (60 FR 47858, September 15, 1995), with an effective date of September 15, 1995. That rule amended § 927.125(d) of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended October 16, 1995. No comments were received.

Prior to implementation of the interim final rule, handlers were required to submit the "Handler's Statement of Pear Shipments" and the "Handler's Packout Report" every other Friday regardless of the quantity of pears shipped in the preceding two-week reporting period. Industry members have acknowledged that this can be burdensome for small handlers, who have shipments of less than 2,500 standard western pear boxes, to report every two-weeks.

The Committee also determined that submission of such winter pear shipment data of less than 2,500 standard western pear boxes is not necessary on a biweekly basis for the efficient administration of the program. As an alternative, handlers may, at their option, not report until their accumulated shipments reach 2,500 standard western pear boxes, provided that they submit the following: a "Handler's Packout Report" at the end of harvest which includes a preliminary packout estimate; a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" after completion of shipments from regular storage (i.e., non-Controlled Atmosphere storage), at mid-season for Controlled Atmosphere storage, and at the completion of shipments. If the preliminary packout estimate varies from the actual shipments, an explanation of the difference will be required with the final shipment report. The two final reports shall be marked "final report" and include an explanation of the actual shipments versus the original estimate, if different.

Information collection requirements will continue to be periodically reviewed by the Committee to ensure that they place a minimal burden on handlers required to file the information. Committee procedures will also continue to be reviewed and streamlined to assure efficiency in administering information collections. The information collection requirements contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581-0089.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of winter pears.

After consideration of all relevant material presented, the information and recommendations submitted by the Committee, and other information, it is found that finalizing the interim final rule without change as published in the Federal Register (60 FR 47858, September 15, 1995) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 927 which was published at 60 FR 47858 on September 15, 1995, is adopted as a final rule without change.

Dated: November 20, 1995.

Martha B. Ransom,
Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-28773 Filed 11-24-95; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Part 965

[Docket No. FV95-965-1FR]

Tomatoes Grown in the Lower Rio Grande Valley in Texas; Termination of Marketing Order 965

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This document terminates the Federal marketing order for tomatoes grown in the Lower Rio Grande Valley in Texas (order) and the rules and regulations issued thereunder. In recent years, this industry has declined significantly in numbers of producers and handlers. Thus, there is no need for the Department of Agriculture to continue operation of the order.

EFFECTIVE DATE: December 27, 1995.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Marketing Order Administration Branch, Fruit and