technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0220 and the Marketing Order for Grapes Grown in a Designated Area of Southeastern California and be sent to the USDA in care of the Docket Clerk at the previously mentioned address. All comments timely received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. As mentioned before, because there was insufficient time for a normal clearance procedure and prompt implementation was needed, AMS has obtained emergency approval from OMB for the use of this form for the 2004 regulation period, which began April 2004. Upon publication of the final rule, this collection will be merged with the forms currently approved for use under OMB No. 0581–0189 "Generic OMB Fruit Crops.''

In summary, this rule establishes end-of-season reporting requirements authorized under the California grape order. Requiring handlers to file end-of-season grape shipment reports with the Committee will enable the Committee to obtain accurate shipment data for assessment billing and for the next season's marketing decisions without incurring the expense of auditing every handler. This action also is expected to reduce the handler costs, because the submission of end-of-season grape shipment reports should be less costly and less time consuming than yearly handler audits. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation and other information, it is found that this interim final 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 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) This action adds end-of-season grape shipment reporting requirements to facilitate handler and committee staff operations and to reduce costs; (2) the Committee unanimously recommended the end-of-season reporting requirement at a public meeting and interested parties had an opportunity to provide input; (3) California grape shipments are expected to begin approximately April 20, 2004, and this rule should be in effect as soon as possible; (4) this rule provides for a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 925

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

■ For the reasons set forth in the preamble, 7 CFR part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 925.160 is added to Subpart—Rules and Regulations to read as follows:

§ 925.160 Reports.

When requested by the California Desert Grape Administrative Committee, each shipper who ships grapes, shall furnish an end-of-season grape shipment report (CDGAC–3) to the Committee no later than 10 days after the last day of shipment for the season or such later time the Committee deems appropriate. Such reports shall show the reporting period, the name and other identification of the shipper and grower, the invoice number, shipping date, varietal name, shipment destination (city and state), and the number of lugs shipped (pounds).

Dated: April 16, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–9097 Filed 4–21–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV04–981–1 FIR]

Almonds 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 Almond Board of California (Board) for the 2003–04 and subsequent crop years from $0.025 to $0.020 per pound of almonds received. The Board locally administers the marketing order which regulates the handling of almonds grown in California. Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The crop year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: May 24, 2004.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds 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.''

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 almond 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 almonds beginning August 1, 2003, 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 to decrease the assessment rate established for the Board for the 2003–04 and subsequent crop years from $0.025 to $0.020 per pound of almonds received.

The California almond marketing order provides authority for the Board, 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 Board are producers and handlers of California almonds. They are familiar with the Board'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.

For the 1998–99 and subsequent crop years, the Board recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on May 15, 2003, and unanimously recommended 2003–04 expenditures of $20,358,304. In comparison, budgeted expenditures for 2002–2003 were $19,407,437. An assessment rate of $0.025 was established for the 1998–99 crop year and remained in effect through the 2002–2003 crop year.

The major expenditures recommended by the Board for the 2003–04 crop year include $6,375,312 for advertising and market research, $7,587,750 for public relations and other promotion and education programs including a Market Access Program (MAP) administered by USDA's Foreign Agriculture Service (FAS), $1,500,000 for salaries and wages, $1,000,000 for nutrition research, $850,332 for production research, $823,948 for quality programs, $40,000 for econometric modeling and analysis, $254,903 for environmental programs, $200,000 for travel, $122,472 for office rent, $120,750 for a crop estimate, $159,836 for compliance audits and analysis, and $90,780 for an acreage survey.

Budgeted expenses for these items in 2002–03 were $6,125,312 for advertising and market research, $6,877,750 for public relations and other promotion and education programs including a MAP program administered by FAS, $1,760,000 for salaries and wages, $1,000,000 for nutrition research, $622,131 for production research, $472,964 for quality programs, $172,500 for econometric modeling and analysis, $230,550 for travel, $122,850 for office rent, $120,762 for a crop estimate, $125,000 for compliance audits and analysis, and $98,713 for acreage survey.

In September 2003, the Board recommended an increase in 2003–04 expenses due to an increased availability of funds from FAS. USDA approved an increased expenditure level of $20,547,385.

The Board met again on November 6, 2003, and recommended decreasing the assessment rate from $0.025 per pound to $0.020 per pound of almonds handled. Of the $0.020 per pound assessment, $0.01 per pound is available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval. The Board recommended reducing the assessment rate because the 2002–03 financial audit revealed that the Board's financial reserve exceeded the amount authorized under § 981.81(c) of the order.

Section 981.81(c) authorizes a financial reserve of approximately one-half year's budgeted expenses. One-half of the 2003–04 crop year's budgeted expenses of $20,547,385 equals $10,273,692. The financial audit revealed a reserve of $12,681,596 at the end of the 2002–03 crop year, which is $2,407,904 more than the authorized reserve.

Section 981.81(b) of the order requires excess funds held in the financial reserve to be refunded to handlers or used to reduce the assessment rate in the subsequent crop year. The Board considered both options, and recommended the latter. By reducing the assessment rate and projected assessment revenue, the Board's estimated financial reserve at the end of the 2003–04 crop year will be $7,338,087, which is within the parameters authorized under the order.

The assessment rate recommended by the Board was derived by considering anticipated expenses and production levels of California almonds, and additional pertinent factors. In its recommendation, the Board utilized an estimate of 907,200,000 pounds of assessable almonds for the 2003–04 crop year. If realized, this will provide estimated assessment revenue of $9,072,000 from all handlers, and an additional $4,989,600 from those handlers who do not participate in the credit-back program, for a total of $14,061,600. In addition, it is anticipated that $13,678,872 will be provided by other sources, including interest income, MAP funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources will be adequate to cover budgeted expenses. Any unexpended funds from the 2003–04 crop year may be carried over to cover expenses during the succeeding crop year. As previously mentioned, funds in the reserve at the end of the 2003–04 crop year are estimated to be approximately $7,338,087, which is within the amount permitted by the order.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board 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 Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 2003–04 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 rule 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 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 6,250 producers of almonds in the production area and approximately 119 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Data for the most recently completed crop year indicate that about 38 percent of the handlers shipped over $5,000,000 worth of almonds and about 62 percent of handlers shipped under $5,000,000 worth of almonds. In addition, based on production and grower price data reported by the California Agricultural Statistics Service (CASS), and the total number of almond growers, the average annual grower revenue is estimated to be approximately $190,000. Based on the foregoing, the majority of handlers and producers of almonds may be classified as small entities.

This rule continues to decrease the assessment rate established for the Board and collected from handlers for the 2003–04 and subsequent crop years from $0.025 to $0.020 per pound of almonds. Of the $0.020 per pound assessment, $0.01 per pound is available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval. The Board initially recommended, and USDA approved, 2003–04 expenditures of $20,358,304 and an unchanged assessment rate of $0.025 per pound in May 2003. In September 2003, the Board recommended an increase in 2003–04 expenses due to an increased availability of funds from FAS. USDA approved an increased expenditure level of $20,547,385.

On November 6, 2003, the Board subsequently recommended reducing the assessment rate to $0.020 per pound due to excess funds in the financial reserve. The 2002–03 crop year financial audit revealed that the Board's financial reserves exceeded the order's limitation of approximately one-half year's budgeted expenses, by $2,407,904. The assessment rate of $0.020 is $0.005 lower than the prior rate. The quantity of assessable almonds for the 2003–04 crop year is estimated at 907,200,000 pounds. Thus, the $0.020 assessment rate should provide $14,061,000 in assessment income and be adequate to meet this year's expenses, when combined with other revenues including financial reserves. The projected financial reserve at the end of 2003–04 is $7,338,087, which is within the parameters of the order.

The major expenditures recommended by the Board for the 2003–04 crop year include $6,375,312 for advertising and market research, $7,587,750 for public relations and other promotion and education programs including a MAP program administered by USDA's FAS, $1,500,000 for salaries and wages, $1,000,000 for nutrition research, $850,332 for production research, $823,948 for quality programs, $40,000 for econometric modeling and analysis, $254,903 for environmental programs, $200,000 for travel, $122,472 for office rent, $120,750 for a crop estimate, $159,836 for compliance audits and analysis, and $90,780 for an acreage survey.

Budgeted expenses for these items in 2002–03 were $6,125,312 for advertising and market research, $6,877,750 for public relations and other promotion and education programs including a MAP administered by FAS, $1,760,000 for salaries and wages, $1,000,000 for nutrition research, $622,131 for production research, $472,964 for quality programs, $172,500 for econometric modeling and analysis, $230,550 for travel, $122,850 for office rent, $120,762 for a crop estimate, $125,000 for compliance audits and analysis, and $98,713 for an acreage survey.

The Board considered two available alternatives to remedy the excess financial reserve situation as provided for in § 981.81(b) of the order: refund the excess funds to handlers, or reduce the assessment rate. After deliberating the issue, the Board recommended reducing the assessment rate.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the average grower price for the 2003–04 season could range between $1.50 and $1.80 per pound of almonds. Therefore, the estimated assessment revenue for the 2003–04 crop year (disregarding any amounts credited pursuant to §§ 981.41 and 981.441) as a percentage of total grower revenue could range between 1.1 and 1.3 percent.

This action continues to decrease the assessment obligation 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 reduces the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the California almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the November 6, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California almond 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.

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 January 8, 2004 (69 FR 1269). Copies of the rule were mailed or sent via facsimile to all almond handlers. Finally, a copy of the rule was made available through the Internet by USDA and the Office of the Federal Register. No comments were received in response to the interim final rule.

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 Board 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 981

Almonds, Marketing agreements, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 981, which was published at 69 FR 1269 on January 8, 2004, is adopted as a final rule without change.

Dated: April 19, 2004.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 04–9135 Filed 4–21–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV04–989–1 IFR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2003–04 Crop Natural (Sun-Dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes final volume regulation percentages for 2003–04 crop Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 70 percent free and 30 percent reserve. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

DATES: Effective April 23, 2004. The volume regulation percentages apply to acquisitions of NS raisins from the 2003–04 crop until the reserve raisins from that crop are disposed of under the marketing order. Comments received by June 21, 2004, 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 to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov,* or *http://www.regulations.gov.* All 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, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491; Fax: (202) 720–8938.

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.*

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 of Agriculture (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 order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for NS raisins for the 2003–04 crop year, which began August 1, 2003, and ends July 31, 2004. 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 establishes final volume regulation percentages for 2003–04 crop NS raisins covered under the order. The volume regulation percentages are 70 percent free and 30 percent reserve. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. The Committee unanimously recommended final percentages on February 12, 2004.

Computation of Trade Demands

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 14, 2003, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is