

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 925

[Docket No. AMS-FV-07-0028; FV07-925-1 PR]

#### Grapes Grown in a Designated Area of Southeastern California; Change in Reporting Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on a revision to the reporting requirements established under the California desert grape marketing order, which regulates the handling of grapes grown in a designated area of Southeastern California. The marketing order is administered locally by the California Desert Grape Administrative Committee (CDGAC or committee). This rule would require handlers to provide an annual report to the committee which lists the acreages devoted to grapes for fresh shipment, the owners and locations of the acreages, and varieties produced thereon that the handler will be handling during the upcoming season. This change would allow the committee to collect information on the acreage and varieties of desert grapes regulated under the marketing order, thus improving data collection and the efficient operation of the program.

**DATES:** Comments must be received by May 1, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. 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 Internet: <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 available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>

#### FOR FURTHER INFORMATION CONTACT:

Terry Vawter, 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, or E-mail: [Terry.Vawter@usda.gov](mailto:Terry.Vawter@usda.gov) or [Kurt.Kimmel@usda.gov](mailto:Kurt.Kimmel@usda.gov).

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 proposal is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern 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. This rule is not intended to have retroactive effect. This proposal 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. A 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 would change the reporting requirement under the order by requiring handlers to file an annual acreage survey which lists the acreages devoted to grapes, the locations and owners of the acreage, and varieties produced thereon for fresh shipment that the handler will be handling during the upcoming season. The form would provide information necessary for the committee to estimate annual production, determine the necessary assessment rate, and establish an annual budget of expenses. This change was unanimously recommended by the committee at a meeting on February 6, 2007.

Section 925.60 provides authority for the committee, with the approval of USDA, to require handlers to furnish information to the committee. Currently, § 925.60(a) requires handlers to file reports of shipments of grapes. Under § 925.60(b), the committee is authorized, with the approval of USDA, to require handlers to furnish such other information as it may prescribe and may be necessary to enable the committee to perform its duties under the order.

The acreage survey is currently an approved form authorized for use by the committee. The form was initially included so that the committee could, at some future time, recommend requiring handlers to use the form if it was determined that aggregating information on grape acreage would provide a benefit to the industry.

The committee met on February 6, 2007, and discussed the grape acreage survey. At this time, the committee believes the report would provide valuable information and unanimously recommended that it be a mandatory report, such as those authorized under § 925.60. This change is intended to enhance the efficient operation of the program by permitting the committee to collect production data, which, in turn, would allow them to have more accurate information for establishing a crop estimate, determining an assessment rate, and developing an annual budget of expenses.

**Initial 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 initial 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 50 producers of grapes in the production area and approximately 20 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts less than \$750,000 and defines small agricultural service firms as those whose annual receipts are less than \$6,500,000.

Last year, six of the 20 handlers subject to regulation had annual grape sales of at least \$6,500,000. In addition, 10 of the 50 producers had annual sales of at least \$750,000. Therefore, a majority of handlers and producers may be classified as small entities.

This rule would revise § 925.160 of the order's rules and regulations to include the requirement that handlers file an annual grape acreage survey.

This rule would impose minimal additional costs on handlers regulated under the order. The benefits of this proposed rule are not expected to be disproportionately greater or less for small handlers than for large entities.

At the meeting, the committee discussed an alternative to this change, which would be to ask handlers to voluntarily report grape acreage. However, under voluntary reporting, it is possible that all handlers would not report the information, making it difficult for the committee to aggregate accurate information used in determining the committee's crop estimate, assessment rate, and budget of expenses. The committee agreed that this alternative would not be in the best interest of the committee and the industry, and unanimously recommended mandating the report.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this

rule are currently approved by the Office of Management and Budget (OMB), under OMB No. 0581-0189, Generic OMB Fruit Crops. This rule would impose minimal additional reporting or recordkeeping requirements, deemed to be insignificant, on both small and large grape handlers.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Further, the committee's meeting on February 6, 2007, was widely publicized throughout the desert grape industry and all interested persons were encouraged to attend the meeting and participate in committee deliberations. Like all committee meetings, the February 6, 2007, meeting was a public meeting; and all entities, both large and small, were encouraged to express their views on this issue. All interested persons were invited to attend this meeting and encouraged to participate in the industry's deliberations.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible since the shipping season begins April 20. All written comments timely received will be considered before a final determination is made on this matter.

**List of Subjects in 7 CFR Part 925**

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be 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. In § 925.160, the current paragraph is redesignated as paragraph (a), and a new paragraph (b) is added to read as follows:

**§ 925.160 Reports.**

(a) \* \* \*

(b) When requested by the California Desert Grape Administrative Committee (CDGAC), each shipper who ships grapes shall furnish to the committee at such time as the committee shall require, an annual grape acreage survey (CDGAC Form 7), which shall include, but is not limited to, the following: the applicable year in which the report is requested; the names of the shipper (handler) who will handle the grapes and the grower who produces them; the location of each vineyard; the variety or varieties grown in each vineyard; and the bearing, non-bearing, and total acres of each vineyard.

Dated: April 11, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7-7179 Filed 4-13-07; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 25**

[Docket No. NM365 Special Conditions No. 25-07-02-SC]

**Special Conditions: Boeing Model 787-8 Airplane; Systems and Data Networks Security—Protection of Airplane Systems and Data Networks From Unauthorized External Access**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This notice proposes special conditions for the Boeing Model 787-8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The architecture of the Boeing Model 787-8 systems and networks allows access to external systems and networks, including the public Internet.