

price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by the gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy. The number of bales to be classed by the United States Department of Agriculture from the 2001 crop is estimated at 18,337,850 bales. The 2001 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 33 cents per bale reduction and was subtracted from the 2001 base fee of \$2.22 per bale, resulting in a fee of \$1.89 per bale.

With a fee of \$1.89 per bale, the projected operating reserve would be 51.56 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of \$1.89 must be reduced by 54 cents per bale, to \$1.35 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 2001 season fee at \$1.35 per bale.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the HVI classification fee at \$1.35 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (c). Growers or their designated agents requesting classification data provided on computer punched cards will continue to be charged the fee of 10 cents per card in § 28.910 (a) to reflect the costs of providing this service. Requests for punch card classification data represented less than 1.0 percent of the total bales classed from the 2000 crop, down from 2.6 percent in 1997. Growers or their designated agents receiving classification data by methods other than computer-punched cards would continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at 5 cents per bale, and it would be applicable even if the same method was requested. However, if computer punched cards were

requested, a fee of 10 cents per card would be charged. The fee in § 28.910 (b) for an owner receiving classification data from the central database would remain at 5 cents per bale, and the minimum charge of \$5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 will be maintained at \$1.35 per bale.

The fee for returning samples after classification in § 28.911 will remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and record keeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is amended as follows:

PART 28—COTTON CLASSING TESTING STANDARDS

1. The authority citation for 7 CFR Part 28, Subpart D—Cotton Classification and Market News Services for Producers, continues to read as follows:

Authority: 7 U.S.C. 471–476.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.35 per bale.

* * * * *

3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is \$1.35 per bale.

* * * * *

Dated: May 23, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–13562 Filed 5–25–01; 10:50 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV01–928–1 IFR]

Papayas Grown in Hawaii; Suspension of Grade, Inspection, and Related Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule indefinitely suspends the grade, inspection, inspection waiver procedures, and related exempt shipment reporting requirements under the marketing order regulating papayas grown in Hawaii, due to current overproduction and unprecedented low prices for fresh papayas. These requirements went into effect on January 2, 2001. This action results from a unanimous recommendation of the Papaya Administrative Committee (committee or PAC) at an emergency meeting on December 28, 2000. This action is expected to permit the industry to utilize funds earmarked for inspection for enhanced marketing efforts, thus improving producer returns by increasing consumer demand.

DATES: Effective May 31, 2001; comments received by July 30, 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) 720–8938, 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:

Terry Vawter, 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) 720-8938.

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) 720-8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 155 and Marketing Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, 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 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 rule suspends three sections of the order's rules and regulations regarding minimum grade requirements (§ 928.313), maturity exemptions (§ 928.152), and inspection waiver procedures (§ 928.150). It also amends § 928.160 of the order's rules and

regulations. The amendment to § 928.160 removes references to mandatory regulations and relieves handlers from the requirement to add the inspection certificate number on PAC Form 1, Papaya Utilization.

This rule results from a unanimous recommendation of the committee at an emergency meeting on December 28, 2000. At that meeting, the committee recommended postponing, until July 1, 2001, the effective date of a final rule published by the Department on November 22, 2000, which reinstated grade, inspection, and related reporting requirements, effective January 2, 2001. The committee held a subsequent committee meeting on January 11, 2001, at which further public discussion was held. After considering the committee's recommendation and other relevant information, the Department is suspending, for an indefinite period, the requirements that were reinstated on January 2, 2001.

Section 928.52 of the papaya marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of papayas. Section 928.53 allows for the modification, suspension, or termination of such regulations when warranted. Section 928.55 provides that whenever papayas are regulated pursuant to §§ 928.52 or 928.53, such papayas must be inspected by the inspection service and certified as meeting the applicable requirements. The cost of inspection and certification is borne by handlers. Section 928.54 authorizes regulation exemptions when shipping papayas for commercial processing, relief agencies, or charitable institutions. In addition, the Secretary may relieve from any or all requirements under or established pursuant to §§ 928.41, 928.52, 928.53, and 928.55, the handling of papayas in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 928.45) as the committee, with the approval of the Secretary, may prescribe. Section 928.60 of the papaya marketing order authorizes handler reporting requirements.

This rule suspends § 928.313 of the order's rules and regulations regarding minimum grade requirements. That section states that no handler shall ship papayas to any destination unless such papayas meet the minimum grade of Hawaii No 1.

This rule also removes the requirement that handlers obtain

inspection through the Federal or Federal-State Inspection Service (inspection service) prior to shipment of fresh papayas. Suspension of the inspection waiver procedures in § 928.150 of the order's rules and regulations results in the elimination of the authority of the inspection service to grant inspection waivers. Inspection waivers allow handlers to ship papayas without inspection under certain conditions when it is not practicable for the inspection service to provide such inspection. In the absence of mandatory inspection, handlers do not need inspection waivers issued by the inspection service.

This rule also suspends the maturity exemption and related reporting requirements in § 928.152 of the order's rules and regulations to remove the requirement that handlers interested in becoming handlers of immature papayas apply to the committee for approval, and report handling of immature papayas. Immature papayas are used in a popular dish called green papaya salad and as a vegetable substitute in recipes. Suspension of the maturity exemption and related reporting requirements relieves handlers from filing PAC Forms 7 and 7(c) with the committee.

In addition, this rule amends § 928.160 to remove the references to mandatory regulations and the requirement that handlers include the number of the inspection certificate issued by the inspection service on each PAC Form 1 filed with the committee.

Grade, inspection, and reporting requirements under the order were suspended in 1994. As previously mentioned, in a final rule published on November 22, 2000, and effective January 2, 2001, the Department reinstated those requirements under §§ 928.150, 928.152, 928.313, and 928.160 of the order's rules and regulations.

The committee met on December 28, 2000, and voted unanimously to postpone the effective date until July 1, 2001. During that meeting, and a subsequent meeting on January 11, 2001, the committee noted that producer prices currently range from 6 to 12 cents per pound, compared to 25 to 45 cents per pound reported by the committee for the same period the previous year. Such prices, coupled with overproduction, have had a negative effect on the entire industry, especially for the new Rainbow variety of papayas. The Rainbow variety has been developed to tolerate the effects of the Papaya Ringspot Virus, which has decimated papaya trees in Hawaii for several years. The Rainbow variety,

however, has not yet been approved for exportation to possible significant markets, especially Japan or Canada, and is only marketed in the United States.

Given the current marketing limitations and overproduction of papayas, the committee recommended that funds earmarked for inspection costs be redirected to marketing and promotion in an effort to increase demand and improve returns to producers. Currently, with low prices to producers, there is little money available for inspection. What funds are available, the committee believes, would best be utilized in increasing demand by enhanced marketing and promotion activities at this time. The committee proposed to review the condition of the industry in late spring or early summer to determine if overproduction has eased or demand improved. Historically, the summer months result in lower production, due to the reduced availability of rainwater. This has been true for most varieties of papayas, and may also be true for the Rainbow variety. This information would place the committee in a better position to evaluate what further recommendations to make in the interests of the industry.

While the committee recommended a postponement of the effective date for implementing mandatory grade, inspection, and related reporting requirements until July 1, 2001, the Department believes that a suspension of the requirements is preferable at this time. First, the emergency recommendation was made five days prior to the effective date of the regulations, January 2, 2001. Since that time inspections of papayas have not occurred. Second, the committee does not yet have a timetable for entry of the new Rainbow variety of papayas into the export markets to which the traditional variety, Kapoho, currently has entry. The committee believes increased demand would help absorb the current overproduction of the prolific Rainbow variety, and have a positive affect on producer returns. Third, the committee also believes that enhanced marketing and promotion may also improve demand for all fresh papayas. The committee believes that funds earmarked for inspection costs would be better utilized on promotional efforts. Thus, there would be no funds available later in the fiscal year for implementing mandatory inspection. There is no evidence that the conditions that currently exist in the industry would be greatly improved in the next several months.

For these reasons, the mandatory grade, inspection, and reporting requirements effective January 2, 2001, are suspended until such time as the conditions in the industry improve and the committee can demonstrate a long-term commitment to a quality control program.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) 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.

Based on a reported current average f.o.b. price of \$.65 per pound of papayas, a handler would have to ship in excess of 7.69 million pounds of papayas to have annual receipts of \$5,000,000. Last year, only one handler shipped more than 7.69 million pounds of papayas, and, therefore, could be considered a large business. The remaining handlers could be considered small businesses, excluding receipts from other sources.

Based on a reported current average grower price of \$0.09 per pound and annual industry shipments of 40 million pounds, total grower revenues would be \$3.6 million. Average annual grower revenue would, thus, be \$9,000. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities, excluding receipts from other sources.

This rule suspends the grade, inspection, and related reporting requirements under the order's rules and regulations. As a result, §§ 928.150, 928.152, and 928.313 are suspended in their entirety, and § 928.160 is amended to remove the reference to mandatory regulations and the requirement that the inspection certificate number be added

to the utilization reports filed by handlers.

At the meeting, the committee discussed the impact of these changes on handlers and producers in terms of cost. Since mandatory inspection and certification costs are borne by handlers, the cost savings to each handler are estimated to be a total \$24.24 per hour for on-site inspections. In addition, the inspection service charges mileage costs of \$.37 per mile round trip from the inspection service office to the handler's premises or processing plant. According to the inspection service, for a trip taking 10 or more minutes, or covering 7 or more miles, the travel time cost is based on the \$24.24 hourly rate. Some handlers could pass the inspection costs onto producers, thus, further decreasing overall producer returns. These costs do not apply in the absence of minimum quality requirements and associated mandatory inspection.

During its deliberations, the committee discussed possible alternatives to this action. They deliberated the impacts of the final rule taking effect on January 2, 2001. However, because economic conditions in the papaya industry are currently at a historically low level, the committee rejected that alternative.

The committee also debated the value of suspending, rather than postponing, the regulations in their entirety. That alternative, however, was also rejected, as the committee felt suspension of the regulations was too drastic an action to take at the time. Instead, the committee proposed postponing the effective date of the requirements until July 1, 2001, and further reviewing the conditions within the industry at that time. The requirements were originally suspended beginning on July 1, 1994.

However, as noted earlier, the Department has determined that a suspension of the requirements is preferable, given the current industry conditions and likelihood that there will be no substantial improvement in the next several months. If industry conditions improve, implementation of the quality control program could again be recommended by the committee. Accordingly, this action will have a favorable effect on both large and small entities.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0102.

This rule relaxes reporting requirements under the order, since

PAC Form 1 will no longer require the addition of the inspection certificate number on it. In addition, PAC Forms 7 and 7(c) will not be required from handlers wishing to be approved handlers of immature papayas. In the absence of mandatory inspection, no handlers will be required to apply for approval to handle immature papayas using PAC Form 7 nor report shipments of immature papayas to the committee using PAC Form 7(c). This rule will decrease the burden by 9.25 hours.

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

In addition, the committee's meetings were widely publicized throughout the papaya industry and all interested persons were encouraged to attend the meetings and participate in committee deliberations on all issues. Like all committee meetings, the December 28, 2000, and the subsequent January 11, 2001, meetings were public meetings and all entities, both large and small, were encouraged to express views on this issue. The committee itself is comprised of 13 members, consisting of nine producer members and three handlers members. The committee also includes a public member who does not represent an agricultural interest nor have a financial interest in papayas. 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 web site: <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 matters presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that the suspensions and revision made by this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined 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) This rule needs to be in effect as soon as possible to continue to

provide relief to the Hawaii papaya industry; (2) this action reflects the emergency recommendation of the committee and the Department's assessment of the industry; and (3) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§§ 928.150, 928.152, 928.313 [Suspended]

2. Sections 928.150, 928.152, and 928.313 are indefinitely suspended in their entirety.

3. In § 928.160, paragraph (a)(1) is revised to read as follows:

§ 928.160 Utilization reports.

(a) * * *

(1) Quantity of papayas handled subject to assessments including the date and destination of each shipment;

* * * * *

Dated: May 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–13472 Filed 5–29–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 285

[Docket No.: 000831249–1129–02]

RIN 0693–ZA39

National Voluntary Laboratory Accreditation Program; Operating Procedures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Final rule.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, is today issuing a final rule revising regulations found at 15 CFR

part 285 pertaining to the operation of the National Voluntary Laboratory Accreditation Program (NVLAP). The NVLAP procedures are revised to ensure continued consistency with international standards and guidelines currently set forth in the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 17025:1999, *General requirements for the competence of testing and calibration laboratories*, and ISO/IEC Guide 58:1993, *Calibration and testing laboratory accreditation systems—General requirements for operation and recognition*, thereby facilitating and promoting acceptance of test and calibration results between countries to avoid barriers to trade. Provisions in this regard will facilitate cooperation between laboratories and other bodies, assist in the exchange of information and experience and in the harmonization of standards and procedures, and establish the basis for national and international mutual recognition arrangements.

In addition, NIST is reorganizing and simplifying part 285 for ease of use and understanding. While the existing regulations accurately set forth the NVLAP procedures, the regulations themselves are complex and difficult to understand. In an effort to simplify the format and make the regulations more user friendly, NIST is rewriting in plain English and consolidating sections previously contained in subparts A through C of part 285.

DATES: This rule is effective June 29, 2001.

ADDRESSES: David F. Alderman, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140.

FOR FURTHER INFORMATION CONTACT: David F. Alderman, Chief, National Voluntary Laboratory Accreditation Program, 301–975–4016.

SUPPLEMENTARY INFORMATION:

Background

Part 285 of title 15 of the Code of Federal Regulations sets out procedures and general requirements under which the National Voluntary Accreditation Program (NVLAP) operates as an unbiased third party to accredit both testing and calibration laboratories.

The NVLAP procedures were first published in the **Federal Register** as part 7 of title 15 of the Code of Federal Regulations (CFR) (41 FR 8163, February 25, 1976). On June 2, 1994, the procedures were redesignated as part 285 of title 15 of the CFR, expanded to