

to the tart cherry industry due to the size of the 2004–2005 crop. Returns to growers would not cover their costs of production for this season which might cause some to go out of business.

As mentioned earlier, the Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

While the benefits resulting from this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements under the tart cherry marketing order have been previously approved by OMB and assigned OMB Number 0581–0177.

Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule would not change those requirements.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping tart cherries from the 2004–2005 crop. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

#### PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 930.254 is added to read as follows:

**Note:** This section will not appear in the annual Code of Federal Regulations.

#### § 930.254 Final free and restricted percentages for the 2004–2005 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2004, which shall be free and restricted, respectively, are designated as follows: Free percentage, 72 percent and restricted percentage, 28 percent.

Dated: December 7, 2004.

A.J. Yates,

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–27161 Filed 12–9–04; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 983

[Docket No. FV04–983–2 PR]

#### Pistachios Grown in California; Establishment of Continuing Assessment Rate and Reporting Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would establish a continuing assessment rate for the

Administrative Committee for Pistachios (Committee) for the 2004–05 and subsequent fiscal periods of \$0.0014 per pound of pistachios received for processing and would establish reporting requirements under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered by the Committee. Authorization to assess pistachio handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins September 1 and ends August 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated. Requiring handlers to file annual reports with the Committee would facilitate the Committee's collection of handler assessments.

**DATES:** Comments must be received by February 8, 2005.

**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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov); or Internet: <http://www.regulations.gov>. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Program Analyst, or Rose Aguayo, 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; 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, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 983, regulating the handling of pistachios 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 (USDA) 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, pistachio handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable pistachios beginning September 1, 2004, and continue 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 USDA 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 USDA 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 USDA'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 would establish a continuing assessment rate for the Committee for the 2004–05 and subsequent fiscal periods of \$0.0014 per pound of pistachios received for processing and would establish reporting requirements under the California pistachio order. The quantity of pistachios received by the handler for processing is converted to an assessed weight pursuant to § 983.6 and the assessment rate is applied to that weight in determining a handler's assessment obligation for the fiscal period. Requiring handlers to file annual Receipts/Assessment Reports with the Committee would facilitate the

Committee's collection of handler assessments.

#### Continuing Assessment Rate

Sections 983.52 and 983.53 of the pistachio order provide authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and to collect assessments from handlers to administer the marketing order. Each handler who receives pistachios for processing in each production year (fiscal year) is required to pay an assessment based on the pro rata share of the expenses authorized by USDA which are reasonable and likely to be incurred by the Committee during that year. The assessment obligation for each handler is computed by applying the assessment rate set by USDA to each handler's assessed weight computed pursuant to § 983.6 of the pistachio order.

The members of the Committee are producers and handlers of California pistachios. They are familiar with the Committee needs and with the costs for goods and services in their local area, and are, thus, in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on August 17, 2004, and unanimously recommended 2004–05 expenditures of \$271,499 and an assessment rate of \$0.0014 per pound of pistachios received for processing. This was the first public meeting of the newly formed Committee since the pistachio marketing order became effective on April 6, 2004 (69 FR 17944). The major expenditures recommended by the Committee for the 2004–05 fiscal period include \$ 110,249 for administrative expenses; \$34,500 for compliance expenses; \$101,750 for salaries; and \$25,000 for a contingency reserve.

Because this is a new order and there is no carry-in income, the Committee is borrowing funds from the California Pistachio Commission (Commission) until assessments are collected in March 2005. The Committee discussed the necessity of setting a relatively high assessment rate for the 2004–05 fiscal period because it is necessary to generate sufficient funds to reimburse the Commission, to cover the Committee's 2004–05 expenditures, and to build an adequate reserve to cover Committee expenditures until the 2005–06 fiscal period's assessments are available in December 2005.

The assessment rate recommended by the Committee was derived by dividing

anticipated expenses plus funds to establish a reserve by expected receipts (the assessed weight) of pistachios grown in California during 2004–05 (\$271,499 plus \$190,501 divided by 330,000,000 pounds = \$0.0014. With pistachio receipts for the year estimated at 330,000,000 pounds, assessment income is expected to total of \$462,000.

The Committee may carry over excess funds into subsequent production years (fiscal years) as a reserve, provided that funds already in the reserve do not exceed approximately two production years' budgeted expenses. In the event that funds exceed two production years' budgeted expenses, future assessments would be reduced to bring the reserves to an amount that is less than or equal to two production years' budgeted expenses (§ 983.56). Funds in the reserve would be kept within the maximum permitted by the order.

Under § 983.53 the Committee, prior to the beginning of each production year, shall recommend and the Secretary shall set the assessment for the following production year, which shall not exceed one-half of one percent of the average price received by producers in the preceding production year. According to the Commission's Annual Report for the 2003–04 crop year, the average price received by producers was \$1.15 per pound. One half of one percent equals \$0.005. Taking  $(\$0.005) \times (\$1.15) = \$0.00575$  for the maximum assessment rate allowed. The rates considered by the Committee ranged from \$0.001 to \$0.0014. The recommended assessment rate of \$0.0014 is less than the maximum provided for in the order.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2004–05 budget and those

for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

### Reporting Requirements

Section 983.47 of the pistachio order provides authority for establishing reporting requirements. Under the order, the Committee may, with the approval of the Secretary, establish reporting requirements to collect necessary information or data.

At its first meeting, the Committee also unanimously recommended that handlers file a Receipts/Assessment Report with the Committee to facilitate the Committee's collection of handler assessments.

Handlers, including custom hullers, who receive pistachios for processing (removal of green hulls and drying pistachios to 5 percent moisture), would be required to pay an assessment attributable to the assessed weight of pistachios received by that handler and to report that assessed weight to the Committee on the Receipts/Assessment Form. Pursuant to § 983.6 of the order, the term "assessed weight" means the pounds of inshell pistachios, free of internal defects as defined in § 983.39(b)(4) and (5), with the weight computed at 5 percent moisture, received for processing by a handler within each production year: *Provided*, That for loose kernels, the actual weight shall be multiplied by two to obtain an inshell weight.

A final order published on July 26, 2004, (69 FR 44460), delayed the implementation date for § 983.39(b)(4) and (5), of the order until February 1, 2005. Therefore, for the 2004–05 fiscal period, each handler who receives pistachios for processing would be required to furnish the Receipts/Assessment Report to the Committee and pay all due assessments to the Committee by March 15, 2005. For subsequent fiscal periods, each handler who receives pistachios for processing would be required to furnish the Receipts/Assessment Report and pay all due assessments to the Committee by December 15 of the applicable fiscal period.

The recommended reporting requirements are similar to those required by the Commission. Because the Commission is prohibited from sharing confidential handler information, the Committee recommended that a Receipt/Assessment Report be developed for Committee use and that the receipts information already compiled for the Commission be attached to the newly developed Committee form. Thus, handlers would not be duplicating their

efforts and both agencies would receive necessary receipts/assessment data. The Committee estimates this action would affect 20 handlers of pistachios and further estimates that, on average, handlers would expend approximately 4 minutes per year to prepare and submit this report to the Committee. These actions are in the interest of producers and handlers. Detailed information on these burdens is contained in the Paperwork Reduction Act section of this document.

### Assessment Collection

To facilitate assessment collections under the order, the Committee unanimously recommended establishing § 983.253. This section sets the continuing assessment rate and establishes the reporting requirements necessary to verify that each handler has paid the correct assessment. Section 925.253 would read as follows:

"§ 983.253 Assessment rate. (a) On and after September 1, 2004, an assessment rate of \$0.0014 per pound of pistachios received for processing is established for California Pistachios. The assessment obligation of each handler would be computed by applying the assessment rate to the assessed weight computed pursuant to § 983.6. (b) For the 2004–05 fiscal period each handler who receives pistachios for processing shall furnish the Receipts/Assessment Report to the Committee and pay all due assessments to the Committee by March 15, 2005. For subsequent fiscal periods, each handler who receives pistachios for processing shall furnish the Receipts/Assessment Report and pay all due assessments to the Committee by December 15 of the applicable fiscal period."

### Initial 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 rule 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 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 20 handlers of California pistachios subject to regulation under the order and

approximately 741 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. Eight of the 20 handlers subject to regulation have annual pistachio receipts of at least \$5,000,000. In addition, 722 producers have annual receipts less than \$750,000. Thus, the majority of handlers and producers of California pistachios may be classified as small entities.

This rule would establish a continuing assessment rate for the Committee and collected from handlers for the 2004–05 and subsequent fiscal periods of \$0.0014 per pound of pistachios received for processing and would establish reporting requirements under the California pistachio order. Requiring handlers to file annual Receipts/Assessment Reports with the Committee would facilitate the Committee's collection of handler assessments. Pistachios harvested and received in August of any year shall be applied to the subsequent production year for order purposes.

### Continuing Assessment Rate

The California pistachio order provides authority for the Committee, with the approval of USDA, 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 pistachios. They are familiar with the Committee needs and with the costs for goods and services in their local area, and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on August 17, 2004, and unanimously recommended 2004–05 expenditures of \$271,499 and an assessment rate of \$0.0014 per pound of pistachios received for processing. This was the first public meeting of the newly formed Committee since the pistachio marketing order became effective on April 6, 2004 (69 FR 17944). The major expenditures recommended by the Committee for the 2004–05 fiscal period include \$110,249 for administrative expenses; \$34,500 for compliance expenses; \$101,750 for salaries; and \$25,000 for a contingency reserve.

Because this is a new order and there is no carry-in income, the Committee is borrowing funds from the Commission until assessments are collected in March 2005. The Committee discussed the necessity of setting a relatively high assessment rate for the 2004–05 fiscal period because it is necessary to generate sufficient funds to reimburse the Commission, to cover the Committee's 2004–05 expenditures, and to build an adequate reserve to cover Committee expenditures until the 2005–06 fiscal period's assessments are available in December 2005.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses plus funds to establish a reserve by expected receipts of pistachios grown in California (\$271,499 plus \$190,501 divided by 330,000,000 pounds = \$0.0014. With pistachio receipts for the year estimated at 330,000,000 pounds, assessment income should total \$462,000.

The Committee may carry over such excess into subsequent production years as a reserve, provided that funds already in the reserve do not exceed approximately two production years' budgeted expenses. In the event that funds exceed two production years' budgeted expenses, future assessments would be reduced to bring the reserves to an amount that is less than or equal to two production years' budgeted expenses. Funds in the reserve would be kept within the maximum permitted by the order (§ 983.56).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2004–05 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

The Committee discussed alternative 2004–05 expenditures of \$246,499, which did not include \$25,000 for a contingency reserve. However, the Committee believes that it is important to establish a contingency reserve for unforeseen expenditures, and, thus, unanimsously recommended expenditures in the amount of \$271,499.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2004–05 season could range between \$1.30 and \$1.40 per pound of assessed weight pistachios. Therefore, the estimated assessment revenue for the 2004–05 fiscal period as a percentage of total grower revenue could range between .11 and .10 percent.

#### Reporting Requirements

Section 983.47 of the pistachio order provides authority for establishing reporting requirements. Under the order, the Committee may, with the approval of the Secretary, establish reporting requirements to collect necessary information or data.

To facilitate the collection of handler assessments, the Committee also unanimsously recommended that handlers file a Receipts/Assessment Report with the Committee. Both small and large handlers would be required to file the report and to pay assessments. The report would be filed by handlers (including custom hullers) who receive pistachios for processing (removal of green hulls and drying pistachios to 5 percent moisture).

Handlers who receive pistachios for processing, would be required to pay an assessment attributable to the assessed weight of pistachios received by that handler and to report that assessed weight to the Committee on the Receipts/Assessment Form. The term "assessed weight" is defined in § 983.6 of the pistachio order.

#### Assessment Obligations

The computation of assessed weight involves requirements specified in §§ 983.39(b)(4) and (5). A final order published on July 26, 2004, (69 FR 44460), delayed the implementation date of those sections until February 1, 2005. Therefore, for the 2004–05 fiscal period, each handler who receives pistachios for processing would be required to furnish the Receipts/Assessment Report to the Committee and pay all due assessments to the Committee by March 15, 2005. For subsequent fiscal periods, each handler who receives pistachios for processing would be required to furnish the Receipts/Assessment Report and pay all

due assessments to the Committee by December 15 of the applicable fiscal period.

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 would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the production area commodity industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 17, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

Interested persons are invited to submit comments on the informational and regulatory impacts of this action on small businesses. 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.

This rule would impose some additional reporting and recordkeeping on both small and large pistachio handlers. This action would require one new Committee form. 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS is submitting to the Office of Management and Budget a revision to approved information collection OMB No. 0581–0215, "Pistachios Grown in California."

#### Abstract

These information collection requirements are essential to carry out the intent of the Act, to provide respondents the type of service they request, and to administer the California pistachio marketing order program, which was established in 2004.

Under the order, the committee may, with the approval of the Secretary, establish reporting requirements to collect necessary information or data.

On August 17, 2004, the Committee met and unanimously recommended establishing a reporting requirement under the order similar to that applied under the California Pistachio Commission. Because the Commission is prohibited from sharing confidential handler information, the committee recommended that a receipt/assessment report be developed for committee use and that the receipts information already compiled for the Commission be attached to the newly developed committee form. Thus, handlers would not be duplicating their efforts and both agencies would receive necessary receipts/assessment data.

The information collected will be used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarters' staff, and authorized Committee employees. Authorized Committee employees are the primary users of the information and AMS is the secondary user. The name of the form is the Administrative Committee for Pistachios (ACP)-1; Receipts/Assessment Report.

#### Total Annual Estimated Burden

The total burden for the information collection under the order is as follows:

*Estimate of Burden:* 4 minutes per response.

*Respondents:* Qualified handlers or producers.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Average Burden on Respondents:* 1 hour and 20 minutes.

*Comments:* Sixty days are provided for comments. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0215 and the marketing order for pistachios grown in California, and be sent to USDA in care of the Docket Clerk

at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice on informational impacts will be summarized and included in the request for OMB approval of the above described form. All comments will become a matter of public record.

#### List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 983 is proposed to be amended as follows:

#### PART 983—PISTACHIOS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 983 continues to read as follows:

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

2. In part 983, a new Subpart—Assessment Rate and § 983.253 are added to read as follows:

#### Subpart—Assessment Rate

##### § 983.253 Assessment rate.

(a) On and after September 1, 2004, a continuing assessment rate of \$0.0014 per pound of assessed weight pistachios is established for California Pistachios. The assessment obligation of each handler would be computed by applying the assessment rate to the assessed weight computed pursuant to § 983.6.

(b) For the 2004-05 fiscal period each handler who receives pistachios for processing shall furnish the Receipts/Assessment Report to the Committee and pay all due assessments to the Committee by March 15, 2005. For subsequent fiscal periods, each handler who receives pistachios for processing shall furnish the Receipts/Assessment Report and pay all due assessments to the Committee by December 15 of the applicable fiscal period.

Dated: December 7, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04-27157 Filed 12-7-04; 2:54 pm]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[Docket No. FV05-989-1 PR]

#### Raisins Produced From Grapes Grown in California; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the Raisin Administrative Committee (Committee) for the 2004-05 and subsequent crop years from \$8.00 to \$11.00 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 2004-05 crop is smaller than normal, and no volume regulation will be implemented this year. As a result, some expenses funded by handler assessments will increase. The \$8.00 per ton assessment rate will not generate enough revenue to cover expenses. The \$11.00 per ton assessment would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by December 20, 2004.

**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, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or e-mail:

*moab.docketclerk@usda.gov*; or

*Internet: <http://www.regulations.gov>.*

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:** Martin Engeler, Assistant Regional Manager, California Marketing Field