

suspended requirements during a season when the fruit shape and density were normal. This suspension was implemented by a final rule published on July 29, 1999 (64 FR 41010).

As previously mentioned, the 1999–2000 crop was approximately three million tray-equivalents shorter than estimated due to a severe frost during the spring of 1999. This shortage of fruit resulted in limited quantities of fruit available for evaluation. Because of the uncharacteristic fruit in the 1998–1999 season and the short crop in the 1999–2000 season, the Committee voted to suspend the minimum net weight requirement for another year of evaluation. Therefore, at its February 24, 2000, meeting, the Committee once again unanimously recommended continuing the suspension of § 920.302(a)(4)(iii) for another season, the 2000–2001 season. This suspension was implemented by a final rule issued June 14, 2000 (65 FR 37265) and is in effect until July 31, 2001.

The 2000–2001 season was normal and enabled the industry to conclude that the suspensions have helped handlers reduce packing costs and to compete more effectively in the marketplace. The Committee and the Federal-State Inspection Service also have concluded that removing the minimum tray weight requirements will not result in a reduction in inspection costs, as the inspection process is essentially the same. The Committee, at its February 28, 2001, meeting, unanimously recommended removing paragraph (a)(4)(iii) of § 920.302 for the 2001–2002 and all future seasons. The Committee also noted that the minimum size requirement should be maintained on all kiwifruit regardless of pack style.

These changes address the marketing and shipping needs of the kiwifruit industry and are in the interest of handlers, growers, buyers, and consumers. The impact of these changes is expected to be beneficial to all handlers and growers regardless of size.

The Committee discussed alternatives to this change, including continuing the temporary suspensions for another year. The industry believes that it has had adequate time to evaluate these changes. The suspensions helped handlers reduce packing costs and compete more effectively in the marketplace without an adverse affect on quality or appearance of the fruit. Therefore, the Committee recommended removal of §§ 920.155 and 920.302(a)(4)(iii) for the 2001–2002 and future seasons.

This rule relaxes inspection and pack requirements under the kiwifruit marketing order. Accordingly, this action will not impose any additional

reporting or recordkeeping requirements on either small or large kiwifruit 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.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

In addition, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 28, 2001, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on May 15, 2001 (66 FR 26810). Copies of the rule were mailed or sent via facsimile to all Committee members and kiwifruit handlers. Finally the rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending June 14, 2001, was provided to allow interested persons to respond to the proposal. No comments were received.

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 matter 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This rule removes the pack and inspection requirements which were suspended from August 1, 2000 to July 31, 2001; (2) the 2001–2002 harvest is expected to begin early September, and this rule should be in effect before that time so producers and handlers can make plans to operate under the relaxed requirements; and (3) the Committee unanimously recommended these changes at a public meeting and

interested parties had an opportunity to provide input.

#### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

#### PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part § 920 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

#### § 920.155 [Removed]

2. In part 920, § 920.155 is removed in its entirety.

#### § 920.302 [Amended]

3. In Section 920.302, paragraph (a)(4)(iii) is removed and paragraphs (a)(4)(iv), (v), and (vi) are redesignated as paragraphs (a)(4)(iii), (iv), and (v), respectively.

Dated: July 25, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–18947 Filed 7–26–01; 11:10 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 981

[Docket No. FV01–981–1 FR]

#### Almonds Grown in California; Revision of Requirements Regarding Quality Control Program

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

**ACTION:** Final rule.

**SUMMARY:** This rule revises the administrative rules and regulations of the California almond marketing order (order) pertaining to the quality control program. The order regulates the handling of almonds grown in California, and is administered locally by the Almond Board of California (Board). Under the order, handlers receiving almonds from growers must have them inspected to determine the percentage of inedible almonds in each lot. Based on these inspections, handlers incur an inedible disposition obligation. They must satisfy this obligation by disposing of inedible almonds or almond material in outlets such as oil and animal feed. This rule

will require at least 25 percent of each handler's disposition obligation to be satisfied by disposing of inedible almonds. Handlers with total annual inedible obligations of less than 1,000 pounds will be exempt from the 25 percent requirement. This rule will also implement a change requiring inedible obligation reports prepared by the Federal-State Inspection Service (inspection agency) to cover weekly rather than monthly periods, consistent with current practice. These changes will help remove more inedible product from human consumption channels, and improve program administration.

**EFFECTIVE DATE:** This final rule becomes effective on August 1, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Martin Engeler, Assistant Regional Manager, 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) 720-8938.

Small businesses may request information on compliance 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) 720-8938, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the "order." The marketing 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. 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.

This final rule revises the administrative rules and regulations pertaining to the quality control program under the California almond marketing order. The rule will require that at least 25 percent of handlers' inedible disposition obligations be satisfied by disposing of inedible almonds to accepted users of such product. Handlers with total annual inedible obligations of less than 1,000 pounds will be exempt from this requirement. The rule will also require inedible obligation reports prepared by the inspection agency to cover weekly rather than monthly periods. The Board initially recommended adding the 25 percent disposition requirement at a July 12, 2000, meeting. The Department subsequently requested additional information regarding reporting requirements and additional inspection costs. At a meeting on December 6, 2000, the Board provided the requested information and added a recommendation to change the reporting requirement to require inedible obligation reports prepared by the inspection agency to cover weekly rather than monthly periods. Both proposals were unanimously recommended by the Board.

Section 981.42 of the order provides authority for a quality control program. Section 981.42(a) requires handlers to obtain incoming inspection on almonds received from growers to determine the percent of inedible kernels in each lot of any variety. This information is then reported to the Board. Section 981.42(a) further requires handlers to dispose of a quantity of almonds or almond product to satisfy an inedible disposition obligation as determined by the incoming inspection. This section also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the

administration of the order's quality control provisions.

**Twenty-Five Percent Requirement**

Section 981.442 of the order's administrative rules and regulations specifies that the weight of inedible kernels in each lot of any variety of almonds in excess of 1 percent of the kernel weight received by a handler shall constitute that handler's disposition obligation. Handlers are required to satisfy the disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes on record with the Board as accepted users of such product. Accepted users dispose of this material to non-human consumption outlets. Currently, any of the aforementioned almond material can be used by handlers to satisfy any or all of their inedible disposition obligation. This rule requires that at least 25 percent of handlers' disposition obligations be satisfied with inedible kernels as defined under § 981.408 of the rules and regulations. Handlers with total annual inedible obligations of less than 1,000 pounds will be exempt from the 25 percent requirement.

The overall intent of the quality control program is to remove inedible almonds from product shipped to consumers. Inedible almonds are poor quality kernels or pieces of defective almonds that in some instances may contain aflatoxin. Removing inedible almonds from human consumption channels provides a better quality product to consumers.

When the quality control program was initially implemented, it was recognized that it was not commercially feasible for handlers to remove all inedible almonds during the course of processing. Thus, handlers were allowed to use other almond material besides inedible almonds to satisfy their inedible disposition obligation.

Over the years, changes have occurred in the industry. There has been a marked increase in the amount of almonds used in the manufacture of almond products. This has led to an increase in the amount of almond by-product material generated by handlers. Handlers can use this product to satisfy their disposition obligation. Because of the increased availability of this almond by-product material for use in satisfying the disposition obligation, handlers may be less diligent than in the past in removing inedible almonds from their finished product.

Changes in the marketplace have also created conditions allowing handlers to deliver product containing a higher level of inedible almonds to their customers. Buyers, especially those who process almonds into other products, accept almonds with a higher inedible content than in the past. They can purchase this type of product at reduced price levels and still meet their needs. Although there is a market for this product, handlers shipping product with a higher inedible content is not consistent with the intent of the quality control program, which is to remove inedible almonds from human consumption channels.

Finally, improvements in technology have enabled the delivery of a relatively clean product from shellers to handlers. Almonds are typically shelled, then delivered to handlers. In some instances, this product can meet a customer's specifications without further handler processing to remove inedible almonds.

The intent of the quality control program is to remove inedible almonds from product prior to shipment. Because of the aforementioned factors, the Board believes the intent of the quality control program is not sufficiently achieved. Therefore, the Board recommended requiring that at least 25 percent of handlers' disposition obligations be satisfied with inedible almonds. This change is designed to ensure that handlers remove more inedible almonds from their product prior to shipment. It is expected that this change will result in a higher quality product shipped to consumers and more inedible almonds being removed from human consumption channels, thereby better effectuating the intent of the Board's quality control program.

#### **Reporting Period Change**

Section 981.442(a)(3) of the regulations requires the Federal-State Inspection Service (inspection agency) to prepare a report for each handler showing the weight of almonds received and the inedible content, and provide copies of the report to the Board and handler. Section 981.442(a)(3) currently requires this report from the inspection agency to cover a period of one day or a period not exceeding one month.

In carrying out the quality control program under the order, the almond industry utilizes the inspection agency to perform the required inspections. Prior to the 2000–2001 crop year, the inspection agency issued a report covering a monthly period. At the beginning of the 2000–2001 crop year, the inspection agency began issuing a report covering weekly periods. This

period has made it easier for the Board to collect and disseminate statistical information to handlers in a more timely manner. To specify in the rules and regulations the current practice, the Board recommended revising § 981.442(a)(3) to require the inspection agency's report to the Board and handlers to cover weekly periods.

#### **Additional Change**

Finally, this rule adds clarifying language to the regulations regarding the mechanics of crediting the disposition obligation. The language clarifies that the handlers' disposition obligations are credited upon satisfactory completion of ABC Form 8, and states who the responsible parties are for completing ABC Form 8.

#### **Final Regulatory Flexibility Analysis**

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 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 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 106 handlers of California almonds who are subject to regulation under the order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been 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.

Data for the most recently completed season indicate that about 63 percent of the handlers ship under \$5,000,000 worth of almonds and 37 percent ship over \$5,000,000 worth on an annual basis. In addition, based on production and grower price data reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue was approximately \$98,000. In view of the foregoing, it can be concluded that the majority of producers of California almonds may be classified as small entities, excluding receipts from other sources.

This final rule revises the administrative rules and regulations pertaining to the quality control program under the California almond marketing order. Section 981.42 of the order provides authority for a quality control program. Section 981.42(a) requires almond handlers to obtain incoming inspection on almonds received from growers to determine the percent of inedible kernels in each lot of any variety. This information is reported to the Board by the inspection agency. Based on this incoming inspection, handlers incur an inedible disposition obligation. Handlers are then required to dispose of a quantity of almonds or almond material to accepted users of such product (basically, non-human consumption outlets) to satisfy their inedible disposition obligation. Section 981.42 also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the order's quality control provisions. Section 981.442 contains the rules and regulations used in administering the quality control program.

This rule will require that at least 25 percent of a handler's inedible disposition obligation be satisfied by disposing of inedible almonds to the appropriate outlets. Currently, handlers can dispose of various types of almonds and almond products to satisfy the obligation. The purpose of this 25 percent requirement is to help ensure that the intent of the program is being met, which is to remove inedible almonds from human consumption channels. The rule also modifies language to specify a reporting period for the inspection agency to not exceed one week rather than one day or a period exceeding one month. This change brings the language of the rules and regulations into conformity with reporting procedures currently being followed.

There will be no additional cost to the industry regarding this change. However, there will be additional costs associated with implementing the requirement that at least 25 percent of each handler's total inedible dispositions be satisfied with inedible almonds. Inspection costs will increase slightly. Section 981.442(a)(5) provides that the inspection agency must determine the almond content of each inedible disposition for each handler. That information is provided to the Board, and is credited against the appropriate handler's inedible disposition obligation after the disposition takes place. In order to implement the 25 percent requirement,

it will be necessary for the inspection agency to determine not only the almond content of the dispositions, but also the amount of inedible product in the almond material. This will require additional analysis of samples by the inspection agency. The inspection agency charges a per-ton fee and an hourly fee for inedible almond inspections. The per ton fee will not change. However, the number of hours required to implement the additional analysis is expected to increase. It is estimated that the average total number of hours spent on inedible almond inspections could increase up to 20 percent; that is, from 1,116 hours to 1,339 hours. At the rate of \$14 per hour, this would represent an estimated increase to the industry of approximately \$3,122.

While additional costs are expected due to this rule, there are also benefits. The intent of the quality control program under the order is to remove inedible almonds from human consumption channels and provide an improved quality product to consumers. It is difficult to estimate the potential benefits of this action in dollar terms. However, ensuring a good quality product to consumers leads to consumer satisfaction and repeat purchases, and contributes to orderly marketing.

Based on the foregoing, the Board believes that the costs of this rule will be outweighed by the benefits. This rule is expected to be beneficial to both the almond industry and consumers.

Handlers incurring total annual inedible obligations of less than 1,000 pounds will not be required to meet the 25 percent requirement. The approximately 30 handlers with such small obligations were allowed under previous regulations to deliver their inedible material to Board staff in lieu of an accepted user. Almond Board staff is not trained to perform inedible analysis on almond product, and it is thought that handlers with a 1,000 pound inedible obligation or less should not incur additional costs for analyzing such small amounts of product. This exemption is also consistent with the RFA goal of ensuring that regulatory actions do not disproportionately impact smaller businesses. Thus, the exemption is in order.

One alternative to the proposals is to leave the regulations unchanged. With regard to the inspection reporting period changes, that was not considered appropriate because current practice needs only to be specified in the language of the rules and regulations. Regarding the 25 percent inedible disposition requirement, leaving the program unchanged will not help

ensure inedibles are removed from human consumption channels. Because of the significant amount of almond by-product material available to satisfy disposition obligations, it is believed that some handlers can satisfy their entire inedible obligation with this material. This rule will help ensure inedibles are removed.

Another alternative is to require 100 percent of handlers' disposition obligations to be satisfied with inedible almonds. However, such a requirement would not be commercially feasible for handlers. The Board believes that setting a 25 percent requirement is a reasonable change to better reflect the intent of the program.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large almond handlers. The current information collection requirements referenced in this final rule have been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581-0071. 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.

In addition, the Board's meetings were widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the July 12, 2000, and December 6, 2000, meetings were public meetings and all entities, both large and small, were able to express their views on this issue. The Board itself is composed of ten members, of whom five are producers and five are handlers.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Quality Control Committee met on July 11, 2000, and on September 13, 2000, and discussed these issues. Those meetings were also public meetings and both large and small entities were able to participate and express their views.

A proposed rule concerning this action was published in the **Federal Register** on May 2, 2001 (66 FR 21888). Copies of the rule were mailed or sent via facsimile to all Board members and almond handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending June 1, 2001, was provided to allow interested

parties to respond to the proposal. No comments were received.

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 matter presented, including the information and recommendation submitted by the Board 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 rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this regulation needs to be in effect for the 2001-2002 crop year which begins August 1, 2001, in order to be equitable to all handlers. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

#### PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

2. In § 981.442, the last sentence in paragraph (a)(3) and paragraph (a)(5) are revised to read as follows:

#### § 981.442 Quality control.

(a) \* \* \*

(3) \* \* \* The report shall cover the handler's daily receipt or the handler's total receipts during a period not exceeding one week, and shall be submitted by the inspection agency to the Board and the handler.

\* \* \* \* \*

(5) *Meeting the disposition obligation.* Each handler shall meet its disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes on record with the Board as accepted users. Handlers shall

notify the Board at least 72 hours prior to delivery: *Provided*, That the Board or its employees may lessen this notification time whenever it determines that the 72 hour requirement is impracticable. The Board may supervise deliveries at its option. In the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which case the Board would certify the disposition lot and report the results to the USDA. For dispositions by handlers with mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The edible and inedible almond meat content of each delivery shall be determined by the inspection agency and reported by the inspection agency to the Board and the handler. The handler's disposition obligation will be credited upon satisfactory completion of ABC Form 8. ABC Form 8, Part A, is filled out by the handler, and Part B by the accepted user. Deliveries containing less than 50 percent almond meat content shall not be credited against the disposition obligation. At least 25 percent of a handler's total crop year inedible disposition obligation shall be satisfied with dispositions consisting of inedible kernels as defined in § 981.408: *Provided*, That this 25 percent requirement shall not apply to handlers with total annual obligations of less than 1,000 pounds. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than August 31 succeeding the crop year in which the obligation was incurred.

\* \* \* \* \*

Dated: July 25, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01-18946 Filed 7-26-01; 11:22 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[Docket No. FV01-989-2 FR]

#### Raisins Produced From Grapes Grown in California; Reporting on Organic Raisins

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

**ACTION:** Final rule.

**SUMMARY:** This rule adds additional reporting requirements for handlers covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This rule requires handlers to report to the RAC information on acquisitions, shipments, and inventories of organic raisins. This rule will provide the RAC with accurate data on organic raisins. The RAC will evaluate this data to determine whether organic raisins should be subject to the order's volume regulation requirements.

**EFFECTIVE DATE:** July 31, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Maureen T. Pello, Senior 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, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525-S, Washington DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final 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 final rule has been reviewed under Executive Order 12988, 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. 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 final rule adds additional reporting requirements for handlers covered under the order. This rule requires handlers to report to the RAC information on acquisitions, shipments, and inventories of organic raisins. This rule will provide the RAC with accurate data on organic raisins. The RAC will evaluate this data to determine whether organic raisins should be subject to the order's volume regulation requirements. This action was unanimously recommended by the RAC at a meeting on November 29, 2000.

Section 989.73 of the order provides authority for the RAC to collect reports from handlers. Paragraph (d) of that section provides that, upon request of the RAC, with approval by the Secretary, handlers shall furnish to the RAC other information as may be necessary to enable it to exercise its powers and perform its duties. The RAC meets routinely to make decisions on various programs authorized under the order such as volume regulation and quality control. The RAC utilizes information collected under the order in its decision-making. Section 989.173 of the order's administrative rules and regulations specifies certain reports that