

■ 5. Amend § 780.15 by revising paragraph (c) and correcting the second sentence in paragraph (d) to read as follows:

**§ 780.15 Time limitations.**

\* \* \* \* \*

(c) A participant requesting reconsideration, mediation or appeal must submit a written request as instructed in the notice of decision that is received no later than 30 calendar days from the date a participant receives written notice of the decision. A participant that receives a determination made under part 1400 of this title will be deemed to have consented to an extension of the time limitation for a final determination as provided in part 1400 of this title if the participant requests mediation.

(d) \* \* \* A participant does not have the right to seek an exception under this paragraph. \* \* \*

\* \* \* \* \*

Signed at Washington, DC, on May 10, 2006.

**Teresa C. Lasseter,**

*Administrator, Farm Service Agency.*

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BILLING CODE 3410-05-P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 989**

[Docket No. FV06-989-1 FIR]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Raisin Administrative Committee (Committee) for the 2005-06 and subsequent crop years from \$11.00 to \$7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The Committee locally administers the Federal marketing order which regulates the handling of raisins produced from grapes grown in California (order). Assessments upon raisin handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year runs from August 1 through July 31. The

assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* June 29, 2006.

**FOR FURTHER INFORMATION CONTACT:** Rose Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**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 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."

USDA 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. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins beginning August 1, 2005, and continue 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 USDA 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. After the hearing USDA 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 USDA'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 in effect the action that decreased the assessment rate established for the Committee for the 2005-06 and subsequent crop years from \$11.00 to \$7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. Assessments upon handlers are used by the Committee to fund reasonable and necessary expenses of the program. When volume regulation is in effect, an administrative budget funded with handler assessments is developed, and a reserve pool budget funded with reserve pool proceeds is developed. Volume regulation was not implemented for the 2004-05 crop, but is applicable this year. As a result, Committee costs are apportioned between the two for 2005-06 and will be funded appropriately. The \$7.50 per ton assessment rate should generate enough revenue to cover the Committee's administrative expenses. This action was recommended by the Committee at a meeting on August 15, 2005.

Sections 989.79 and 989.80, respectively, of the order provide authority for the Committee, with the approval of USDA, 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 of 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.

Section 989.79 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.

When volume regulation is in effect, the Committee's operating costs (rent, salaries, etc.) are split between an administrative budget funded by handler assessments, and a reserve pool budget funded with proceeds of sales of reserve raisins. In years when the crop is short and no volume regulation is in effect, operating costs are funded by the administrative budget.

Volume regulation was not implemented for the 2004–05 season because the crop was short. Operating expenses were funded by the 2004–05 administrative budget and not apportioned between the administrative and reserve pool budgets. Thus, the Committee's assessment rate increased from \$8.00 to \$11.00 per ton to cover the higher 2004–05 administrative expenses.

The Committee meets each August to review the ensuing year's crop conditions and financial situation. When the Committee met on August 15, 2005, it recommended two budget scenarios for the 2005–06 crop year to accommodate both situations, because it was not known at that time if volume regulation would be implemented. At that time, it appeared the crop might be short, but the initial crop estimate would not be available until a later date.

Under the first budget scenario with volume regulation, the Committee recommended an administrative budget of \$2,062,500, a reserve pool budget of \$2,755,500, and a decreased assessment rate of \$7.50 per ton for the 2005–06 season. Under the second scenario, with no volume regulation, the Committee recommended an administrative budget of \$3,025,000, and a continuing assessment rate of \$11.00 per ton.

The Committee met on October 4, 2005, and announced preliminary volume regulation percentages for 2005–06 crop raisins. Raisin deliveries to-date are at a level to warrant the use of volume regulation for the year. This, in turn, supports the Committee's August recommendation to decrease the assessment rate from \$11.00 to \$7.50 per ton. Handlers are expected to acquire 275,000 tons of raisins during the 2005–06 crop year, which should provide adequate revenue to fund the recommended administrative expenditures of \$2,062,500. This compares to budgeted administrative expenses of \$3,025,000 for the 2004–05 crop year when volume regulation was not in effect.

Because the 2004–05 administrative budget funded some of the costs

typically allocated to a reserve budget, the Committee's 2004–05 expenses were higher than normal. A comparison of 2005–06 recommended administrative expenditures to 2004–05 administrative budget expenditures follows: 2005–06 salaries, \$500,000 (2004–05 administrative budgeted expenditures for salaries was \$1,000,000); \$686,000 for export program activities, (\$536,000); \$250,000 for compliance activities, (\$320,000); \$65,000 for group health insurance, (\$150,000); \$58,000 for rent, (\$110,000); \$60,000 for Committee member and staff travel, (\$120,000); and \$30,000 for computer software and programming, (\$110,000).

The recommended \$7.50 per ton assessment rate was derived by dividing the \$2,062,500 in anticipated expenses by an estimated 275,000 tons of assessable raisins. The Committee recommended decreasing its assessment rate because the projected administrative expenses for the 2005–06 crop year are \$962,500 less than the 2004–05 administrative expenses. Thus, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and other 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA 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 2005–06 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

#### **Final Regulatory Flexibility Analysis**

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 firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$6,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. Eleven of the 20 handlers subject to regulation have annual sales estimated to be at least \$6,500,000, and the remaining 9 handlers have sales less than \$6,500,000. No more than 9 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2005–06 and subsequent crop years from \$11.00 to \$7.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. Assessments upon handlers are used by the Committee to fund reasonable and necessary expenses of the program.

When volume regulation is in effect, an administrative budget funded with handler assessments is developed, and a reserve pool budget funded with reserve pool proceeds is developed. Volume regulation was not implemented for the 2004–05 crop, but is applicable this year. As a result, Committee costs are apportioned between the two for 2005–06 and will be funded appropriately. The Committee recommended administrative expenses of \$2,062,500. With anticipated assessable tonnage at 275,000 tons, sufficient income should be generated at the \$7.50 per ton assessment rate to meet the Committee's administrative expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

Because the 2004–05 administrative budget funded some of the costs typically allocated to a reserve budget, the Committee's 2004–05 expenses were higher than normal. A comparison of 2005–06 recommended administrative budget expenditures to 2004–05 administrative budget expenditures follows: 2005–06 salaries, \$500,000 (2004–05 administrative budgeted expenditures for salaries was \$1,000,000); \$686,000 for export program activities, (\$536,000); \$250,000 for compliance activities, (\$320,000); \$65,000 for group health insurance, (\$150,000); \$58,000 for rent, (\$110,000); \$60,000 for Committee member and staff travel, (\$120,000); and \$30,000 for computer software and programming, (\$110,000).

The industry considered an alternative assessment rate and budget prior to arriving at the \$7.50 per ton and \$2,062,500 administrative budget recommendation. The Committee's Audit Subcommittee met on July 13, 2005, to review preliminary budget information. The subcommittee was aware that 2005–06 crop may be short and no volume regulation may be implemented. The subcommittee, thus, developed two budgets and assessment rates to accommodate a scenario with volume regulation and another scenario with no volume regulation. If volume regulation was not applicable, costs typically allocated to a reserve pool budget would be funded by the administrative budget, thus necessitating a continuation of the \$11.00 per ton assessment rate. If volume regulation was applicable, costs would be allocated to an administrative budget and a reserve pool budget and the assessment rate would be reduced to \$7.50 per ton. The Committee approved these budget and assessment recommendations on August 15, 2005. Ultimately, the Committee determined that volume regulation was applicable for the 2005–06 crop, and that the lower assessment rate of \$7.50 per ton was appropriate.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently been less than one percent of grower revenue in recent years. A grower price of \$1,210 per ton for the 2005–06 raisin crop has been announced by the Raisin Bargaining Association. If this price is realized, assessment revenue would continue to be less than one percent of grower revenue in the 2005–06 crop year, even with the reduced assessment rate.

Regarding the impact of this action on affected entities, this action continues in effect the action that decreased the

assessment rate imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

Additionally, the Audit Subcommittee's meeting on July 13, 2005, and the Committee's meeting on August 15, 2005, where this action was deliberated were public meetings widely publicized throughout the California raisin industry. All interested persons were invited to attend the meetings and participate in the Committee deliberations on all issues.

This action 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 sectors agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on February 22, 2006 (71 FR 8923). Copies of that rule were also mailed or sent via facsimile to all raisin handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on April 24, 2006, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation 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.

#### **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 71 FR 8923 on February 22, 2006, is adopted as a final rule without change.

Dated: May 23, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6–8207 Filed 5–26–06; 8:45 am]

**BILLING CODE 3410–02–P**

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 72**

**RIN 3150–AH87**

#### **List of Approved Fuel Storage Casks: VSC–24 Revision 6, Confirmation of Effective Date**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule: Confirmation of effective date.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is confirming the effective date of June 5, 2006, for the direct final rule that was published in the **Federal Register** on March 21, 2006 (71 FR 14089). This direct final rule amended the NRC's regulations to revise the BNG Fuel Solutions Corporation VSC–24 cask system listing to include Amendment No. 6 to Certificate of Compliance (CoC) No. 1007.

**DATES:** *Effective Date:* The effective date of June 5, 2006, is confirmed for this direct final rule.

**ADDRESSES:** Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail [jmm2@nrc.gov](mailto:jmm2@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On March 21, 2006 (71 FR 14089), the NRC