

last year's budgeted expenditures were \$7,384,440.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears grown in Oregon, Washington, and California. Winter pear shipments for the year are estimated at 12,465,800 standard boxes which should provide assessment revenue of \$5,048,649. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Major expenditures recommended by the Winter Pear Control Committee for the 1996-97 year include \$154,387 for salaries, \$4,674,675 for paid advertising, and \$249,316 for production research. Budgeted expenses for these items in 1995-96 were \$147,152, \$6,064,163, and \$323,422, respectively.

The Northwest Fresh Bartlett Marketing Committee met on May 30, 1996, and unanimously recommended 1996-97 expenditures of \$89,774 and an assessment rate of \$0.0375 per western standard pear box. In comparison, last year's budgeted expenditures were \$92,254.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Bartlett pears grown in Oregon and Washington. Shipments for the year are estimated at 1,842,000 packed boxes which should provide \$69,075 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Major expenditures recommended by the Northwest Fresh Bartlett Marketing Committee for the 1996-97 year include \$46,306 for salaries, \$4,991 for health insurance, and \$7,016 for office rent. Budgeted expenses for these items in 1995-96 were \$44,135, \$4,989 and \$5,206, respectively.

An interim final rule regarding this action was published in the August 16, 1996, issue of the Federal Register (61 FR 42529). That rule provided a 30-day comment period. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all 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 orders. Therefore, the

AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rates established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committees or other available information.

Although these assessment rates are effective for an indefinite period, the Committees will continue to meet prior to or during each fiscal period to consider recommendations for modification of the assessment rates.

The dates and times of Committee meetings are available from the Committees or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modifications of the assessment rates are needed. Further rulemaking will be undertaken as necessary. The Committees' 1996-97 budgets and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committees 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. 553, 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) The Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal periods began on July 1, 1996, and the marketing orders require that the rates of assessment for each fiscal period apply to all assessable winter pears and fresh Bartlett pears handled during such fiscal period; (3) handlers are aware of the actions which were recommended by the Committees at public meetings and are similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action, providing a 30-day comment period, and no comments were received.

List of Subjects

7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 927 and 931 are amended as follows:

**PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA**

**PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON**

Accordingly, the interim final rule amending 7 CFR parts 927 and 931 which was published at 61 FR 42529 on August 16, 1996, is adopted as a final rule without change.

Dated: October 1, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96-25706 Filed 10-7-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 958

[Docket No. FV96-958-3 FIR]

**Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Relaxation of Pack and Marking Requirements**

**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 permitting bulk shipments of U.S. Commercial and U.S. No. 2 grade onions which contain more than 30 percent U.S. No. 1 grade onions. A bulk shipment is one in which the onions are packed in containers weighing 60 pounds or more. This rule also removes the requirement that bulk containers of onions packed as U.S. Commercial grade shall have the grade marked permanently and conspicuously on the containers. These changes are intended to improve the marketing of such onions, reduce handler packing costs, and increase returns to growers. These changes were recommended by the Idaho-Eastern Oregon Onion Committee

(committee), the agency responsible for the local administration of the marketing order for onions grown in certain designated counties in Idaho, and Malheur County, Oregon.

**EFFECTIVE DATE:** November 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; Telephone: (503) 326-2724, FAX: (503) 326-7440; or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456; Telephone: (202) 690-0464, FAX: (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, P.O. Box 96456, Room 2525-S, Washington, D.C. 20090-6456; Telephone (202) 720-2491, FAX (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR part 958), as amended, regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon, 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 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.

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.

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 34 handlers who are subject to regulation under the order and approximately 550 producers in the production area. Small agricultural service firms, which includes handlers of Idaho-Eastern Oregon onions, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of Idaho-Eastern Oregon onion handlers and producers may be classified as small entities.

This final rule continues in effect an action which removed pack and container marking requirements for shipments of bulk containers. Bulk containers contain 60 pounds or more of onions. Prior to this rule, shipments of all varieties of onions (except red) which grade U.S. Commercial or U.S. No. 2 could not contain more than 30 percent U.S. No. 1 grade onions, regardless of container size. The intent of this requirement was to lessen the chances of market confusion by providing a clear distinction between onions packed as U.S. No. 1, the highest grade shipped from the production area, and those onions packed at the U.S. Commercial or U.S. No. 2 grade levels. Also, all containers of onions of the U.S. Commercial grade were required to be prominently and conspicuously marked to further achieve the distinction between the various grades packed and shipped from the production area.

Industry experience indicates that it is not important to limit the percentage of U.S. No. 1 onions in marketing bulk containers, because such onions normally go to firms that peel, slice, dice, chop, or otherwise prepare them

for use in salad bars, fast food, or similar retail outlets. Shipments for the wholesale, retail, repacker, and export trade generally are made in containers weighing less than 60 pounds. Thus, the risk of confusion among buyers as to the quality of onions for traditional bulk shipment market outlets is quite low. Absent these changes, bulk shipments of onions containing more than 30 percent U.S. No. 1 grade onions would have had to be repacked to meet the 30 percent tolerance and handlers would have continued to incur additional expenses. This rule will especially benefit small handlers shipping bulk containers because such handlers normally operate with fewer packing lines and pack fewer onions. This makes it more difficult for small handlers to repack lots to meet the 30 percent U.S. No. 1 tolerance compared to larger handlers.

With the reduced packing costs, and greater marketing flexibility expected to result from these changes, small and large handlers in the Idaho-Eastern Oregon onion industry will be able to compete more effectively in the marketplace. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. Interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. No such information was received.

Section 958.52 of the order authorizes the issuance of grade, size, quality, container markings, pack, and container regulations for any variety or varieties of onions grown in the production area. Section 958.51 authorizes the modification, suspension, or termination of regulations issued under section 958.52.

This rule continues in effect amendments to paragraphs (a)(1)(ii) and (a)(3)(i) of section 958.328 by removing, for onions packed in containers weighing 60 pounds or greater, the requirement that all varieties of onions (except red) which grade U.S. No. 2 or U.S. Commercial may not be shipped if more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality. This rule also continues in effect an amendment to paragraph (b) of section 958.328 by removing, for onions packed in containers weighing 60 pounds or greater, the requirement that onions packed as U.S. Commercial grade shall have the grade marked permanently and conspicuously on such containers. These requirements continue to apply to onions shipped in containers weighing less than 60 pounds.

The committee unanimously recommended these changes at its June 18, 1996, meeting. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Idaho-Eastern Oregon onions which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The previous requirement that all varieties of onions (except red) which grade U.S. No. 2 or U.S. Commercial could not be shipped if more than 30 percent of the lot was comprised of onions of U.S. No. 1 quality was intended to reduce market confusion by providing a clear distinction between onions packed as U.S. No. 1 and those packed at the U.S. No. 2 and U.S. Commercial grade levels. The goal of providing a clear distinction between packs in the marketplace was further achieved by requiring onions packed as U.S. Commercial grade to have the grade marked permanently and conspicuously on the container. Preventing market confusion is important to the industry in maintaining orderly marketing, and maximizing industry shipments.

The committee reported that this distinction was of little value for bulk shipments of onions, which normally are used for peeling, chopping, slicing, or repacking, and that these requirements have placed an undue regulatory burden on handlers and unnecessarily increased packing costs for such shipments. The committee reported that requiring the grade marking on bulk containers of U.S. Commercial grade onions was not necessary because the chance of market confusion between handlers and buyers of bulk containers is small.

The previous requirement which prohibited the bulk shipment of a lot of onions that graded U.S. No. 2 or U.S. Commercial because it was comprised of more than 30 percent U.S. No. 1 quality sometimes forced handlers to resort such onions, or blend them with poorer quality onions to bring the lots into conformance with the 30 percent tolerance. Rather than incur these additional costs, handlers sometimes sent such onions to lower value, secondary outlets, such as processing; e.g., canning, freezing, dehydration, or

similar outlets. Removal of the 30 percent commingling requirement for bulk onion shipments is expected to provide handlers with greater marketing flexibility, reduce packing costs, and increase returns to growers. Removal of the U.S. Commercial grade marking requirement for bulk containers is expected to reduce handler packing costs and remove an unnecessary regulatory burden on handlers of such containers.

The 30 percent commingling and marking requirements for containers with less than 60 pounds of onions continues in effect to maintain the distinction between the various grades shipped into non-bulk markets. As mentioned earlier, this is necessary to prevent market confusion and to maintain orderly marketing conditions.

The interim final rule was issued on July 26, 1996, and published in the Federal Register (61 FR 39839, July 31, 1996), with an effective date of August 1, 1996. That rule provided a 30-day comment period which ended August 30, 1996. No comments were received.

After consideration of all relevant material presented, including the committee's recommendation, and other available information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 39839, July 31, 1996) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

#### **PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON**

Accordingly, the interim final rule amending 7 CFR part 958 which was published at 61 FR 39839 on July 31, 1996, is adopted as a final rule without change.

Dated: October 1, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96-25707 Filed 10-7-96; 8:45 am]

**BILLING CODE 3410-02-P**

#### **7 CFR Part 989**

[Docket No. FV96-989-3 IFR]

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

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes an assessment rate for the Raisin Administrative Committee (Committee) under Marketing Order No. 989 for the 1996-97 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of raisins produced from grapes grown in California.

Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective on August 1, 1996. Comments received by November 7, 1996, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; FAX 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 available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Mary Kate Nelson, Marketing Assistant, Marketing Order Administration Branch, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209-487-5901; FAX 209-487-5906, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-9918; FAX 202-720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-2491; FAX 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989, both as amended (7