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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[Document Number AMS-FV-14-0087, FV-16-329]

United States Standards for Grades of Processed Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA) is revising the United States Standards for Grades of Processed Raisins by removing five references to the term “midget” throughout the standards. These changes will modernize and clarify the standards by removing dual terminology for the same requirement.

DATES: Effective July 25, 2016.

FOR FURTHER INFORMATION CONTACT: Lindsay Mitchell at Standardization Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, National Training and Development Center, Riverside Business Park, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406, or at phone (540) 361-1120; fax (540) 361-1199; or, email Lindsay.Mitchell@ams.usda.gov. Copies of the proposed U.S. Standards for Grades of Processed Raisins are available on the Internet at <http://www.regulations.gov>. The current U.S. Standards for Grades of Processed Raisins are available on the Specialty Crops Inspection Division Web site at <http://www.ams.usda.gov/grades-standards>.

SUPPLEMENTARY INFORMATION: The changes remove the dual nomenclature terminology “small or midget” for the

same requirement from the U.S. Standards for Grades of Processed Raisins. These revisions also affect the grade requirements under the marketing order, 7 CFR parts 989, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674) and applicable imports.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, and distributive impacts and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of these revisions on small entities, and prepared the following final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so small businesses will not be unduly or disproportionately burdened. Marketing

orders issued under the Act, and the rules issued thereunder, are unique in that they are brought about through group action of small entities acting on their own behalf.

There are approximately 3,000 California raisin producers and 28 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those with annual receipts less than \$750,000, and defines small agricultural service firms as those with annual receipts less than \$7,500,000 (13 CFR 121.201).

Based on shipment data and other information provided by the Raisin Administrative Committee (RAC), which administers the Federal marketing order for raisins produced from grapes grown in California, most producers and approximately 18 handlers of California raisins may be classified as small entities. The RAC represents the entire California raisin industry; no other state produces raisins commercially. This action should not have any impact on handlers' or growers' benefits or costs.

The action will clarify AMS grade standards by eliminating the use of the term “midget” and consistently using the term “small” for raisins graded in that category. The industry has used the two terms interchangeably for years. The proposed grade standards will be applied uniformly by all handlers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this rule will not change the information collection and recordkeeping requirements previously approved, and will impose no additional reporting or recordkeeping burden on domestic producers, first handlers, and importers of processed raisins.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. The rule will impact marketing programs that regulate the handling of processed raisins under 7 CFR part 989. Raisins under a marketing order must meet certain requirements set forth in the grade standards. In addition, raisins are subject to section 8e import requirements under the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601-674), which requires that imported raisins meet grade, size, and

quality under the applicable marketing order (7 CFR part 999).

Background

AMS continually reviews all fruit and vegetable grade standards to ensure their usefulness to the industry, and to modernize language and remove duplicative terminology. On May 13, 2013, AMS received a petition from the Little People of America stating that they “are trying to raise awareness around and eliminate the use of the word midget.” The petition further stated that, “Though the use of the word midget by the USDA when classifying certain food products is benign, Little People of America, and the dwarfism community, hopes that the USDA would consider phasing out the term midget.”

AMS determined that the processed raisin grade standard contained “small or midget” terminology for the same requirement. Before developing these proposed revisions, AMS solicited comments and suggestions about the grade standards from the RAC, which represents the entire California raisin industry. On August 14, 2014, the RAC approved the removal of the term midget from the standards.

On August 21, 2015, AMS published a Proposed Rule in the **Federal Register** (80 FR 50803) soliciting comments on removing five references to the term “midget” from the standards. Eight comments were submitted by October 20, 2015, the closing date of the public comment period. Five of the eight comments fully supported the revisions; three did not.

Five commenters, one of which represents the dwarfism community, fully support the revisions. Four of them believe the issue is not about political correctness, but, rather, is a matter of common decency and respect. They also believe eliminating the term “midget” from USDA documents will raise awareness that the term is socially unacceptable. In addition, one commenter believes it is redundant to have two names for the same size category. All agree the term “midget” is unneeded and should be removed.

Two of the three opposing commenters believe the USDA should address more important issues and not concern themselves with being “politically correct.” The third stated that even though they understand the concern of Little People of America, they believe addressing the issue is unnecessary, since, in their purchasing experience, they have never encountered raisins identified by size. The USDA and RAC support the Little People of America in the removal of the term “midget” from the raisin standards as a matter of common decency, that there is limited use of the term by industry, and because it is redundant as there is also the term “small” for the size category. No changes have been made to the rule based on the comments.

Based on the information gathered, AMS is removing five references to the term “midget” in the following sections: 52.1845(b) and (c), 52.1850(a)(2) and (a)(3), and Table I. The revisions will modernize and help clarify the language

of the standard by removing dual terminology for the same requirement.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, 7 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. In § 52.1845, paragraphs (b) and (c) are revised to read as follows:

§ 52.1845 Sizes of seedless raisins.

* * * * *

(b) *Small* size raisins means that 95 percent, by weight, of all the raisins will pass through round perforations ²⁴/₆₄-inch in diameter, and not less than 70 percent, by weight, of all raisins will pass through round perforations ²²/₆₄-inch in diameter.

(c) *Mixed* size raisins means a mixture that does not meet either the requirements for “select” size or for “small” size.

■ 3. In § 52.1846, Table I is amended under the heading “Substandard development and undeveloped” by removing the entry for “Small (Midget) size” and adding in its place an entry for “Small size” to read as follows:

§ 52.1846 Grades of seedless raisins.

* * * * *

TABLE I—ALLOWANCES FOR DEFECTS IN TYPE I, SEEDLESS RAISINS AND TYPE II, GOLDEN SEEDLESS RAISINS

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
* * * * *		*	*
Substandard development and undeveloped	Total	Total	Total
* * * * *		*	*
Small size	2	3	5
* * * * *		*	*

■ 4. In § 52.1850, paragraphs (a)(2) and (3) are revised to read as follows:

§ 52.1850 Sizes of raisins with seeds—except layer or cluster.

* * * * *

(a) * * *

(2) *Small* size raisins means that all of the raisins will pass through round

perforations ³⁴/₆₄-inch in diameter and not less than 90 percent, by weight, of all the raisins will pass through round perforations ²²/₆₄-inch in diameter.

(3) *Mixed* size raisins means a mixture does not meet either the requirements for “select” size or for “small” size.

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Dated: June 17, 2016.

Elanor Starmer,
Administrator, Agricultural Marketing Service.

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