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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV99–989–2 IFR]

Raisins Produced From Grapes Grown In California; Increase in Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established under the Federal marketing order for California raisins (order) from $5.00 to $8.50 per ton for raisins acquired by handlers for the 1998–99 and subsequent crop years. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year runs from August 1 through July 31. The 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation will only be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton assessment rate will not generate enough revenue to cover expenses. The $8.50 per ton assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: February 25, 1999. Comments which are received by April 26, 1999, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moabdocket__clerk@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.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, 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, or Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in 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 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. It is intended that the assessment rate as issued herein will apply to all assessable raisins beginning August 1, 1998, the beginning of the 1998–99 crop year, 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. 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 in equity 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 increases the assessment rate established under the order for the 1998–99 and subsequent crop years from $5.00 to $8.50 per ton of raisins acquired by handlers. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation will be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton rate of assessment will not generate enough revenue to cover expenses. This action was unanimously recommended by the Committee at a meeting on January 15, 1999.

Sections 989.79 and 989.80, respectively, of the Federal order for California raisins provide 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 California raisins. 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.

An assessment rate of $5.00 per ton for raisins acquired by handlers has been in effect under the Federal order since the 1996–97 crop year (61 FR 52684; October 8, 1996). Regarding the 1998–99 crop year, the Committee met on August 13, 1998, and recommended administrative expenditures of $1,655,000 for the year. Major administrative expenditures included $545,500 for export program administration and related activities; $478,000 for salaries; and $100,000 for compliance activities. These expenditures were approved by the Department on August 18, 1998. At that time, the Committee estimated the crop at about 321,400 tons, and anticipated that 333,000 tons of raisins would be acquired by handlers during the 1998–99 crop year (included about 59,800 tons of 1997 reserve raisins sold to handlers for free use). The $5.00 per ton assessment rate was expected to generate $1,665,000 in revenue which would have allowed the Committee to meet its administrative expenses.

Section 989.79 of the order also provides authority for the Committee to formulate an annual budget of expenses likely to be incurred during the crop year in connection with reserve raisins held for the account of the Committee. A certain percentage of each year's raisin crop may be held in a reserve pool during years when volume regulation is implemented to help stabilize raisin supplies and prices. The remaining ''free'' percentage may be sold by handlers to any market. Reserve raisins are disposed of through various programs authorized under the order. Reserve pool expenses are deducted from proceeds obtained from the sale of reserve raisins. Net proceeds are returned to the pool's equity holders, primarily producers.

At its August 1998 meeting, the Committee recommended a 1998–99 reserve pool budget of $2,941,500. Major pool expenses included $1,050,000 for insurance and repair of bins for storing reserve raisins; $545,500 for export program administration and related activities; $462,000 for salaries; and $235,000 for compliance activities.

Adverse crop conditions during the spring of 1998 created by the weather phenomenon known as El Nino, combined with scattered rain and a labor shortage during harvest contributed to a smaller 1998–99 raisin crop than initially anticipated. Also, reserve pools were initially established in October 1998 for five of the nine varietal types of raisins covered under the order—Natural (sun-dried) Seedless (Naturals), Zante Currants (Zantes), Dipped Seedless, Oleate and Related Seedless, and Other Seedless—when the Committee computed and announced preliminary free and reserve marketing percentages pursuant to § 989.54. In November 1998, the Committee determined that volume regulation was not warranted for Dipped Seedless, Oleate and Related Seedless, and Other Seedless raisins.

The Committee met on January 15, 1999, to review crop conditions, its financial situation, and various marketing order programs. The Committee reduced its production estimate from 321,000 to 276,500 tons, and reduced its estimate of assessable tonnage from 333,000 to 315,000 tons. The Committee also determined that volume regulation was not warranted for Naturals and all other varietal types, but is warranted for Zantes, for the 1998–99 crop year. This is the first time in 16 years that volume regulation for Naturals has not been implemented.

With a smaller 1998 crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which will be utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. The expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll, taxes, retirement contributions, insurance, rent for office space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs.

Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets, such as for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which includes an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget. Major expenses to be funded through handler assessments now include $940,000 in salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys.

The Committee recommended increasing its assessment rate from $5.00 to $8.50 per ton of raisins acquired by handlers. The $8.50 per ton assessment rate when applied to anticipated acquisitions of 315,000 tons will yield $2,677,500 in assessment income which will be adequate to cover anticipated administrative expenses. Authority for the Committee to recommend an increase in the assessment rate during a crop year to obtain sufficient funds to meet expenses is provided in § 989.80(c) of the order. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information. Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year 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 1998–99 revised budget and those for subsequent crop years 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 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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule increases the assessment rate established under the Federal order for the 1998–99 and subsequent crop years, as specified in § 989.347, from $5.00 to $8.50 per ton of raisins acquired by handlers. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Committee. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated due to adverse weather conditions and a labor shortage during harvest. Further, for this crop year, volume regulation will be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton rate of assessment will not generate enough revenue to cover expenses.

With a smaller crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante Currant reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which will be utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. Those expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll taxes, retirement contributions, insurance, rent for office, space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs. Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets. These included adjustments for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which includes an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget.

The $8.50 per ton assessment rate, when applied to anticipated acquisitions of 315,000 tons, will yield $2,677,500 in revenue and allow the Committee to meet expenses, which include $940,000 for salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys. Authority for the Committee to incur expenses, generate revenue by assessing raisin handlers, and increase the assessment rate during a crop year is provided in §§ 989.79 and 989.80 of the order, respectively.

Regarding the impact of this rule on handlers and producers, while assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. With the 1998–99 producer price for Naturals, the major raisin varietal type covered under the order, averaging $1,290 per ton of raisins acquired, estimated assessment revenue for the 1998–99 crop year as a percentage of total producer revenue is expected to be less than 2 percent. The increased assessment rate will allow the Committee to meet its expenses and continue program operations. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The Committee considered some alternatives to the recommended action. The Committee's Audit Subcommittee formed a working group which held a meeting on December 16, 1998, to discuss revisions to the budget. The Audit Subcommittee held a follow-up meeting on January 6, 1999. Alternatives discussed at these meetings were based on the assumption that no volume regulation would be in effect for any varietal type of California raisins for the remainder of the crop year. Accordingly, one option considered was to have the 1998 administrative budget absorb all of the operating costs that are typically split between the administrative and reserve pool budgets, and increase the assessment rate to $11.50 per ton of raisins acquired to cover these costs. However, the majority of subcommittee members determined that the increase in expenses should be funded more appropriately with 1998–99 handler assessments and proceeds from the anticipated 1998 reserve pool for Zantes, and the existing 1997 reserve pools for Naturals and Zantes, respectively.

The working group and subcommittee members also considered various scenarios regarding the itemized expenses, estimate of assessable tonnage, and necessary assessment income. Ultimately, the Committee determined that volume regulation will only be warranted for Zantes, that administrative expenses should be increased to $2,677,500, that the estimate of assessable tonnage should be reduced from 333,000 to 315,000 tons, and that the assessment rate should be increased to $8.50 per ton of raisins acquired by handlers.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin 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. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's working group meeting on December 16, 1998, subcommittee meeting on January 6, 1999, and the Committee meeting on January 15, 1999, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final 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 rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to begin assessing handlers at the $8.50 rate as soon as possible to generate sufficient revenue to meet its expenses; (2) the 1998–99 crop year began on August 1, 1998, and the order requires that the rate of assessment for each crop year apply to all raisins acquired during such crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this rule provides for a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

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

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.347 is revised to read as follows:

§ 989.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $8.50 per ton is established for assessable raisins produced from grapes grown in California.

Dated: February 17, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–4540 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–74–AD; Amendment 39–11050; AD 98–24–03]

RIN 2120–AA64

Airworthiness Directives; BMW Rolls-Royce GmbH Models BR700–710A1–10 and BR700–710A2–20 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–24–03 that was sent previously to all known U.S. owners and operators of BMW Rolls-Royce GmbH (BRR) Models BR700–710A1–10 and BR700–710A2–20 turbofan engines by individual letters. This AD requires repetitive visual inspections of the fairing and fasteners for correct installation and damage, and verification that the engine core fairing fasteners are torqued to the higher torque value. This amendment is prompted by a report of an engine compressor core fairing failure during engine ground runs. The actions specified by this AD are intended to prevent engine compressor or combustion core fairing detachment and damage to the engine bypass duct, resulting in engine failure and damage to the aircraft.

DATES: Effective March 11, 1999, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–24–03, issued on November 12, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 11, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 98–ANE–74–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The applicable service information may be obtained from BMW Rolls-Royce GmbH, Eschenweg 11, D–15827 Dahlewitz, Germany; telephone 011–49–33–7086–1883; fax 011–49–33–7086–3276. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On November 12, 1998, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive (AD) 98–24–03, applicable to BMW Rolls-Royce GmbH (BRR) Models BR700–710A1–10 and BR700–710A2–20 turbofan engines, which requires visual inspections of the fairing and fasteners to ensure proper installation and for cracks or damage, and if cracked or damaged, replacement with serviceable parts, and also requires that the engine core fairing fasteners be torqued to a higher torque value. That action was prompted by a report of an engine compressor core fairing failure during engine ground runs on a BRR Model BR700–710A1–10 turbofan engine installed on a Gulfstream G–V model aircraft. Preliminary investigation indicates that the upper right compressor core fairing became detached and lodged in the engine bypass duct. The engine bypass duct was substantially damaged, resulting in engine removal. Following the event, additional in-field engine inspections of the compressor and combustion core fairings found some engine core fairing fasteners that were cracked, loose, not engaged, or no longer engageable.

The FAA received a comment to the Priority Letter AD recommending that