

derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that 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 upon good cause 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 action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year for the Committee begins January 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable olives handled during the fiscal year; (3) handlers are aware of this action which was recommended by the Committee at a public meeting; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

#### **List of Subjects in 7 CFR Part 932**

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 932 is amended as follows:

#### **PART 932—OLIVES GROWN IN CALIFORNIA**

1. The authority citation for 7 CFR Part 932 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

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

2. A new § 932.228 is added to read as follows:

#### **§ 932.228 Expenses and assessment rate.**

Expenses of \$2,881,650 by the California Olive Committee are authorized and an assessment rate of \$30.04 per ton of assessable olives is established for the fiscal year ending December 31, 1995. Unexpended funds may be carried over as a reserve.

Dated: January 18, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division*

[FR Doc. 95-1750 Filed 1-23-95; 8:45 am]

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#### **7 CFR Part 989**

**[Docket No. FV94-989-5FIR]**

#### **Raisins Produced From Grapes Grown in California; Expenses and Assessment Rate**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that will generate funds to pay those expenses. Authorization of this budget enables the Raisin Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** August 1, 1994, through July 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209-487-5901.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California. 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California raisins are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins handled during the 1994–95 crop year, which began August 1, 1994, and ends

July 31, 1995. This final 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 requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the 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 5,000 producers of California raisins under this marketing order, and approximately 20 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) 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. A majority of California raisin producers and a minority of handlers may be classified as small entities.

The budget of expenses for the 1994–95 crop year was prepared by the Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their

local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected acquisitions of California raisins. Because that rate will be applied to actual acquisitions, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee, with headquarters in Fresno, California, met August 15, 1994, and unanimously recommended a 1994-95 budget of \$1,324,000, which is \$744,940 more than the previous year. Budget items for 1994-95 which have increased compared to those budgeted for 1993-94 (in parentheses) are: Office salaries, \$123,000 (\$90,000), fieldman salaries, \$44,000 (\$42,600), Payroll taxes, \$30,000 (\$27,500), employer retirement contribution, \$20,000 (\$18,200), general insurance, \$8,000 (\$6,000), group medical insurance, \$40,000 (\$37,000), rent, \$43,000 (\$17,900), telephone, \$15,000 (\$4,000), postage, \$20,000 (\$12,000), office supplies, \$30,000 (\$20,000), repairs and maintenance, \$10,000 (\$5,000), audit fees, \$20,000 (\$3,600), office travel, \$14,000 (\$12,000), Committee meeting expenses, \$7,500 (\$5,000), miscellaneous expense, \$15,000 (\$10,000), objective measurement survey, \$14,750 (\$14,000), and reserve for contingencies, \$142,400 (\$55,810). The Committee also recommended employee benefit expenses of \$2,500 and export program funding of \$50,000 for travel and \$350,000 for foreign program administration, for which no funding was recommended last year.

The Committee also provided for \$1,652,750 for certain expenses likely to be incurred in connection with the 1994-95 raisin reserve pools for Natural (sun-dried) Seedless and Zante Currant raisins. In addition, a pool currently exists for Other Seedless raisins, and the Committee will make a decision on or before February 15, 1995, on whether or not this pool will be continued. Pool expenses are deducted from proceeds obtained from the sale of reserve raisins. These expenses are \$766,150 more than the \$886,600 for 1993-94 reserve pool expenses.

The larger administrative and reserve pool expenses result from the Committee's takeover of certain industry export marketing activities and the fact that the Natural (sun-dried) Seedless raisin crop is larger than last year. This

large crop, and the pooling of Zante Currant raisins for the first time in many years, will result in a large quantity to be pooled and increased costs. These costs will be even larger if Other Seedless raisins are pooled. Reserve pool expenditures are reviewed annually by the Department.

A California State raisin marketing order was terminated in 1994. Its administrative agency, the California Raisin Advisory Board (CALRAB), formerly conducted marketing promotion and paid advertising activities here and abroad for the California raisin industry.

The Committee is taking over the funding and administration of the Market Promotion Program (MPP). The MPP, administered by the Department's Foreign Agricultural Service (FAS), encourages the development, maintenance, and expansion of export markets for agricultural commodities like raisins.

Recently, the FAS redirected MPP funds allocated to CALRAB for foreign promotion and advertising to the Committee which desires to use the funds to continue the industry's strong overseas promotion and advertising activities. To receive the full allocation (\$4,479,549), the Committee must be able to show that it plans to spend, from industry sources, an amount equal to 50 percent of that allotment (\$2,239,975). This spending can be for administration or promotion. The Committee recommended that the increased spending necessary to meet the required MPP matching figure be funded through increased handler assessments, reserve pool funds, and merchandising incentive program funds.

Under the marketing order's volume regulation provisions, marketing percentages (free and reserve) for a varietal type can be implemented to stabilize supplies. The free percentage prescribes the portion of the crop that can be shipped immediately to any market. The reserve percentage prescribes the portion of the crop to be held for later shipment. Reserve raisins are held in a reserve pool by handlers for the account of the Committee. Funds generated from the sales of reserve raisins, after deduction of reserve pool expenses, are distributed equally to equity holders in the pool (producers).

A Committee implemented merchandising incentive program promotes the consumption of California raisins in foreign markets. For various countries, cash rebates and advertising/promotion incentives are offered to qualifying importers. Funds used to pay the incentives are derived from reserve pool sales.

The Committee's MPP match of \$2,239,775 will be made up of \$1,249,775 in Committee domestic and overseas administration costs and \$990,000 in industry market promotion funds. Domestic administration costs include \$238,560 in employee salaries and benefits and \$252,215 for MPP overhead costs. The overhead costs include expenditures for Committee staff to travel overseas (\$100,000), Committee delegation trips (\$50,000), rent (\$28,500), insurance (\$1,600), telephone (\$7,500), postage (\$6,000), office supplies, (\$2,500), repairs and maintenance (\$2,000), audit fees (\$15,000), local travel (\$3,000), equipment (\$5,000), and miscellaneous expenses (\$31,715).

The overseas costs of \$714,000 include funding for the Committee's overseas marketing representatives and their staffs for nine countries (United Kingdom, Germany, Japan, Singapore, Philippines, Thailand, Malaysia, China, and Hong Kong). The costs include salaries and benefits, travel, office rent, office supplies, utilities, and postage. The representatives will handle the administration and day-to-day details of the marketing activities conducted in these countries.

The domestic and overseas administrative and overhead costs for the MPP will be paid with handler administrative assessments and reserve pool proceeds. Most of the major expense items for the MPP (employees salaries and benefits, domestic and overseas travel, and office rent) will be shared equally between administrative and reserve pool funds.

A total of \$1,442,325 was available for the Committee's merchandising incentive program this year. Of that amount, a total of \$990,000 will qualify for the MPP match. The Committee plans to use these funds for authorized promotion activities in Japan.

The Committee unanimously recommended an assessment rate of \$4.00 per ton, which is \$2.20 more than last year. This rate, when applied to anticipated acquisitions of 331,000 tons, will yield \$1,324,000 in assessment income, which will be adequate to cover anticipated administrative expenses. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected.

An interim final rule was published in the **Federal Register** on October 31, 1994 (59 FR 54379). That interim final rule added § 989.345 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could

file comments through December 30, 1994. No comments were received.

While this action will impose some additional costs on handlers and producers, the costs on handlers are in the form of uniform assessments, and those on producers will be shared equally by all equity holders in the 1994-95 reserve pool for Natural (sun-dried) Seedless raisins. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1994-95 crop year began on August 1, 1994. The marketing order requires that the rate of assessment for the crop year apply to all assessable raisins handled during the crop year. In addition, handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

#### **List of Subjects in 7 CFR Part 989**

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

#### **PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA**

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 59 FR 54379 on October 31, 1994, is adopted as a final rule without change.

Dated: January 18, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division*  
[FR Doc. 95-1749 Filed 1-23-95; 8:45 am]

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#### **Animal and Plant Health Inspection Service**

##### **9 CFR Part 91**

[Docket No. 93-031-2]

#### **Inspection of Animals for Export to Mexico or Canada**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning the inspection and handling of livestock for exportation by requiring that all animals intended for exportation other than by land (that is to say, by air or sea) to Mexico or Canada receive a final inspection by an Animal and Plant Health Inspection Service veterinarian at an export inspection facility at a designated port of embarkation. We have determined this action is necessary to help ensure that only healthy animals are exported from the United States.

**EFFECTIVE DATE:** February 23, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael David, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, in February. Telephone: (301) 436-7511 (Hyattsville); (301) 734-7511 (Riverdale).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United States. Section 91.3(a) requires, among other things, that all animals intended for exportation to Mexico or Canada, except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico, be accompanied from the State of origin of the export movement to the border of the United States by an origin health certificate. Section 91.3(b) requires, among other things, that all animals in export shipments, except animals intended for export to Mexico or Canada, be inspected, tested, or treated as prescribed in the regulations before the movement of the export shipment to the export inspection facility. Section 91.14(a) requires that all animals, except animals being exported to Mexico or Canada, be exported through designated

ports of embarkation with export inspection facilities that meet the standards for export inspection facilities specified in § 91.14(c). Section 91.15(a) requires that all animals offered for exportation to foreign countries, except Mexico or Canada, be inspected by an Animal and Plant Health Inspection Service (APHIS) veterinarian at either: (1) An export inspection facility at a port designated in § 91.14(a); or (2) in special cases, at a port or inspection facility designated by the Administrator under § 91.14(b).

On April 26, 1994, we published in the **Federal Register** (59 FR 21675–21676, Docket No. 93-031-1) a proposal to amend the regulations by requiring that all animals intended for exportation other than by land (that is to say, by air or sea) to Mexico or Canada receive a final inspection by an APHIS veterinarian at an export inspection facility at a designated port of embarkation to help ensure that only healthy animals are exported from the United States.

We solicited comments concerning our proposal for 60 days ending June 27, 1994. We received three comments by that date. They were from one producer and two horse industry organizations. We carefully considered these comments, which are discussed below by topic.

#### **Basis for Change**

One commenter stated that there is no evidence that unhealthy horses are being exported to Canada or Mexico, or that Canadian or Mexican officials are concerned about the problem. The commenter stated further that if these countries are concerned, they and not APHIS need to address the problem. We have made no change in response to this comment. It is the responsibility of the Secretary of Agriculture to ensure that only healthy horses and other livestock are exported from the United States (21 U.S.C. 105, 112, 113, 612 and 614).

One commenter stated that the present regulations, which require the animals to be accompanied from the State of origin to the port of embarkation by an origin health certificate, are sufficient. We have made no change based on this comment. We agree that the present regulations are sufficient for animals traveling by land to Canada or Mexico because of the follow-up inspection at the border. However, animals identified on the origin health certificate may have been inspected at any time within 30 days prior to the date of the export movement. We believe that a final inspection at the port of embarkation is necessary for animals shipped to Canada or Mexico by air or