Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

RIN 0551–AA54

Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

AGENCY: Commodity Credit Corporation.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to revise the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480). The proposed rule would permit a waiver of the present requirement that only private entities with a business office or agent in the United States are eligible to enter into title I, Pub. L. 480 agreements when the General Sales Manager determines that there is adequate assurance of repayment to CCC. This change would allow additional foreign private entities to participate in title I, and thereby increase exports of U.S. agricultural commodities.

DATES: Comments on this rule must be received by September 8, 1998.

ADDRESSES: Comments should be sent to Grant Pettrie, Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, D.C. 20250–1034.

FOR FURTHER INFORMATION CONTACT: Grant Pettrie, Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, D.C. 20250–1034; telephone: (202) 720–4221; Facsimile: (202) 690–0251.

SUPPLEMENTARY INFORMATION: This proposed rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this proposed rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act. The Vice President, CCC, who is the General Sales Manager, has certified that this rule will not have a significant economic impact on a substantial number of small entities.

Under title I, P. L. 480 CCC enters into agreements with foreign governments or private entities to finance their purchase and importation of U.S. agricultural commodities. The proposed rule would allow a waiver of an existing program requirement that restricts the eligibility of businesses in foreign countries to enter into these agreements with CCC. A copy of this proposed rule has been submitted to the General Counsel, Small Business Administration.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The information collection requirements imposed by this proposed rule have been previously submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). OMB has assigned control number 0551–0005 for this information collection. This proposed rule would not require the collection of additional information.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Background

Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480) authorizes CCC to finance the sale and exportation of agricultural commodities on concessional credit terms, 7 U.S.C. 1701 *et seq.* On October 10, 1997, CCC published a final rule (62 FR 52929) amending the regulations governing Pub. L. 480 to, among other things, provide that CCC may enter into title I, P. L. 480 agreements with private entities. However, that rule requires that, in order to be eligible for a title I, P. L. 480 agreement, a private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States.

The purpose of requiring that private entities have a presence in the United States was to make them more amenable to legal process in the case of a default in repayment to CCC. It appears, however, that this requirement could restrict participation by some foreign private entities that could not meet this requirements in a practical manner. This could limit CCC's flexibility in programming and eliminate consideration of viable export opportunities that would otherwise further the purposes of title I, Pub. L. 480. Consequently, this proposed rule would allow the General Sales Manager to waive this requirement if the foreign private entity provides adequate assurances of repayment to CCC for the financing extended to it under the Pub. L. 480 agreement. It is not necessary to

identify in advance what may constitute adequate assurances of repayment because options may vary considerably depending upon foreign private entities and the country involved.

List of Subjects in 7 CFR Part 17

Agricultural commodities, Exports, Finance, Maritime carriers.

Accordingly, it is proposed to amend Part 17 of 7 CFR as follows:

PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

1. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 1701–1704, 1731–1736b, 1736f, 5676; E.O. 12220, 45 FR 44245.

2. Section 17.1(b)(3) is revised to read as follows:

§ 17.1 General

* * * * *

(b) * * *

(3) A private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States unless the General Sales Manager determines that there are adequate assurances of repayment to CCC for the financing extended by CCC.

* * * * *

Signed at Washington D.C. on July 27, 1998.

Lon Hatamiya,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–20755 Filed 8–6–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV98–993–2 PR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate from $1.60 to $2.16 per ton of salable dried prunes established for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 1998–99 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 8, 1998.

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) 205–6632. 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: Diane Purvis, Marketing Assistant, or 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 (209) 487–5901; Fax (209) 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) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, 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) 205–6632.

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 grown 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. Under the marketing order now in effect, California dried 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 dried prunes beginning on August 1, 1998, and continue 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.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent crop years from $1.60 per ton to $2.16 per ton of salable dried prunes.

The California dried 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 for 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.

For the 1997–98 and subsequent crop years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by the Secretary upon recommendation