

year, which was the same as was recommended for the 1994-95 fiscal year.

An interim final rule was published in the Federal Register (60 FR 43351, August 21, 1995). A final rule was published in the Federal Register on September 28, 1995 (60 FR 50078).

The Committee met again on September 28, 1995, and recommended revising the budget to reduce expenses to \$435,800, and the assessment rate to \$.0059 per pound for the 1995-96 fiscal year, which is \$.0030 less than was recommended for the 1994-95 fiscal year. The Committee recommended reducing their expenses for research and development by \$30,000, and reducing the reserve carryover for the following year to \$26,597. There was some concern expressed at the meeting as to whether the Committee would have enough income to meet expenses. Ultimately, by a vote of eight to three with one abstention, the Committee recommended the reduced expenses of \$435,800 and an assessment rate of \$.0059.

The assessment rate, when applied to anticipated shipments of 33 million pounds, yields \$194,700 in assessment income. Other sources of program income include \$40,000 from the Hawaii Department of Agriculture, \$57,000 from the Department's Foreign Agricultural Service, \$7,800 from the Japanese Inspection program, \$3,000 in interest income, and \$4,766 from the County of Hawaii. Thus, total income is expected to be \$307,266. The Committee plans to use money from its reserve account to meet its estimated expenses for the year.

Major expense categories for the 1995-96 fiscal year include \$165,500 for the market expansion program, \$115,000 for research and development, and \$67,000 for salaries. Funds in the reserve at the end of the 1995-96 fiscal year, estimated at \$26,597, will be within the maximum permitted by the order of one fiscal year's expenses.

A proposed rule was published in the Federal Register on November 6, 1995 (60 FR 56003). That rule provided a 30-day comment period. No comments were received.

This action will reduce the assessment obligation imposed on handlers. The assessments will be uniform for all handlers. The assessment costs are expected to be offset by the benefits derived from 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.

Pursuant to 5 U.S.C. 533, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) This action reduces the expenses and rate of assessment previously established under the marketing order for the 1995-96 fiscal year; (2) the 1995 crop year began on July 1, 1995, and the marketing order requires that the rate of assessment apply to all assessable papayas during the crop year; and (3) handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the Federal Register as a proposed rule. The proposed rule provided a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

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

2. A new § 928.225 is added to read as follows:

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

§ 928.225 Expenses and assessment rate.

Expenses of \$435,800 by the Papaya Administrative Committee are authorized and an assessment rate of \$.0059 per pound of assessable papayas is established for the fiscal year ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: December 26, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.
[FR Doc. 96-23 Filed 1-2-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 989

[FV95-989-5IFR]

Raisins Produced From Grapes Grown in California; Reduction in the Production Cap for the 1996 Raisin Diversion Program for Natural (Sun-dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on a reduction of the production cap for the 1996 Raisin Diversion Program (RDP) for Natural (sun-dried) Seedless raisins. The production cap, which limits the amount of raisin tonnage per acre for which an RDP participant can receive credit, is reduced from 2.75 tons per acre to 2.2 tons per acre for this program. This reduction is intended to bring the production cap for 1996 in line with 1995 production per acre, which was approximately 20 percent smaller than the 1994 crop yield per acre. This rule was unanimously recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.

DATES: This interim final rule becomes effective January 3, 1996. Comments which are received by January 18, 1996 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, or faxed to 202-720-5698. 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.

FOR FURTHER INFORMATION CONTACT: Richard Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209-487-5901 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: 202-205-2830.

SUPPLEMENTARY INFORMATION: This interim 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 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 interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, the production cap for the RDP is 2.75 tons per acre, but it may be reduced with the approval of the Secretary. This rule establishes a production cap of 2.2 tons per acre for the 1996 RDP. This rule is not intended to have retroactive effect. This interim 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 requesting a modification of the order or to be exempt 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/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 requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 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 authority for the RDP and implementing rules and regulations are specified in §§ 989.56 and 989.156, respectively. The purpose of the RDP is to give producers the means to voluntarily reduce their raisin production. Each approved producer who has removed grapes in accordance with rules and regulations receives a diversion certificate from the Committee. Such certificates represent reserve tonnage raisins equal to the amount of raisins diverted. That is, the amount of grape acreage removed from production (for RDP purposes) multiplied by the producer's previous crop year yield in tons per acre, or multiplied by the production cap if the previous year's actual yield exceeds the cap.

These certificates may be submitted by producers only to handlers. The handler pays the producer for the free tonnage applicable to the diversion certificate minus the established harvest cost for the entire tonnage shown on the certificate. Factors reviewed by the Committee in determining allowable harvest costs are specified in § 989.156(a)(1).

Any handler holding diversion certificates may redeem such certificates with the Committee for reserve pool raisins. To redeem a certificate, the handler must present the certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting reserve tonnage raisins specified in § 989.401 for the entire tonnage represented on the certificate.

The marketing order requires the Committee to meet on or before November 30 of each crop year to review production data, supply data, demand data, inventory, and other

matters relating to the quantity of raisins available to or needed by the market. If the Committee decides that the current crop year's reserve pool has more than enough raisins to meet projected market needs, it can announce the amount of such excess eligible for diversion during the subsequent crop year. The administrative rules and regulations established under the order require that such announcement be made on or before November 30 of each year.

A production cap of 2.75 tons of raisins per acre is established under the order for any production unit of a producer approved for participation in an RDP. When the diversion tonnage is announced, the Committee may recommend, subject to the approval of the Secretary, that the production cap for that RDP be less than 2.75 tons per acre. The production cap limits the yield that a producer can claim and is designed to allow most high yield producers to participate in an RDP.

When the cap was added to the marketing order in 1989, only 8 percent of raisin producers exceeded the 2.75 tons per acre yield. Producers who historically produce yields above the production cap can choose to produce a crop rather than participate in a diversion program. No producer is required to participate in an RDP.

A producer who wants to participate in an RDP must apply to the Committee. The producer must specify, among other things, the raisin production and the acreage covered by the application. The Committee verifies producers' production claims using handler acquisition reports and other available information. However, a producer could misrepresent production by claiming that some raisins produced on one ranch were produced on another, and use an inflated yield on the RDP application. Thus, the production cap limits the amount of raisins for which a producer participating in an RDP may be credited, and protects the program from overstated production yields.

For example, a producer whose actual yield was 2.5 tons per acre might claim that the yield was 3.5 tons per acre on the RDP application. The current production cap would allow that producer to receive a diversion certificate for 2.75 tons per acre, which is 0.25 tons above the actual yield but far less than the 1.0 ton which would have been improperly credited if the diversion certificate had been based on a yield of 3.5 tons per acre. The production cap reduces the amount of inflated tonnage which could be improperly credited and allows more producers to participate. When the production cap is more in line with the

actual yield per acre, the total quantity of raisins available under the RDP can be allocated to more applicants. A producer who actually produced 3.5 tons per acre might decide to produce a raisin crop rather than apply for the RDP and be subject to the production cap.

The Committee met on November 27, 1995, and reviewed data relating to the quantity of reserve pool raisins and anticipated market needs. The Committee decided that the 1995-96 reserve pool had more raisins than necessary to meet projected market needs and announced that 20,000 tons of Natural (sun-dried) Seedless raisins would be eligible for diversion under the 1996 RDP.

The Committee members believe that the current production cap is too high because 1995 crop year yields per acre are down 20 percent compared to 1994. The Committee, therefore, unanimously recommended a reduction in the production cap of 20 percent, from 2.75 tons per acre to 2.2 tons per acre for the 1996 RDP, based on 1995 production. Reducing the production cap proportionately to the decrease in yield per acre is more reflective of actual production yields during the 1995 crop year.

A 15-day comment period was deemed appropriate for this rule because the submission deadlines for applications and corrected applications for the 1996 RDP are December 20, 1995, and January 12, 1996, respectively, and the Department would like to make its final decision available as quickly as possible.

The information collection requirement (i.e., the RDP application) referred to in this rule has been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and has been assigned OMB number 0581-0083.

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, including the Committee's recommendations and other information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause

exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The submission deadlines for producer applications and corrected applications for the 1996 RDP are December 20, 1995, and January 12, 1996, respectively, and producers need to know about the reduced production cap as soon as possible, to make a decision on whether or not to apply; (2) producers are aware of this action, which was recommended by the Committee at an open meeting; (3) the program is voluntary, and any producer who objects to the reduced production cap can choose to produce a raisin crop for delivery during 1996; and (4) this interim final rule provides a 15-day period for written comments and all comments received will be considered prior to finalization of this 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 to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

2. A new paragraph (t) is added to § 989.156 of Subpart—Administrative Rules and Regulations (7 CFR Part 989.102-989.176) to read as follows:

§ 989.156 Raisin diversion program.

* * * * *

(t) Pursuant to § 989.56(a), the production cap for the 1996 Raisin Diversion Program for the Natural (sun dried) Seedless varietal type is 2.2 tons of raisins per acre.

Dated: December 26, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 96-26 Filed 1-2-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 997

[Docket No. FV95-997-2FIR]

Amendment of Provisions Regulating Domestically Produced Peanuts Handled by Persons Not Subject to the Peanut Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without modification, the provisions of an interim rule that amended, for 1995 and subsequent crop years, several certification and identification requirements established for peanuts handled by persons not signatory to Peanut Marketing Agreement No. 146 (Agreement). The interim final rule provided for a chemical analysis exemption for superior grade shelled peanuts and added addresses and updated contact numbers of chemical analysis laboratories. The changes are consistent with industry operating practices and bring the non-signatory handling requirements into conformity with requirements specified under the Agreement. Continuation of this rule should reduce the regulatory burden and handling costs on non-signatory peanut handlers.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Lower, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone (202) 720-2020, facsimile (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued pursuant to requirements of 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 12778, Civil Justice Reform. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to 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.

There are approximately 45 handlers of peanuts who have not signed the