Authority: 7 U.S.C. 601–674.

2. Revise § 923.4 to read as follows:

§ 923.4 Production area.

Production area means the counties of Okanogan, Chelan, Kittitas, Yakima, Klickitat in the State of Washington and all of the counties in Washington lying east thereof.

3. Amend § 923.14 by revising paragraphs (a) and (b) to read as follows:

§ 923.14 District.

* * * * *

(a) *District 1* shall include the Counties of Chelan, Okanogan, Douglas, Grant, Lincoln, Spokane, Pend Oreille, Stevens, and Ferry.

(b) *District 2* shall include the counties of Kittitas, Yakima, Klickitat, Benton, Adams, Franklin, Walla Walla, Whitman, Columbia, Garfield and Asotin.

§ 923.20 [Amended]

4. Amend § 923.20 as follows:

(a) In the first sentence remove the word ''fifteen'' and add the word ''sixteen'' in its place;

(b) In the third and fourth sentences remove the word ''five'' and add the word ''six'' in its place;

(c) In the fifth sentence, remove the words ''four'' and ''six'' and add the word ''five'' in their place; and

(d) In the sixth sentence, remove the word ''two'' and add the word ''three'' in its place.

5. Revise § 923.21 to read as follows:

§ 923.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

6. Revise § 923.25 to read as follows:

§ 923.25 Acceptance.

Any person prior to selection as a member or an alternate member of the committee shall qualify by filing with the Secretary a written acceptance of willingness to serve on the committee.

7. Revise § 923.41 by adding a new paragraph (c) to read as follows:

§ 923.41 Assessments.

* * * * *

(c) If a handler does not pay any assessment within the time prescribed by the committee, the assessment may be subject to an interest or late payment charge, or both, as may be established by the Secretary as recommended by the committee.

§ 923.52 [Amended]

8. In § 923.52, paragraph (a)(3) is amended by adding the word ''markings,''; after the word ''dimensions,''.

9. Amend § 923.54 as follows

Remove the words ''(including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 923.45),'' in paragraph (b) and add a new sentence at the end of the paragraph; and add a new sentence at the end of paragraph (c) to read as follows:

§ 923.54 Special purpose shipments.

* * * * *

(b) * * * Specified purposes under this section may include shipments of cherries for grading or packing to specified locations outside the production area and shipments to facilitate the conduct of marketing research and development projects established pursuant to § 923.45.

(c) * * * The committee may rescind or deny to any packing facility the special purpose shipment certificate if proof satisfactory to the committee is obtained that cherries shipped for the purpose stated in this section were handled contrary to the provisions of this section.

10. Amend § 923.64 by adding a new sentence at the beginning of paragraph (c) to read as follows:

§ 923.64 Termination

* * * * *

(c) The Secretary shall conduct a referendum six years after [the effective date of this paragraph] and every sixth year thereafter to ascertain whether continuance of this part is favored by growers. * * *

* * * * *

[FR Doc. 01–5418 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV01–993–1 PR]

Dried Prunes Produced in California; Undersized Regulation for the 2001–02 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on changes to the undersized regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 2001–02 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets and allow handlers to dispose of the undersized prunes in such outlets as livestock feed. The Committee estimated that this rule would reduce the excess of dried prunes by approximately 3,400 tons while leaving sufficient prunes to fulfill foreign and domestic trade demand.

DATES: Comments received by April 16, 2001, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, 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 made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, 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 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 proposal 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 the date of the entry of the ruling.

This proposal invites comments on changes to the undersized regulation in § 993.49(c) of the prune marketing order for the 2001–02 crop year for supply management purposes. The regulation removes prunes passing through specified screen openings. For French prunes, the screen opening would be increased from 23/32 to 24/32 of an inch in diameter; and for non-French prunes, the opening would be increased from 28/32 to 30/32 of an inch in diameter. This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets. This rule would be in effect from August 1, 2001, through July 31, 2002, and was unanimously recommended by the Committee at a November 29, 2000, meeting.

Section 993.19b of the prune marketing order defines undersized prunes as prunes which pass freely through a round opening of a specified diameter. Section 993.49(c) of the prune marketing order establishes an undersized regulation of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes. These diameter openings have been in effect for quality control purposes. Section 993.49(c) also provides that the Secretary upon a recommendation of the Committee may establish larger openings for undersized dried prunes whenever it is determined that supply conditions for a crop year warrant such regulation. Section 993.50(g) states in part: ''No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes.'' Pursuant to § 993.52 minimum standards, pack specifications, including the openings prescribed in § 993.49(c), may be modified by the Secretary on the basis of a recommendation of the Committee or other information.

Pursuant to the authority in § 993.52 of the order, § 993.400 modifies the undersized prune openings prescribed in § 993.49(c) to permit openings of 23/32 or 24/32 of an inch for French prunes and 28/32 or 30/32 of an inch for non-French prunes.

During the 1974–75 and 1977–78 crop years, the undersized prune regulation was established by the Department at 23/32 of an inch in diameter for French prunes and 28/32 of an inch in diameter for non-French prunes. These diameter openings were established in §§ 993.401 and 993.404, respectively (39 FR 32733, September 11, 1974; and 42 FR 49802, September 28, 1977). In addition, the Committee recommended and the Department established volume regulation percentages during the 1974–75 crop year with an undersized regulation at the aforementioned 23/32 and 28/32 inch diameter screen sizes. During the 1975–76 and 1976–77 crop years, the undersized prune regulation was established at 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes. These diameter openings were established in §§ 993.402 and 993.403 respectively (40 FR 42530, September 15 1975; and 41 FR 37306, September 3, 1976). The prune industry had an excess supply of prunes—particularly small size prunes. Rather than recommending volume regulation percentages for the 1975–76, 1976–77, and 1977–78 crop years, the Committee recommended the establishment of an undersized prune regulation applicable to all prunes received by handlers from producers and dehydrators during each of those crop years.

The objective of the undersized prune regulations during each of those crop years was to preclude the use of small prunes in manufactured prune products such as juice and concentrate. Handlers could not market undersized prunes for human consumption, but could dispose of them in nonhuman outlets such as livestock feed.

With these experiences as a basis, the marketing order was amended on August 1, 1982, establishing the continuing quality-related regulation for undersized French and non-French prunes under § 993.49(c). That regulation has removed from the marketable supply those prunes which are not desirable for use in prune products.

As in the 1970's, the prune industry is currently experiencing an excess supply of prunes. During the 1998–99 crop year, an undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in § 993.405 (63 FR 20058, April 23, 1998). With larger than desired carryin inventories and a 1999–2000 prune crop of about 172,000 natural condition tons, the Committee unanimously recommended continuing with an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. These diameter openings were established in § 993.406 (64 FR 23759, May 4, 1999) and made effective from August 1, 1999, through July 31, 2000. With larger than desired carryin inventories and a 2000–01 prune crop of about 203,000 natural condition tons, the Committee unanimously recommended continuing with an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. These diameter openings were established in § 993.407 (65 FR 29945, May 10, 2000) and made effective from August 1, 2000, through July 31, 2001.

For the 1998–99 crop year, the carryin inventory level reached a record high of

126,485 natural conditions tons. Excessive inventories tend to dampen producer returns, and cause weak marketing conditions. The carryin for the 1999–2000 crop year was reduced to 59,944 natural condition tons. This reduction was due to the low level of salable production in 1998–99 (about 102,521 natural condition tons and 50 percent of a normal size crop) and the undersized prune regulation. The carryin for the 2000–01 crop increased to 65,131 natural condition tons. This increase was due to a larger crop size of about 172,000 natural condition tons and reduced shipments during the 1999–2000 crop year. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop has ranged between 35,353 and 42,071 natural condition tons since the 1996–97 crop year, while the actual inventory has ranged between 59,944 and 126,485 natural condition tons since that year. The desired inventory level for early season shipments fluctuates from year-to-year depending on market conditions.

At its meeting on November 29, 2000, the Committee unanimously recommended continuing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes during the 2001–02 crop year for supply management purposes. This regulation would be in effect from August 1, 2001, through July 31, 2002.

The Committee estimated that there would be an excess of about 41,476 natural condition tons of dried prunes as of July 31, 2001. This proposed rule would continue to remove primarily small-sized prunes from human consumption channels, consistent with the undersized prune regulation that was implemented for the 1998–99, 1999–2000, and 2000–01 crop years. It is estimated that approximately 3,400 natural condition tons of small prunes would be removed from human consumption channels during the 2001–02 crop year as a result of this rule. This would leave sufficient prunes to fill domestic and foreign trade demand during the 2001–02 crop year, and provide an adequate carryout on July 31, 2002, for early season shipments until the new crop is available for shipment. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the 2001–02 crop is about 41,000 natural condition tons.

In its deliberations, the Committee reviewed statistics reflecting: (1) A worldwide prune demand which has been relatively stable at about 260,000 tons; (2) a worldwide oversupply that is expected to continue growing this century (estimated at 299,420 natural condition tons by the year 2005; (3) a continuing oversupply situation in California caused by increased production from increased plantings and higher yields per acre (between the 1990–91 and 2000–01 crop years, the yields ranged from 1.2 to 2.6 versus a 10-year average of 2.1 tons per acre); and (4) California's continued excess inventory situation. The production of these small sizes ranged from 1,335 to 8,778 natural condition tons during the 1990–91 through the 1999–2000 crop years. The Committee concluded that it has to continue utilizing supply management techniques to accelerate the return to a balanced supply/demand situation in the interest of the California dried prune industry. The proposed changes to the undersized regulation for the 2001–02 crop year are the result of these deliberations, and the Committee's desire to gradually bring supplies in line with market needs.

The industry's oversupply situation is expected to continue over the next few years due to new prune plantings in recent years with higher yields per acre. These plantings have a higher tree density per acre than the older prune plantings. During the 1990–91 crop year, the non-bearing acreage totaled 5,900 acres; but by 1998–99, the non-bearing acreage had quadrupled to more than 26,000 acres. The non-bearing acreage has subsequently been reduced to 22,000 acres during the 1999–2000 crop year. The 1996–97 through 1999–2000 yields have ranged from 1.2 to 2.6 tons per acre. Over the last 10-years, the average was 2.1 tons per acre.

The 2000–01 dried prune crop is expected to be 203,000 natural condition tons. Another large crop of about 193,000 natural condition tons is expected for the 2001–02 crop year, partly because of an anticipated increase in bearing acreage.

The 1997–98 crop year producer prices for the 24/32 size French prunes have been about $40–$50 per ton, about $260–$270 per ton below post harvest costs. During the 2000–01 crop year, feedlots are paying about $35 to $40 per ton for the 24/32 size French prunes, which is about $270–275 per ton below post harvest costs. The lower producer prices are expected to continue as an incentive for production of larger size prunes. The larger sizes will help the industry better meet the increasing market demand for larger-sized pitted prunes.

The 1998–99, 1999–2000, and 2000–01 undersized prune rules of 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes have expedited the reduction of small prune inventories, but more needs to be done to bring supplies into balance with market demand. The excess inventory on July 31, 2000, was 65,131 natural condition tons, and about 3,400 natural condition tons of dried prunes are expected to be removed from the 2000–01 marketable supply by the current undersized regulation. The Committee believes that the same undersized regulation also should be implemented during the 2001–02 crop year to continue reducing the inventories of small prunes, to help reduce the expected large 2001–02 prune crop, and more quickly bring supplies in line with demand. Attainment of this goal would benefit all of the producers and handlers of California prunes.

The recommended decision of June 1, 1981 (46 FR 29271) regarding undersized prunes states that the undersized prune regulation at the 23/32 and 28/32 inch diameter size openings would be continuous for the purposes of quality control even in above parity situations. It further states that any change (i.e., increase) in the size of those openings would not be for the purpose of establishing a new quality-related minimum. Larger openings would only be applicable when supply conditions warranted the regulation of a larger quantity of prunes as undersized prunes. Thus, any regulation prescribing openings larger than those in § 993.49(c) should not be implemented when the grower average price is expected to be above parity. The season average price received by prune growers ranged from 39 percent to 62 percent of parity during the 1994 through 1999 seasons. As discussed later, the average grower price for prunes during the 2001–02 crop year is not expected to be above parity, and implementation of this more restrictive undersized regulation would be appropriate in reference to parity.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action would not impact the dried prune import regulation because the action would affect volume control, not quality control. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented to improve product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes

of volume control. Therefore, the increased diameters would not be applied to imported prunes.

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. 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 22 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) 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.

An updated industry profile shows that 9 out of 22 handlers (41%) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Thirteen of the 22 handlers (59%) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 109 producers, or less than 9% of the 1,250 total producers, would be considered large growers with annual incomes over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This proposed rule would establish an undersized prune regulation of 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for the 2001–02 crop year for inventory management purposes. This change in regulation would result in more of the smaller sized prunes being classified as undersized prunes and is expected to benefit producers, handlers, and consumers. The larger screen openings currently in place for 2000–01 are expected to remove about 3,400 tons of dried prunes from the excess marketable supply. The Committee estimated that there will be an excess of about 41,400 natural condition tons of dried prunes on July 31, 2001. Implementation of the larger openings in 2001–02 is expected to reduce that surplus by about 3,400 tons.

Because the benefits and costs of the proposed action would be directly proportional to the quantity of 24/32 screen French prunes and 30/32 screen non-French prunes produced or handled, small businesses should not be disproportionately affected by the proposal. While variation in sugar content, prune density, and dry-away ratio vary from county to county, they also vary from orchard to orchard and season to season. In the major producing areas of the Sacramento and San Joaquin Valleys (which account for over 99 percent of the state's production), the prunes produced are homogeneous enough that the proposal should not be viewed as inequitable by large and small producers in any area of the State.

The quantity of small prunes in a lot is not dependent on whether a producer or handler is small or large; but is primarily dependent on cultural practices, soil composition, and water costs. The cost to minimize the quantity of small prunes is similar for small and large entities. The anticipated benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for large entities. The only additional costs on producers and handlers expected from the increased openings would be the disposal of additional tonnage (now estimated to be about 3,400 tons) to nonhuman consumption outlets. These costs are expected to be minimal and would be offset by the benefits derived by the elimination of some of the excess supply of small-sized prunes.

At the November 29, 2000, meeting, the Committee discussed the financial impact of this change on handlers and producers. Handlers and producers receive higher returns for the larger size prunes. Prunes eliminated through the implementation of this rule have very little value. As mentioned earlier, the current situation for producers of these small sizes is quite bleak with producers losing about $270–$275 on every ton delivered to handlers. During the 2000–01 crop year, the feedlot prices for 24/32 screen French prunes ranges between $35 and $40 per ton. This price is a little lower than the $40–50 price during the 1998–99 crop year. The cost of drying a ton of such prunes is $260 per ton at a 4 to 1 dry-away ratio, transportation is at least $20 per ton, and the producer assessment paid to the California Prune Board (a body which administers the State marketing order for promotion) is $30 per ton. The total cost is about $310 per ton which equates to a loss of about $270–$275 per ton for every ton of 24/32 screen French prunes produced and delivered to handlers.

Utilizing data provided by the Committee, the Department has evaluated the impact of the proposed undersized regulation change upon producers and handlers in the industry. The analysis shows that a reduction in the marketable production and handler inventories could result in higher season-average prices, which would benefit all producers. The removal of the smallest, least desirable of the marketable dried prunes produced in California from human consumption outlets would eliminate an estimated 3,400 tons of small-sized dried prunes during the 2001–02 crop year from the marketplace. This would help lessen the negative marketing and pricing effects resulting from the excess inventory situation facing the industry. California prune handlers reported that they held 65,131 tons of natural condition prunes on July 31, 2000, the end of the 1999–2000 crop year. The 65,131 ton year-end inventory is larger than what is desired for early season shipments by the prune industry. The desired inventory level is based on an average 12-week supply to keep trade distribution channels full while awaiting new crop. Currently, it is about 41,000 natural condition tons. This leaves a 2000–01 inventory surplus of about 24,000 tons. The undersized regulation will help reduce the surplus, but the anticipated large 2001–02 prune crop is expected to worsen the supply imbalance.

One of the primary reasons for this proposed rulemaking action is that the dried prune industry continues to be plagued by high carryin inventories. California prune handlers estimate that 82,286 tons of prunes (natural condition) will be inventoried at the end of the 2000–01 crop year. This will result in a surplus of 41,476 tons over the industry's desired carryout of 40,810 tons.

Increasing the screen openings is an attempt to moderately reduce and control the marketable production and carryin inventory. If the marketable supply and the carryin inventory are both reduced, then prices may be expected to increase. If no action is taken, rising production levels, high inventories, and low grower prices will continue.

To assess the impacts that regulation has on the prices growers receive for their product, an econometric model has been estimated. The two variables of interest in this model are marketable production and carryin inventory. Both of the estimated parameters for these variables are negative and statistically significant. This provides evidence that

reducing the marketable supply and the carryin inventory would result in higher grower prices. This action would benefit all growers and handlers regardless of size.

Increasing the undersized openings would result in a reduced level of marketable production. The Committee estimates that marketable production will be reduced by 3,400 tons, or 2.2 percent. If marketable production for the 2001–02 crop year is reduced by 2.2 percent, the model suggests an increase in prices of approximately 0.9 percent compared to taking no action. Although increasing the undersized openings will only have a modest effect on marketable production, price increases would result. This proposed action would not only help reduce the oversupply situation, but improve the quality of the manufactured prune products by removing the smaller, less desirable prunes from the supply chain.

Without increasing the undersized openings, the industry could be expected to continue to build unwanted inventories. These inventories have a depressing effect on grower prices. The econometric model shows that, for every 1 percent increase in carryin inventories, a decrease in grower prices of 0.12 percent occurs.

This action would not result in a shortage of prunes for either retail or food service outlets. Inventories are expected to remain above desired levels and marketable production is anticipated to be in excess of demand. Additionally, this action is not expected to have a significant impact on retail or food service outlet prices.

In summary, increasing the openings in the sizing screens may reduce the volume of marketable production and decrease the carryin inventory. If the rule change accomplishes these two intended effects, the model shows that season-average prices will be slightly higher than if the screen openings remain unchanged. A higher season-average price should benefit all producers regardless of size.

As the marketable dried prune production and surplus prune inventories are reduced through this proposal, and producers continue to implement improved cultural and thinning practices to produce larger-sized prunes, continued improvement in producer returns is expected.

For the 1991–92 through the 1999–2000 crop years, the season average price received by the producers ranged from a high of $1,140 per ton to a low of $778 per ton during the 1998–99 crop year. The season average price received by producers during that 9-year period ranged from 39 percent to 68 percent of parity. Based on available data and estimates of prices, production, and other economic factors, the season average producer price for 2000–01 season is expected to be about the same as the 1999–2000 season average producer price of $892 per ton, or about 42 percent of parity.

The Committee discussed alternatives to this change, including making no changes to the undersized prune regulation and allowing market dynamics to foster prune inventory adjustments through lower prices on the smaller prunes. While reduced grower prices for small prunes are expected to contribute toward a slow reduction in dried prune inventories, the Committee believed that the undersized rule change is needed to expedite that reduction. With the excess tonnage of dried prunes, the Committee also considered establishing a reserve pool and diversion program to reduce the oversupply situation. A third alternative discussed was to advance to a $^{25}/_{32}$ screen undersized regulation for French prunes. However, handlers expressed concern that this would reduce the amount of manufacturing prunes available for the manufacture of prune juice and concentrate. The first two initiatives were not supported because they would not specifically eliminate the smallest, least valuable prunes, which are in oversupply. Instead, the reserve pool and diversion program would eliminate larger size prunes from human consumption outlets. Reserve pools for prunes have historically been implemented on dried prunes regardless of the size of the prunes. While the marketing order also allows handlers to remove the larger prunes from the pool by replacing them with small prunes and the value difference in cash, this exchange would be cumbersome and expensive to administer compared to the proposal.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for inventory management, not quality control purposes. The smaller diameter openings of $^{23}/_{32}$ of an inch for French prunes and $^{28}/_{32}$ of an inch for non-French prunes were implemented to improve product quality. The recommended increases to $^{24}/_{32}$ of an inch in diameter for French prunes and $^{30}/_{32}$ of an inch in diameter for non-French prunes are for purposes of inventory management. Therefore, the increased diameters would not be applied to imported prunes.

This action would not impose any additional reporting or recordkeeping requirements on either small or large California dried prune handlers. 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.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the 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 29, 2000, 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 twenty-two members. Seven are handlers, fourteen are producers, and one is a public member. Moreover, the Committee and its Supply Management Subcommittee have been monitoring the supply situation, and this proposed rule reflects their deliberations completely. 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: *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.

The Committee requested a comment period through April 16, 2001, to allow interested persons to respond to this proposal. This longer comment period is needed to give the Committee more time to observe the bloom period during the spring and industry shipment trends during the year and allow sufficient time to comment to the Department concerning any changes that are deemed appropriate. All written comments timely received will be considered before a final determination is made on this matter.

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 proposed to be 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.

Note: This section will not appear in the Code of Federal Regulations.

A new § 993.408 is added to read as follows:

§ 993.408 Undersized prune regulation for the 2001–02 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 2001–02 crop year is hereby established. Undersized prunes are prunes which pass through openings as follows: for French prunes, 24/32 of an inch in diameter; for non-French prunes, 30/32 of an inch in diameter.

Dated: February 28, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–5321 Filed 3–5–01; 8:45 am]

BILLING CODE 3410–02–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG70

List of Approved Spent Fuel Storage Casks: VSC–24 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment will allow holders of power reactor operating licenses as general licensees to store Combustion Engineering 16x16 spent fuel assemblies in accordance with revised technical specifications in the VSC–24 cask system. The proposed Amendment No. 3 to the VSC–24 CoC changes Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity.

DATES: Comments on the proposed rule must be received on or before April 5, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These documents may also be viewed and downloaded electronically via the rulemaking website.

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC Public Electronic Reading Room on the Internet at http://www.nrc.gov/NRC/ADAMS/index.html. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed CoC and preliminary safety evaluation report (SER) can be found in ADAMS under Accession No. ML003733556. For more information, contact the NRC's Public Document Room Reference Staff at 1–800–397–4209, 301–415–4737 or by e-mail at pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the Direct Final Rule published in the final rules section of this **Federal Register**.

Procedural Background

The NRC is also publishing this proposed rule as a direct final rule because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial; adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on May 21, 2001. However, if the NRC receives significant adverse comments on the direct final rule by April 5, 2001, then the NRC will publish a document to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203,