

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[Docket No. FV95-989-4FIR]

#### Raisins Produced From Grapes Grown in California; Expenses and Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that will generate funds to pay those expenses. Authorization of this budget enables the Raisin Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** August 1, 1995, through July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209-487-5901.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended (7 CFR part 989), 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California raisins are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins handled during the 1995-96 crop year, which began August 1, 1995, and ends July 31, 1996. This final 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. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 raisins who are subject to

regulation under the raisin marketing order, and approximately 4,500 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts (from all sources) are less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. No more than eight handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least \$5,000,000, and the remaining eight handlers have sales less than \$5,000,000, excluding receipts from any other sources.

The budget of expenses for the 1995-96 crop year was prepared by the Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. 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. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected acquisitions of California raisins. Because that rate will be applied to actual acquisitions, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met August 15, 1995, and unanimously recommended a 1995-96 budget of \$1,500,000, which is \$176,000 more than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Office salaries, \$226,000 (\$123,000), field and compliance salaries, \$75,000 (\$44,000), Payroll taxes, \$32,000 (\$30,000), group retirement, \$23,000 (\$20,000), employee benefit expense, \$6,000 (\$2,500), general insurance, \$16,000 (\$8,000), group medical insurance, \$48,000 (\$40,000), Committee members insurance, \$385 (\$350), equipment expense, \$20,000 (\$10,000), office travel, \$20,000

(\$14,000), objective measurement survey, \$15,500 (\$14,750), and export program foreign administration, \$385,000 (\$357,000). The Committee also recommended \$35,000 for export program trade activities and \$23,000 for research and communications, for which no funding was recommended last year. Items which have decreased compared to those budgeted for 1994-95 (in parentheses) are: Executive salaries, \$170,000 (\$230,000), Committee travel, \$50,000 (\$75,000), and reserve for contingencies, \$142,115 (\$142,400).

The Committee unanimously recommended an assessment rate of \$5.00 per ton, which is \$1.00 more than last year. This rate, when applied to anticipated acquisitions of 300,000 tons, will yield \$1,500,000 in assessment income, which will be adequate to cover anticipated administrative expenses. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected.

An interim final rule was published in the Federal Register on September 15, 1995 (60 FR 47860). That interim final rule added § 989.346 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through October 16, 1995. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations 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 action until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 crop year began on August 1, 1995. The marketing order requires that the rate of assessment for the crop year apply to all assessable raisins handled during the crop year. In addition, handlers are aware of this action which was

unanimously recommended by the Committee at a public meeting and published in the Federal Register as an interim final rule.

#### List of Subjects in 7 CFR Part 989

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

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

#### **PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA**

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 60 FR 47860 on September 15, 1995, is adopted as a final rule without change.

Dated: November 8, 1995.

Sharon Bomer Lauritsen,

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-28323 Filed 11-15-95; 8:45 am]

**BILLING CODE 3410-02-P**

#### **National Agricultural Statistics Service**

#### **7 CFR Part 3600**

#### **Organization and Functions**

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document amends regulations of the National Agricultural Statistics Service (NASS) regarding Agency organization and functions of major operational units. This amendment is necessary to reflect changes in the organization of NASS due to an internal reorganization.

**EFFECTIVE DATE:** November 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** Rich Allen, Associate Administrator, NASS, U.S. Department of Agriculture, Room 4117 South Building, 12th and Independence Avenue, SW., Washington, DC 20250-2000, (202) 720-4333.

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Act, 5 U.S.C. 552(a)(1), requires Federal Agencies to publish in the Federal Register descriptions of its central and field organizations. NASS is the agency within the U.S. Department of Agriculture primarily responsible for the development and dissemination of national and State agricultural statistics, statistical research, and coordination of the Department's statistical programs. This amendment to 7 CFR Part 3600 is necessary to reflect changes in the

organization of NASS due to an internal reorganization.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

#### List of Subjects in 7 CFR Part 3600

Organization and functions.

Accordingly, 7 CFR Part 3600 is revised to read as follows:

#### **PART 3600—ORGANIZATION AND FUNCTIONS**

Sec.

- 3600.1 General.
- 3600.2 Organization.
- 3600.3 Functions.
- 3600.4 Authority to act for the Administrator.

Appendix A to Part 3600—List of State Statistical Offices

Authority: 5 U.S.C. 301 and 552; and 7 CFR 2.85.

#### **§ 3600.1 General.**

The National Agricultural Statistics Service (NASS) was established on April 17, 1986, by Secretary's Memorandum 1020-24, which renamed the Statistical Reporting Service concurrent with an internal restructuring. Primary NASS responsibilities are development and dissemination of national and State agricultural statistics, statistical research, and coordination of Department statistical programs.

#### **§ 3600.2 Organization.**

The headquarters organization consists of: The Administrator and Associate Administrator; Deputy Administrator for Field Operations; Four Divisions: Estimates, Survey Management, Research, and Systems and Information; and the Agricultural Statistics Board. In the field, each of the 45 State Statistical Offices, serving the 50 States, is under a State Statistician.

#### **§ 3600.3 Functions.**

(a) *Administrator.* The Administrator is responsible for the formulation of current, intermediate, and long-range policies and plans to carry out a broad statistical program for the agricultural