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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 900, 929, 982, and 989

[Docket No. FV97-900-1 FR]

General Regulations; Revision or Removal of Selected Sections

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises or removes various sections and parts from the Code of Federal Regulations (CFR). This rule revises the general regulations for Federal marketing orders and agreements covering fruits, vegetables, and nuts by updating the subpart regarding information collection. This rule removes sections titled "Reserved" from three marketing orders covering cranberries, Oregon-Washington hazelnuts, and California raisins, respectively. This rule also removes two parts from the CFR titled "Reserved" that used to specify marketing orders covering Florida grapefruit. The Florida grapefruit orders were terminated in 1987. These changes will provide more accurate information in the CFR and will eliminate unnecessary CFR printing costs.

EFFECTIVE DATE: March 5, 1998.

FOR FURTHER INFORMATION CONTACT: Christian Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone (941) 299-4770, Fax: (941) 299-5169; or Anne Dec, Marketing Order Administration Branch, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This action is being taken as part of the National Performance Review Program

to eliminate unnecessary regulations and improve those that remain in force.

The Agency has determined that this action is only administrative in nature because it involves updating the subpart regarding information collection to reflect the display of current Office of Management and Budget (OMB) control numbers and removing references to sections or parts that are titled "Reserved." This action is not subject to the requirements of Executive Orders 12866 and 12988 or to the provisions of the Regulatory Flexibility Act.

This rule revises or removes various sections and parts from the CFR concerning Federal marketing orders and agreements for fruits, vegetables, and nuts. This rule revises the general regulations for such orders by updating the subpart regarding information collection. This rule removes sections titled "Reserved" from the cranberry, hazelnut, and raisin marketing orders. This rule also removes two parts from the CFR that used to specify marketing orders covering Florida grapefruit.

The Agricultural Marketing Agreement Act of 1937 (Act) provides authority for Federal marketing orders for various fruits, vegetables, and nuts. The programs are initiated by interested industries and voted on by those in the industries. Marketing orders are administered locally by industry committees with oversight by the Secretary of Agriculture (Secretary). A marketing order allows an industry to solve marketing problems by establishing grade, size, quality, maturity, quantity and container regulations that apply to all handlers in the industry. Such marketing orders and their accompanying regulations are codified in the CFR.

The Secretary was directed by the President, as part of a regulatory reinvention initiative, to review all existing regulations concerning Federal marketing orders and other programs in an effort to reduce regulations that may be burdensome on industries. To meet this initiative, regulations which need revision or are obsolete are being revised or removed.

Accordingly, this rule revises part 900 of the CFR which specifies general regulations that apply to all such marketing orders. For example, part 900 specifies procedures for promulgating new marketing orders, petitions to modify existing orders, and procedures

for the conduct of grower referenda for marketing orders. Part 900 also contains a subpart pertaining to the collection of information under marketing orders. Specifically, § 900.601 specifies a list of control numbers assigned to the information collection requirements by the Office of Management and Budget (OMB) contained in 7 CFR parts 905 through 998 under the Paperwork Reduction Act (PRA) of 1995. This rule revises this section to reflect the promulgation and termination of marketing orders and agreements since 1987. This section is also revised to reflect that the information collection under 16 marketing orders has been consolidated under the OMB control number 0581-0178. This rule also changes the reference to the PRA in §§ 900.600 and 900.601 to reflect that the PRA of 1980 was amended in 1995.

This rule also removes five sections titled "Reserved" from the cranberry, hazelnut, and raisin marketing orders which are codified in parts 929, 982, and 989, respectively. These sections, 929.16 of the cranberry order, 982.432 and 982.457 of the hazelnut order, and 989.6 and 989.211 of the raisin order, contain no regulatory text, only the designation "Reserved." These sections were previously terminated in accordance with the Act. It is not necessary for these sections to appear in their respective marketing orders. Similarly, this rule removes two parts from 7 CFR which are also titled "Reserved." Parts 912 and 913 of 7 CFR used to specify two separate marketing orders for Florida grapefruit. These two orders were terminated in 1987 in accordance with the Act and it is unnecessary to designate these parts as "Reserved." Having these five sections and two parts appear in each publication of the CFR is an extraneous use of space and removing them reduces unwarranted printing costs.

The changes made by this rule are purely administrative. This rule revises a list of marketing orders to reflect additions and terminations since the section was last amended. This rule makes no changes to any established regulation. This rule also eliminates five sections and two parts in the CFR that contain only the word "Reserved." There is no need for these sections or parts to be reserved, so they are being removed. These changes will update the CFR to provide current information and

delete various sections and parts that will result in reduced CFR printing costs.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is unnecessary and contrary to the public interest to give preliminary notice or to engage in further public rulemaking procedures prior to putting this rule into effect and that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register** because: (1) The changes are purely administrative in nature and impose no regulation or additional burden on any entity; (2) the changes will not alter any aspect of an existing program; and (3) no useful purpose would be served by delaying the effective date of this action.

List of Subjects

7 CFR Part 900

Administrative practice and procedure, Freedom of information,

Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 900, 912, 913, 929, 982, and 989 are amended as follows:

PART 900—GENERAL REGULATIONS

1. The authority citation for 7 CFR part 900, Subpart—Information Collection continues to read as follows:

Authority: 44 U.S.C. Ch. 35.

2. In part 900, §§ 900.600 and 900.601 are revised to read as follows:

§ 900.600 General.

This subpart shall contain such requirements as pertain to the information collection provisions under the Paperwork Reduction Act of 1995.

§ 900.601 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR parts 905 through 998 under the Paperwork Reduction Act of 1995.

(b) *Display.*

7 CFR part where identified and described	Current OMB control No.
905, Florida Oranges, Grapefruit Tangerines, Tangelos	0581-0094
906, Texas Oranges & Grapefruit	0581-0068
911, Florida Limes	0581-0091
915, Florida Avocados	0581-0078
916, California Nectarines	0581-0072
917, California Pears and Peaches	0581-0080
920, California Kiwifruit	0581-0149
922, Washington Apricots	0581-0095
923, Washington Sweet Cherries	0581-0133
924, Washington-Oregon Fresh Prunes	0581-0134
925, S.E. California Desert Grapes	0581-0109
927, Oregon-Washington-California Winter Pears	0581-0089
928, Hawaiian Papayas	0581-0102
929, Cranberries Grown in Designated States 0581-0103.	
930, Red Tart Cherries	0581-0177
931, Oregon-Washington Bartlett Pears	0581-0092
932, California Olives	0581-0142
945, Idaho-Eastern Oregon Potatoes	0581-0178
946, Washington Potatoes	0581-0178
947, Oregon-California Potatoes	0581-0178
948, Colorado Potatoes	0581-0178
953, Southeastern Potatoes	0581-0178
955, Vidalia Onions	0581-0178
956, Walla Walla Onions	0581-0178
958, Idaho-Oregon Onions	0581-0178
959, South Texas Onions	0581-0178
966, Florida Tomatoes	0581-0178
979, South Texas Melons	0581-0178
981, California Almonds	0581-0071
982, Oregon-Washington Hazelnuts	0581-0178
984, California Walnuts	0581-0178
985, Spearmint Oil	0581-0065
987, California Dates	0581-0178
989, California Raisins	0581-0178
993, California Dried Prunes	0581-0178
997, Domestic Peanuts Not Covered Under the Peanut Marketing Agreement	0581-0163
998, Domestic Peanuts Covered Under the Peanut Marketing Agreement	0581-0067

PARTS 912-913—[REMOVED]

3. Under the authority of 7 U.S.C. 1621-1627, parts 912 and 913 are removed.

PART 929—[AMENDED]

4. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 929.16 [Removed]

5. In part 929, § 929.16 is removed.

PART 982—[AMENDED]

6. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§§ 982.432 and 982.457 [Removed]

7. In part 982, §§ 982.432 and 982.457 are removed.

PART 989—[AMENDED]

8. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§§ 989.6 and 989.211 [Removed]

9. In part 989, §§ 989.6 and 989.211 are removed.

Dated: February 20, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-5545 Filed 3-3-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Parts 2 and 3**

[Docket No. 95-078-3]

RIN 0579-AA74

Humane Treatment of Dogs and Cats; Temperature Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for the humane treatment of animals under the Animal Welfare Act by revising certain requirements pertaining to climatic conditions. We are clarifying the current temperature requirements for dogs and cats in indoor, sheltered, and mobile and traveling housing facilities, in primary conveyances used for transportation, and in the animal holding areas of terminal facilities. We are also requiring

that any animal covered by the Animal Welfare Act shall never be exposed to combinations of temperature, humidity, and time that would adversely affect the animal's health and well-being, taking into consideration the animal's health status, age, breed, or any other pertinent factor. When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. This action will help ensure that animals protected by the Animal Welfare Act are maintained in climatic conditions conducive to the animals' health and well-being.

EFFECTIVE DATE: April 3, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, REAC, APHIS, suite 6D02, 4700 River Road Unit 84, Riverdale, MD 20737-1234, (301) 734-4972, or e-mail: snsmith@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary has delegated the responsibility for enforcing the AWA to the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Parts 1 and 2 contain definitions and general requirements, and part 3 contains specific standards for the care of animals. Subpart A of 9 CFR part 3 contains requirements specifically pertaining to dogs and cats.

On July 2, 1996, we published in the **Federal Register** (61 FR 34386-34389, Docket No. 95-078-1) a proposal to amend the regulations in subpart A of 9 CFR part 3 by removing the option for facilities to use tethering as a means of primary enclosure for dogs and revising the temperature requirements for indoor, sheltered, and mobile and traveling housing facilities, for primary conveyances used in transportation, and for the animal holding areas of terminal facilities to require that the ambient temperature must never exceed 90 °F (32.2 °C) when dogs or cats are present. This proposal was based, in part, on the recommendations and opinions expressed at three public meetings our agency hosted in 1996 to gather information on the regulations that

apply to the care of dogs and cats in the commercial pet trade. In addition, our experience in AWA enforcement led us to conclude that continuous confinement of dogs by tethers is inhumane and that a maximum temperature restriction was needed for the care of dogs and cats in certain circumstances because there have been incidents in which dogs or cats exposed to extremely high temperatures during air travel died or were seriously harmed.

We solicited comments concerning our proposal for 60 days ending September 3, 1996. We received 54 comments by that date. After reviewing the comments, we decided to publish a final rule regarding tethering and reconsider the temperature requirements. The final rule regarding tethering (62 FR 43272-43275, Docket No. 95-078-2) was published August 13, 1997. Therefore, this document concerns only the part of the proposal concerning temperature requirements for dogs and cats.

Forty-two of the 54 comments received on the proposed rule addressed the proposed temperature requirements for dogs and cats. These comments were from dog dealers; associations representing the pets, transportation, animal feed, and biomedical research industries; pharmaceutical companies; humane organizations; a Federal government agency; a veterinarian; and other interested individuals. A few of the comments generally supported the proposal; the majority generally opposed it. Comments on the proposed rule itself are discussed below; comments on the potential economic effects of the proposed rule and on the Initial Regulatory Flexibility Analysis that was included in the proposed rule are discussed in the section of this document that pertains to Executive Order 12866 and the Regulatory Flexibility Act.

The issue raised by the most number of commenters was that the proposal appeared to be unfounded and that any proposed change to the AWA temperature requirements should be based on hard data supporting the need for the proposed change. This concern was expressed both by commenters who were opposed and commenters who were unopposed to the proposed rule. Several commenters mentioned the need for APHIS to consider two sources of relevant information: the recommendations regarding temperature requirements made at the three public meetings hosted by our agency in 1996 and from a study commissioned by our agency and the Federal Aviation Administration (FAA) regarding the