reduce it. To establish the appropriate factor for reducing the production to count to take into consideration an amount of damaged production, the regulation should have stated that the price per bushel received for damaged production would be divided by the established value of undamaged production.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 7 CFR Part 457

Malting Barley Crop Insurance.

## PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1991 AND SUBSEQUENT CONTRACT YEARS

Accordingly, 7 CFR Part 457 is corrected by making the following correcting amendments:

1. On page 8856 in the second column, section 4(b)(2) of Option A is corrected to read ''Dividing the price per bushel received for the damaged production by the result of paragraph (1); and''

2. On page 8857 in the second column, section 4(b)(2) of Option B is corrected to read ''Dividing the price per bushel received for the damaged production by the result of paragraph (1); and''

Signed in Washington, D.C., on May 23, 1996.

Kenneth D. Ackerman,

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 96–13591 Filed 5–30–96; 8:45 am]

**BILLING CODE 3410–FA–P**

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## Agricultural Marketing Service

## 7 CFR Part 925

**[Docket No. FV95–925–1FIR]**

## Grapes Grown in a Designated Area of Southeastern California; Revision of Container Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, the provisions of an interim final rule with correction which added two new containers to the list of containers authorized for use by table grape handlers regulated under the marketing order. This rule also reduces the minimum net weight of containers of California table grapes from 22 pounds to 20 pounds and for grapes packed in poly bags from 20 pounds to 18 pounds. The marketing order regulates the handling of table grapes grown in a designated area of Southeastern California. The marketing order is locally administered by the California Desert Grape Administrative Committee (CDGAC). This rule allows for more efficient use of containers and helps handlers meet industry needs.

**EFFECTIVE DATE:** July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 690–3670; or Rose M. Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Order No. 925 [7 CFR Part 925], as amended, regulating the handling of table grapes grown in a designated area of Southeastern California, hereinafter referred to as the ''order.'' The order is 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 final rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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.

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.

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 20 handlers of California table grapes subject to regulation under the order and approximately 80 table grape producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A minority of handlers and producers are classified as small entities.

This rule finalizes changes in the container requirements under the marketing order for grapes grown in designated areas of Southeastern California. This rule also finalizes a reduction in the minimum net weight of containers of California table grapes from 22 pounds to 20 pounds and for grapes packed in poly bags from 20 pounds to 18 pounds. These changes were unanimously recommended by the CDGAC.

An interim final rule was issued on March 11, 1996, and published in the Federal Register (61 FR 11127, March 19, 1996), with an effective date of March 19, 1996. That rule amended § 925.304 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended April 18, 1996. No comments were received. A correction document was issued on March 25, 1996, and published in the Federal Register (61 FR 14013, March 29, 1996). The document corrected amendatory language number 2 of the interim final rule.

This action is in accordance with § 925.52(a)(4) of the order. This section authorizes the Secretary to fix the size, capacity, weight, dimensions, markings,

materials, and pack of containers which may be used in the handling of grapes.

Prior to the effective date of the interim final rule, § 925.304 (b)(2) of the regulations specified that the minimum net weight requirement for grapes in any container, except for containers containing grapes packed in sawdust, cork, excelsior, or similar packing material, or packed in bags or wrapped in plastic or paper, and experimental containers, be 22 pounds based on the average net weight of grapes in a representative sample of containers. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers were required to meet a net weight requirement of 20 pounds.

Section 925.304 (b)(1) of the regulations specified the dimensions of six containers that could be used by handlers of table grapes and authorized the use of other types and sizes of containers on an experimental basis.

The CDGAC met on November 27, and December 4, 1995, and unanimously recommended changes in the container requirements. Specifically, the CDGAC recommended reducing the minimum net weight of containers from 22 to 20 pounds and for containers of grapes wrapped or packed in poly bags from 20 to 18 pounds, effective April 20, 1996. The CDGAC also unanimously recommended adding two new containers (38S, 12 x 20 inches) and (38T, 13⅛ x 15⅞ inches) to the list of authorized containers. These changes are intended to improve the quality of grapes delivered to consumers and reduce handling costs.

The genesis for discussion of revising containers used to pack grapes began about 6 years ago when the recyclability of packaging materials became of interest to consumers worldwide and then to retailers who bore the brunt of consumers' concern. In addition to the environmental concern expressed by consumers, retailers were concerned about the increasing costs of disposing of packing and shipping materials.

Simultaneously, in an effort to differentiate themselves in the marketplace, many in the retail industry began demanding that grape growers provide custom packs. One customer wanted only a certain type of bag, another wanted only 5-kilo bags, another wanted bags with nothing printed on them, while yet another wanted a special store code.

These kinds of demands from the retail and food service industry led to a great deal of packaging experimentation within the California grape industry. It also led to the realization that it had been 25 years since there had been any quantifiable packaging research. The industry decided to take a critical look at grape packaging and determine if current practices were getting the product to the retailer and ultimately the consumer in the best possible condition; and if not, what changes needed to be made to improve delivery. Toward that end, the California Table Grape Commission funded a three-year research project designed to answer a simple question: what types of containers get grapes to the consumer in the best possible condition?

Grapes are a fragile product. The current method of packing is a holdover from 25 years ago when grapes were sold at auctions and it was considered a marketing advantage to overpack the box so that when buyers looked at the box it was bulging with fruit. Too often though, what they did not see was the condition of the fruit inside; crushed, split or falling off the stem. In addition, the standard lug box in use today was designed to fit railroad cars. Shipping grapes by rail car is a part of the industry's past.

The study of table grape packaging was conducted by the University of California at Davis and the University of California at Kearney Agricultural Center at Parlier. The objective of the study was to develop knowledge concerning packaging that allows the movement of table grapes from the field to the consumer in the best possible condition. At the reduced weight, the damage to the grapes, particularly in terms of bruising, splitting and shattering, decreases. Table grapes of most varieties suffered considerable damage when packed at net weights of 22 or 23 pounds. The damage was reduced considerably when the pack weights were reduced to 20 to 21 pounds.

Through the research conducted the CDGAC determined that other container size and net weight options available were not in the best interest of the industry. Further, wholesalers and retailers support the recommended changes, and believe it is the best option.

Thus, the CDGAC's recommendation to reduce the minimum net weight requirements is expected to result in higher quality grapes being offered to consumers. This should increase satisfaction, strengthen demand, and improve returns to growers and handlers.

Most grapes packed in California are palletized on 35- x 42-inch or 53- x 42-inch pallets prior to shipment. When received by wholesalers or retailers, the grapes are unloaded and restacked on 48- x 40-inch pallets.

Grocery and wholesale warehouse operations use 48- x 40-inch pallets as the standard pallet for most products. The bulk of product sold at retail outlets (e.g., cereal, paper products, canned goods, etc.) are dry goods. These products are generally shipped on 48- x 40-pallets. Consequently, the distribution channel is set up to accommodate 48- x 40-inch pallets.

Nonstandard pallets such as those used by grape handlers have to be disposed of at the receivers' expense. However, with the use of 48- x 40-inch pallets, which can be recycled, there should be a reduction in expenses associated with pallets. The recycling program allows the receiver to use the pallet more than once or remove it from the waste stream to use or sell.

The changes in container requirements are supported by the California Department of Agriculture, the California Grape and Tree Fruit League, the California Table Grape Commission, the Food Marketing Institute, and the National Association of Perishable Agricultural Receivers. These organizations have all agreed that the reduction in net weight is necessary to facilitate the implementation of an industry-wide adoption of the standardized 48- x 40-inch pallet and the incidence of damage to fruit due to over packing.

Thus, this rule allows the industry to use more efficient containers and provides handlers with more flexibility in packing table grapes. Imported table grapes will not be affected by this rule.

Based on the above, 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 material presented, including the CDGAC's recommendation, and other available information, it is found that finalizing the interim final rule, which was published in the Federal Register (61 FR 11127, March 19, 1996) and corrected in the Federal Register (61 FR 14013, March 29, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is amended as follows:

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

## PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 925 which was published at 61 FR 11127, March 19, 1996, and corrected at 61 FR 14013, March 29, 1996, is adopted as a final rule.

Dated: May 22, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96–13616 Filed 5–30–96; 8:45 am]

BILLING CODE 3410–02–P

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## 7 CFR Part 947

**[Docket No. FV96–947–1IFR]**

## Oregon-California Potatoes; Assessment Rate

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes an assessment rate for the Oregon-California Potato Committee (Committee) under Marketing Order No. 947 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Oregon-California. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective on July 1, 1996. Comments received by July 1, 1996, 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 in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, FAX 202–720–5698, or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724, FAX 503–326–7440.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Oregon-California, hereinafter referred to as the ''order.'' The order is 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 12778, Civil Justice Reform. Under the marketing order now in effect, Oregon-California potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

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.

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 550 producers of Oregon-California potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order. 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. The majority of Oregon-California potato producers and handlers may be classified as small entities.

The Oregon-California potato marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Oregon-California potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on March 28, 1996, and unanimously recommended 1996–97 expenditures of $61,200 and an assessment rate of $0.005 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $46,200. The assessment rate of $0.005 is $0.001 less than last year's established rate. Major expenditures recommended by the Committee for the 1996–97 year include $30,000 for an agreement with the Oregon Potato Commission to provide services to the Committee and $8,100 for a contingency fund. Budgeted expenses for these items in 1995–96 were $24,000 and $100, respectively. The contingency fund was increased as the Committee is considering a possible marketing research and development project in conjunction with the Oregon Potato Commission.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Oregon-California potatoes. Potato shipments for the year