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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV99–989–2 FIR]

Raisins Produced From Grapes Grown in California; Increase in 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 which increased the assessment rate established under the Federal marketing order for California raisins (order) from $5.00 to $8.50 per ton for raisins acquired by handlers for the 1998–99 and subsequent crop years. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). 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 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation has only been applied to one minor varietal type of raisin. As a result, some expenses paid by assessments have increased. The $5.00 per ton assessment rate would not have generated enough revenue to cover expenses. The $8.50 per ton assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: June 11, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, 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, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This 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 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, California raisin handlers are subject to assessments. It is intended that the assessment rate as issued herein will apply to all assessable raisins beginning August 1, 1998, the beginning of the 1998–99 crop year, and continue in effect 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 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 in equity 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.

This rule continues to increase the assessment rate established under the order for the 1998–99 and subsequent crop years from $5.00 to $8.50 per ton of raisins acquired by handlers. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation has been applied to only one minor varietal type of raisin. As a result, some expenses paid by assessments have increased. The $5.00 per ton rate of assessment would not have generated enough revenue to cover expenses. This action was unanimously recommended by the Committee at a meeting on January 15, 1999.

Sections 989.79 and 989.80, respectively, of the Federal order for California raisins provide authority for the Committee, with the approval of the Department, 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 raisins. They are familiar with the Committee's 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.

An assessment rate of $5.00 per ton for raisins acquired by handlers had been in effect under the Federal order since the 1996–97 crop year (61 FR 52684; October 8, 1996). Regarding the 1998–99 crop year, the Committee met on August 13, 1998, and recommended administrative expenditures of $1,655,000 for the year. Major administrative expenditures included $545,500 for export program administration and related activities; $478,000 for salaries; and $100,000 for compliance activities. These expenditures were approved by the Department on August 18, 1998. At that time, the Committee estimated the crop at about 321,400 tons, and anticipated that 333,000 tons of raisins would be acquired by handlers during the 1998–99 crop year (included about 59,800 tons of 1997 reserve raisins sold to handlers for free use). The $5.00 per ton assessment rate was expected to generate $1,665,000 in revenue which would have allowed the Committee to meet its administrative expenses.

Section 989.79 of the order also provides authority for the Committee to formulate an annual budget of expenses likely to be incurred during the crop year in connection with reserve raisins held for the account of the Committee. A certain percentage of each year's raisin crop may be held in a reserve pool during years when volume regulation is implemented to help stabilize raisin supplies and prices. The remaining ''free'' percentage may be sold by handlers to any market. Reserve raisins are disposed of through various programs authorized under the order. Reserve pool expenses are deducted from proceeds obtained from the sale of reserve raisins. Net proceeds are returned to the pool's equity holders, primarily producers.

At its August 1998 meeting, the Committee recommended a 1998–99 reserve pool budget of $2,941,500. Major pool expenses included $1,050,000 for insurance and repair of bins for storing reserve raisins; $545,500 for export program administration and related activities; $462,000 for salaries; and $235,000 for compliance activities.

Adverse crop conditions during the spring of 1998 created by the weather phenomenon known as El Nino, combined with scattered rain and a labor shortage during harvest contributed to a smaller 1998–99 raisin crop than initially anticipated. Also, reserve pools were initially established in October 1998 for five of the nine varietal types of raisins covered under the order—Natural (sun-dried) Seedless (Naturals), Zante Currants (Zantes), Dipped Seedless, Oleate and Related Seedless, and Other Seedless—when the Committee computed and announced preliminary free and reserve marketing percentages pursuant to § 989.54. In November 1998, the Committee determined that volume regulation was not warranted for Dipped Seedless, Oleate and Related Seedless, and Other Seedless raisins.

The Committee met on January 15, 1999, to review crop conditions, its financial situation, and various marketing order programs. The Committee reduced its production estimate from 321,000 to 276,500 tons, and reduced its estimate of assessable tonnage from 333,000 to 315,000 tons. The Committee also determined that volume regulation was not warranted for Naturals and all other varietal types, but was warranted for Zantes, for the 1998–99 crop year. This is the first time in 16 years that volume regulation for Naturals was not implemented.

With a smaller 1998 crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which is being utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. The expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll taxes, retirement contributions, insurance, rent for office space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs.

Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets, such as for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which included an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget. Major expenses to be funded through handler assessments now include $940,000 in salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys.

The Committee recommended increasing its assessment rate from $5.00 to $8.50 per ton of raisins acquired by handlers. The $8.50 per ton assessment rate when applied to anticipated acquisitions of 315,000 tons will yield $2,677,500 in assessment income which will be adequate to cover anticipated administrative expenses. Authority for the Committee to recommend an increase in the assessment rate during a crop year to obtain sufficient funds to meet expenses is provided in § 989.80(c) of the order. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information. Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year 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 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 modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 revised budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

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. Accordingly, AMS has prepared this final 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 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 order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms 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 having annual receipts of less than $500,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule continues to increase the assessment rate established under the Federal order for the 1998–99 and subsequent crop years, as specified in § 989.347, from $5.00 to $8.50 per ton of raisins acquired by handlers. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Committee. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated due to adverse weather conditions and a labor shortage during harvest. Further, for this crop year, volume regulation has been applied to only one minor varietal type of raisin. As a result, some expenses paid by assessments have increased. The $5.00 per ton rate of assessment would not have generated enough revenue to cover expenses.

With a smaller crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante Currant reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which is being utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. Those expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll taxes, retirement contributions, insurance, rent for office space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs. Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets. These included adjustments for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which included an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget.

The $8.50 per ton assessment rate, when applied to anticipated acquisitions of 315,000 tons, will yield $2,677,500 in revenue and allow the Committee to meet expenses, which include $940,000 for salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys. Authority for the Committee to incur expenses, generate revenue by assessing raisin handlers, and increase the assessment rate during a crop year is provided in §§ 989.79 and 989.80 of the order, respectively.

Regarding the impact of this rule on handlers and producers, 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 are offset by the benefits derived by the operation of the marketing order. With the 1998–99 producer price for Naturals, the major raisin varietal type covered under the order, averaging $1,290 per ton of raisins acquired, estimated assessment revenue for the 1998–99 crop year as a percentage of total producer revenue is expected to be less than 1 percent. The increased assessment rate allows the Committee to meet its expenses and continue program operations. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The Committee considered some alternatives to the recommended action. The Committee's Audit Subcommittee formed a working group which held a meeting on December 16, 1998, to discuss revisions to the budget. The Audit Subcommittee held a follow-up meeting on January 6, 1999. Alternatives discussed at these meetings were based on the assumption that no volume regulation would be in effect for any varietal type of California raisins for the remainder of the crop year. Accordingly, one option considered was to have the 1998 administrative budget absorb all of the operating costs that are typically split between the administrative and reserve pool budgets, and increase the assessment rate to $11.50 per ton of raisins acquired to cover these costs. However, the majority of subcommittee members determined that the increase in expenses would be funded more appropriately with 1998–99 handler assessments and proceeds from the anticipated 1998 reserve pool for Zantes, and the existing 1997 reserve pools for Naturals and Zantes, respectively.

The working group and subcommittee members also considered various scenarios regarding the itemized expenses, estimate of assessable tonnage, and necessary assessment income. Ultimately, the Committee determined that volume regulation was only warranted for Zantes, that administrative expenses should be increased to $2,677,500, that the estimate of assessable tonnage should be reduced from 333,000 to 315,000 tons, and that the assessment rate should be increased to $8.50 per ton of raisins acquired by handlers.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. 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. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's working group meeting on December 16, 1998, subcommittee meeting on January 6, 1999, and the Committee meeting on January 15, 1999, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal**

Register on February 24, 1999 (64 FR 9053). Copies of the rule were mailed to all Committee members and alternates, the Raisin Bargaining Association, handlers, and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended April 26, 1999. No comments were received.

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

List of Subjects in 7 CFR Part 989

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

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 64 FR 9053 on February 24, 1999, is adopted as a final rule without change.

Dated: May 5, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–11977 Filed 5–11–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1703

Distance Learning and Telemedicine Loan and Grant Program; Confirmation of Effective Date, Corrections, and Correcting Amendments

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule; Confirmation of effective date, corrections, and correcting amendments.

SUMMARY: The Rural Utilities Service (RUS) hereby gives notice that no adverse comments were received regarding the direct final rule on the Distance Learning and Telemedicine Loan and Grant Program, published in the **Federal Register**, March 25, 1999, at 64 FR 14401 and confirms the effective date of the direct final rule. In addition, this document is making corrections and correcting amendments to this rule.

DATES: The direct final rule, which published at 64 FR 14401, and the corrections and correcting amendments, are effective on May 10, 1999.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590, 1400 Independence Avenue, SW., Washington, DC 20250–1590, Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION:

Confirmation of Effective Date

This is to confirm the effective date of the direct final rule, 7 CFR Part 1703, Distance Learning and Telemedicine Loan and Grant Program, published March 25, 1999, at 64 FR 14401, and is to advise that RUS did not receive any written adverse comments and no written notice of intent to submit adverse comments on this rule.

Need for Correction

As published, the direct final rule contains errors and information that may be misleading and is in need of modification.

List of Subjects in 7 CFR Part 1703

Community development, Grants programs-education, Grant programs-health care, Grant programs-housing and community development, Loan programs-education, Loan programs-health care. Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

I. Accordingly, FR Doc. 99–6995, RUS direct final rule, published on March 25, 1999, at 64 FR 14355, is corrected as follows:

§ 1703.103 [Corrected]

1. On page 14359, in the first column, in § 1703.103, paragraph (a)(3), beginning in line 10, the words ''distance learning or telemedicine grant'' are corrected to read ''financial assistance''.

§ 1703.105 [Corrected]

2. On page 14359, in the second column, in § 1703.105, paragraph (c), line 12, the word ''eminent'' is corrected to read ''imminent''.

3. On page 14359, in the third column, in § 1703.105, paragraph (e)(6), beginning with line 2, the words ''DLT borrower'' are corrected to read ''DLT recipient'' and in line 5 the word ''borrower'' is corrected to read ''recipient''.

§ 1703.108 [Corrected]

4. On page 14360, in the second column, in § 1703.108, paragraph (a), line 4, the word ''preceding'' is corrected to read ''following''.

§ 1703.123 [Corrected]

5. On page 14361, in the second column, in § 1703.123, paragraph (a)(13), line 2, ''§ 1703.105'' is corrected to read ''§ 1703.121''.

6. On page 14361, in the second column, in § 1703.123, paragraph (a)(14), line 2, ''§ 1703.105'' is corrected to read ''§ 1703.121''.

§ 1703.126 [Corrected]

7. On page 14363, in the first column, in § 1703.126, paragraph (a), line 7, ''paragraph (a)(2)'' is corrected to read ''paragraph (b)(2)(iv)''.

§ 1703.127 [Corrected]

8. On page 14365, in the first column, in § 1703.127, paragraph (c)(1), line 4, ''§ 1703.115(e)(1)'' is corrected to read ''§ 1703.125(e)(1)''.

9. On page 14365, in the second column, in § 1703.127, paragraph (c)(3), beginning in line 4, the words ''in accordance of § 1703.125(e).'' are corrected to read ''in accordance with § 1703.125(e).''.

§ 1703.134 [Corrected]

10. On page 14368, in the second column, in § 1703.134, paragraph (l), beginning in line 2, the words ''any additional RUS may'' are corrected to read ''any additional information RUS may''.

§ 1703.144 [Corrected]

11. On page 14371, in the first column, in § 1703.144, paragraph (c)(4), beginning in line 2, the words ''for both the combination loan and grant and'' are corrected to read ''for the loan and''.

12. On page 14371, in the second column, in § 1703.144, paragraph (d)(2), line 9, remove the word ''for''.

13. On page 14371, in the second column, in § 1703.144, paragraph (d)(3), the second sentence is corrected to read ''Those assets for which a loan is being requested should be clearly indicated.''

14. On page 14371, in the third column, in § 1703.144, paragraph (f)(2), beginning in line 16, the words ''fund using a combination loan and grant.'' are corrected to read ''fund using a loan.''.

15. On page 14371, in the third column, in § 1703.144, paragraph (f)(4), line 4, ''§ 1703.131(h).'' is corrected to read ''§ 1703.141(h).''.

§ 1703.145 [Corrected]

16. On page 14372, in the second column, in § 1703.145, paragraph (b), beginning in line 12, the words ''total loan and grant funding available for the fiscal year.'' are corrected to read ''total loan funding available for the fiscal year.''.