

projected at \$24.9 million, and trust fund balances would be \$11.9 million.

This action will raise the fees charged to users of grading services. The AMS estimates that overall, this rule will yield an additional \$0.5 million during FY 2001. The hourly rate for resident and nonresident service will increase by approximately 4 percent and the fee rate will increase by approximately 6 percent. The impact of these rate changes in a poultry plant will range from less than 0.002 to 0.02 cents per pound of poultry handled. In a shell egg plant, the range will be less than 0.009 to 0.09 cents per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581-0128; and § 70.77(a)(4)—No. 0581-0127.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**. The revised fees need to be implemented on an expedited basis in order to avoid further financial losses in the grading program. The effective date of the fee increase will be set to coincide with the billing cycle that begins on the first day of the first month after date of publication in the **Federal Register**.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 56 and 70 are amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

2. Section 56.46 is revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be \$51.32 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$59.12 per hour. Information on legal holidays is available from the Supervisor.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

3. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621-1627.

4. Section 70.71 is revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be \$51.32 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$59.12 per hour. Information on legal holidays is available from the Supervisor.

Dated: September 21, 2000.

Kathleen A. Merrigan,
Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV00-989-5 IFR]

Raisins Produced From Grapes Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Raisin Administrative Committee (Committee) for the 2000-01 and subsequent crop years from \$8.50 to \$6.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The Committee locally administers the Federal marketing order which regulates the handling of raisins produced from grapes grown in California (order). 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 assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 28, 2000. Comments received by November 27, 2000, 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) 720-5698, 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: Maureen T. Pello, 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) 720-5698.

Small businesses may request information on complying with this regulation 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.Guerber@usda.gov.

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 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. Under the marketing order now in effect, California raisin 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 raisins beginning on August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, 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 decreases the assessment rate established for the Committee for the 2000-01 and subsequent crop years from \$8.50 to \$6.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The order authorizes volume control provisions that establish free and reserve percentages of raisins acquired by handlers. Free tonnage raisins may be sold by handlers to any outlet, and reserve tonnage raisins are held by handlers for the account of the Committee or released or sold to handlers for sale to free tonnage outlets. Reserve raisins held for the account of the Committee are not assessable. With projected assessable tonnage about 23,300 tons higher than last year's assessable tonnage, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. This action was unanimously recommended by the Committee at a meeting on August 15, 2000.

Sections 989.79 and 989.80, respectively, of the order 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 of 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.

A continuous assessment rate of \$5.00 per ton was in effect for the 1996-97 and 1997-98 crop years. Due to short crops in 1998-99 and 1999-2000, the assessment rate for those years was raised to \$8.50 per ton.

Regarding the 2000-01 crop year, the Committee recommended decreasing the assessment rate to \$6.50 per ton of assessable raisins to cover recommended administrative expenditures of \$2,145,000. This compares to budgeted expenses of \$2,482,000 for the 1999-2000 crop year. Major expenditures include \$660,500 for export program administration and related activities, \$477,700 for salaries, \$476,300 for contingencies, and \$160,000 for compliance activities. Budgeted expenses for these items in

1999-2000 were \$549,500, \$425,000, \$506,250, and \$200,000, respectively.

The recommended \$6.50 per ton assessment rate was derived by dividing the \$2,145,000 in anticipated expenses by an estimated 330,000 tons of assessable raisins. The Committee recommended decreasing its assessment rate because the projected 2000-01 assessable tonnage of 330,000 tons is about 23,300 tons higher than last year's actual assessed tonnage. Thus, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and other 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 2000-01 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 firms are defined by the Small Business Administration (13 CFR 121.201) 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. 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. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities, excluding receipts from other sources.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2000–01 and subsequent crop years from \$8.50 to \$6.50 per ton of assessable raisins acquired by handlers. The Committee unanimously recommended 2000–01 expenses of \$2,145,000. Major expenditures include \$660,500 for export program administration and related activities, \$477,700 for salaries, \$476,300 for contingencies, and \$160,000 for compliance activities. Budgeted expenses for these items in 1999–2000 were \$549,500, \$425,000, \$506,250, and \$200,000, respectively. With anticipated assessable tonnage at 330,000 tons, about 23,300 tons higher than last year's actual assessed tonnage, sufficient income should be generated at the \$6.50 per ton assessment rate to meet expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The industry considered various alternative assessment rates prior to arriving at the \$6.50 per ton recommendation. The Committee's Audit Subcommittee met on August 8, 2000, to review preliminary budget information. The subcommittee considered keeping the assessment rate at \$8.50 per ton. However, this would have generated a projected \$1 million in excess funds. The subcommittee considered reducing the rate to \$7.50 per ton and ultimately recommended that rate to the Committee at its meeting on August 15, 2000. Other options were discussed at the Committee meeting, including decreasing the rate to \$5.00 per ton. After much deliberation, the Committee voted to decrease the assessment rate to \$6.50 per ton.

A review of statistical data on the California raisin industry indicates that

assessment revenue has consistently been less than one percent of grower revenue in recent years. Although no official estimates or data are available for the upcoming season, it is anticipated that assessment revenue will likely continue to be less than one percent of grower revenue in the 2000–2001 crop year, especially with the 24 percent decrease in the assessment rate.

Regarding the impact of this action on affected entities, this action decreases the assessment rate imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Audit Subcommittee's meeting on August 8, 2000, and the Committee's meeting on August 15, 2000, 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 information impact of this action on small businesses.

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 sectors agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <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 material presented, including the information and recommendation 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 rule until 30 days after publication in the **Federal Register** because: (1) The 2000–01 crop year began on August 1, 2000, and the order requires that the rate of assessment for each crop year apply to all assessable raisins acquired during the year; (2) this action decreases the assessment rate; (3) handlers are aware of this action which was unanimously recommended at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this rule provides 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 followed:

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, 2000, an assessment rate of \$6.50 per ton is established for assessable raisins produced from grapes grown in California.

Dated: September 21, 2000.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–24776 Filed 9–26–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 2048–00]

RIN 1115–AF75

National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Department of Veterans Affairs Facilities; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Correction to interim rule.