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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 925

[Docket No. FV98-925-1 FIR]

#### Grapes Grown in a Designated Area of Southeastern California; Temporary Suspension of Continuing 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 which suspended the continuing assessment rate for the Desert Grape Administrative Committee (Committee) under Marketing Order No. 925 for the 1998 fiscal period. The Committee is responsible for local administration of the marketing order, and recommended that no handler assessments be collected in 1998. It made this recommendation because it has enough reserve funds to cover 1998 fiscal year expenses and expenses expected during the first several months of fiscal year 1999, and to keep its operating reserve within the maximum permitted under the marketing order. The assessment rate will apply again during fiscal year 1999 to cover expenses and to replenish the Committee's reserve funds. That rate will continue in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** April 27, 1998.

**FOR FURTHER INFORMATION CONTACT:** Diane Purvis, Marketing Assistant, or Rose Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 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) 205-6632. 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) 205-6632.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in southeastern 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California grape handlers are subject to assessments. Funds to administer the order are derived from such assessments. In 1997, an assessment rate of \$.01 per lug of grapes was fixed by the Secretary to continue in effect indefinitely unless modified, suspended, or terminated. This action continues to suspend that assessment rate for the 1998 fiscal year. The assessment rate again will apply in fiscal year 1999, and it will be applicable to all assessable grapes beginning January 1, 1999, and continue in effect 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.

This rule continues to temporarily suspend § 925.215 of the order's rules and regulations. Section 925.215 established an assessment rate of \$0.01 per lug for fiscal period 1997 and subsequent fiscal periods. Continuous assessment rates remain in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary. This rule continues to suspend the \$0.01 assessment rate for the 1998 fiscal period.

Section 925.41 of the grape 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. In addition, § 925.42 authorizes the use of reserve funds to cover program expenses. The members of the Committee are producers and handlers of California grapes. 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. Recommendations concerning the assessment rate were formulated and discussed in a public meeting. Thus, all directly affected persons had an opportunity to participate and provide input.

The Committee met on November 12, 1997, and unanimously recommended carrying over the 1997 reserve fund of almost \$190,000, adopting a budget of \$160,619, and suspending the assessment rate of \$0.01 per lug of grapes for the 1998 fiscal period. The Committee determined that sufficient funds would be available to meet expected 1998 fiscal period expenses, and to cover anticipated expenses during the first few months of fiscal year 1999, before handler assessments are collected. The Committee discussed alternatives to this rule, including not

suspending the assessment rate, but concluded that an assessment rate for 1998 would not be necessary because sufficient reserve funds and interest income would be available to meet 1998 fiscal period expenses, and early season expenses in 1999. Also, the Committee recommended that the major expenditures for the 1998 fiscal period should include \$100,000 for research, \$25,000 for the sheriff's patrol, and \$9,109 for the manager's salary. Budgeted expenses for these items in 1997 were \$100,000 for research, \$25,000 for compliance purposes, and \$8,675 for the manager's salary. Funds in the reserve will be kept within the maximum permitted by the order (approximately one fiscal period's expenses; § 925.42).

The temporary suspension of the continuing assessment rate is effective only for the 1998 fiscal period. The assessment rate of \$0.01 per lug will apply again during the 1999 fiscal period, unless subsequent action to suspend or revise this rate is taken by the Department.

Prior to the 1999 fiscal period, and prior to or during each successive fiscal period, the Committee will continue to meet to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998 budget has been approved; and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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 final 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 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 27 handlers of California grapes subject to regulation under the marketing order and approximately 80 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. Ten of the 27 handlers subject to regulation have annual grape sales of at least \$5,000,000, excluding receipts from any other sources. The remaining 17 handlers have annual receipts less than \$5,000,000, excluding receipts from any other sources. In addition, 70 of the 80 producers subject to regulation have annual sales of at least \$500,000, excluding receipts from any other sources. The remaining 10 producers have annual sales less than \$500,000, excluding receipts from any other sources. Therefore, a majority of handlers and a minority of producers are classified as small entities.

This rule continues to suspend § 925.215 of the order's rules and regulations, which established an assessment rate of \$0.01 per lug for fiscal period 1997 and subsequent fiscal periods. This suspension is in effect for the 1998 fiscal period.

The Committee discussed alternatives to this rule, including not suspending the assessment rate, but concluded that no assessment rate is necessary for 1998 because funds in the reserve and interest income would be adequate to meet 1998 fiscal period's expenses, and expenses for the first several months of fiscal year 1999. Also, the Committee recommended that the major expenditures for the 1998 fiscal period include \$100,000 for research, \$25,000 for the sheriff's patrol, and \$9,109 for the manager's salary. Budgeted expenses for these items in 1997 were \$100,000 for research, \$25,000 for compliance purposes, and \$8,675 for the manager's salary. Funds in the reserve will be kept within the maximum permitted by the order (approximately one fiscal period's expenses; § 925.42).

Handler costs will be reduced during the 1998 fiscal year, as assessments will not be collected. The Committee's meeting was widely publicized throughout the grape 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 12, 1997, meeting was a public meeting and all entities, both large and small, were able to express

views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California grape 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 rule.

An interim final rule concerning this action was published in the **Federal Register** on December 31, 1997 (62 FR 68150). Copies of that rule were also mailed or sent via facsimile to all grape handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on March 2, 1998, and no comments were received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that a continuing assessment rate on handlers during the 1998 fiscal period no longer tends to effectuate the declared policy of the Act. The suspension shall continue only through December 31, 1998, at which time it shall terminate and the suspended assessment rate specified in § 925.215 will apply again beginning January 1, 1999.

#### **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:

#### **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 62 FR 68150 on December 31, 1997, is adopted as a final rule without change.

Dated: March 20, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-7941 Filed 3-25-98; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-CE-131-AD; Amendment 39-10342; AD 98-04-30]

RIN 2120-AA64

#### Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG-500M Gliders

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This action confirms the effective date of Airworthiness Directive (AD) 98-04-30, which applies to Glaser-Dirks Flugzeugbau GmbH Model DG-500M gliders. AD 98-04-30 requires repetitively inspecting the propeller mounting plate for cracks, replacing any cracked propeller mounting plate, and modifying the bolt connections of the propeller mounting plate. This AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified in this AD are intended to prevent the propeller mounting plate from separating from the glider, which could result in propeller separation and possible loss of control of the glider.

**EFFECTIVE DATE:** May 15, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6934; facsimile: (816) 426-2169.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with request for comments in the **Federal Register** on February 26, 1998 (63 FR 9743). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such

an adverse comment, was received within the comment period, the regulation would become effective on May 15, 1998. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, Missouri, on March 20, 1998.

**Marvin R. Nuss,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98-7887 Filed 3-25-98; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-171-AD; Amendment 39-10349, AD 98-04-37]

#### Airworthiness Directives; Sabreliner Model NA-265-40, -60, -70, and -80 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a typographical error that appeared in the applicability statement of airworthiness directive (AD) 98-04-37, amendment 39-10349, that was published in the **Federal Register** on February 18, 1998 (63 FR 8086). Although the AD referred to the airplane models by using the commonly accepted designations, the typographical error resulted in the omission of the correct and complete type certification name of the specific airplane models addressed by this AD. This AD is applicable to all Sabreliner Model NA-265-40, -60, -70, and -80 series airplanes and requires revising the Airplane Flight Manual (AFM) to specify procedures that would prohibit flight in severe icing conditions (as determined by certain visual cues), limit or prohibit the use of various flight control devices while in severe icing conditions, and provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions.

**EFFECTIVE DATE:** March 25, 1998.

**FOR FURTHER INFORMATION CONTACT:** Charles Riddle, Program Manager, Flight Test and Program Management, ACE-117W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4144; fax (316) 946-4407.

#### SUPPLEMENTARY INFORMATION:

Airworthiness Directive (AD) 98-04-37, amendment 39-10349, applicable to all Sabreliner Model NA-265-40, -60, -70, and -80 series airplanes, was published in the **Federal Register** on February 18, 1998 (63 FR 8086). That AD requires revising the Airplane Flight Manual (AFM) to specify procedures that would prohibit flight in severe icing conditions (as determined by certain visual cues), limit or prohibit the use of various flight control devices while in severe icing conditions, and provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions.

As published, that AD contained an inadvertent omission of the complete name of the airplane models in the applicability statement of the AD. Throughout the preamble and in the applicability statement of that AD, the FAA referred to "Sabreliner Model 40, 60, 70, and 80 series airplanes." However, the certificate authorizing type design authority for these series airplanes identifies the models as "Sabreliner Model NA-265-40, -60, -70, and -80 series airplanes." Although common and standard reference to these models may not include the phrase "NA-265," as listed in the type certificate, the FAA has determined that omission of part of the official designation of the airplane models must be corrected. In all other respects, the original document is correct.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains March 25, 1998.

#### § 39.13 [Corrected]

On page 8089, in the first column, the applicability statement of AD 98-04-37 is corrected to read as follows:

\* \* \* \* \*

*Applicability:* Model NA-265-40, -60, -70, and -80 series airplanes equipped with pneumatic deicing boots, certificated in any category.

\* \* \* \* \*

Issued in Renton, Washington, on March 19, 1998.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98-7878 Filed 3-25-98; 8:45 am]

BILLING CODE 4910-13-P