Considerations in Determining Expenses and Assessment Rates

Prior to arriving at these budgets, the committees considered information and recommendations from various sources, including, but not limited to: The Executive Committee, the Research Subcommittee, the International Programs Subcommittee, the Grade and Size Subcommittee, and the Domestic Promotion Subcommittee.

Each of the committees then reviewed the proposed expenses; the total estimated assessable 25-pound containers or container equivalents; and the estimated income from other sources, such as interest income, prior to recommending a final assessment rate. The NAC decided that an assessment rate of $0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of about $438,374, which is in line with the committee's financial needs. The PCC decided that an assessment rate of $0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of $530,586, which is in line with the committee's financial needs. The committees then recommended this rate to USDA with one dissenting vote from each committee.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 seasons could range between $4.00 and $6.00 per 25-pound container or container equivalent. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between 3.33 and 5.0 percent.

This action continues to increase the assessment obligation imposed on handlers. 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 from the operation of the marketing orders. In addition, the committees' meetings were widely publicized throughout the California nectarine and peach industries and all interested persons were invited to attend the meetings and participate in the committees' deliberations on all issues. Like all committee meetings, the May 1, 2003, meetings were public meetings and all entities of all sizes were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large 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 August 15, 2003 (68 FR 48767). Copies of that rule were also mailed to committee members and made available as a link on the committees' Web site. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 14, 2003, 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 Committees' recommendations, and other 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

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.234 Assessment rate.

■ Accordingly, the interim final rule amending 7 CFR part 916 which was published at 68 FR 48767 on August 15, 2003, is adopted as a final rule without change.

PART 917—PEACHES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 917 which was published at 68 FR 48767 on August 15, 2003, is adopted as a final rule without change.

Dated: November 7, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–28521 Filed 11–13–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV03–989–7 FIR]

Raisins Produced From Grapes Grown in California; Reduction in Additional Storage Payments Regarding Reserve Raisins Intended for Use as Cattle Feed

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 that reduced the additional holding and storage payments regarding 2002 Natural (sun-dried) Seedless (NS) reserve raisins that were carried into the 2003 crop year and used as cattle feed. The crop year runs from August 1 through July 31. Such payments are authorized under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action continues to reduce expenses incurred by the 2002 reserve pool and thereby helps improve returns to 2002 equity holders, primarily raisin producers.

EFFECTIVE DATE: Effective December 15, 2003.

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.''

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 rule will not preempt any State or local laws, 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 continues to reduce the additional holding and storage payments regarding 2002 NS reserve raisins that were carried into the 2003 crop year and used as cattle feed. The crop year runs from August 1 through July 31. Under the order, handlers are compensated for receiving, storing, fumigating, and handling reserve tonnage raisins acquired during a crop year. The order also authorizes additional payments for reserve raisins held beyond the crop year of acquisition. The RAC met on July 2, 2003, and unanimously recommended that additional payments for reserve raisins used as cattle feed accrue beginning September 13, 2003, rather than August 1, 2003. This action continues to reduce expenses incurred by the 2002 reserve pool and thereby helps improve returns to 2002 equity holders, primarily raisin producers.

Volume Regulation Provisions

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to the reserve pool's equity holders, primarily producers.

Costs Regarding Holding and Storage of Reserve Raisins

Section 989.66(f) of the order specifies that handlers be compensated for receiving, storing, fumigating, and handling that tonnage of reserve raisins determined by the reserve percentage of a crop year and held by them for the account of the RAC, in accordance with a schedule of payments established by the RAC and approved by the Secretary. Further, the RAC must pay rent to producers or handlers for boxes used in storing reserve raisins held beyond the crop year of acquisition. As previously mentioned, the crop year runs from August 1 through July 31.

Section 989.401(b) of the order's rules and regulations specifies additional payments to handlers for storing, handling, and fumigating reserve raisins held beyond the crop year of acquisition. Specifically, handlers must be compensated for such raisins at a rate of $2.30 per ton for the first 3 months (August through October), and at a rate of $1.18 per ton per month for the remaining 9 months (November through July).

Section 989.401(c) specifies further payment of rental on boxes and bins containing raisins held beyond the crop year of acquisition. Specifically, persons who furnish boxes or bins used for storing reserve raisins held for the account of the RAC on August 1 are compensated for the use of such containers as follows: For boxes, 2½ cents per day, not to exceed a total payment of $1.00 per box per year, per average net weight of raisins in a sweatbox, with equivalent rates for raisins in boxes other than sweatboxes; and for bins, 20 cents per day per bin, not to exceed a total of $10.00 per bin per year.

Disposal Program

Pursuant to § 989.67(b) of the order, the RAC implemented a program to dispose of about 38,000 tons of 2002 NS reserve raisins for use as cattle feed. The tonnage was stored at handler facilities and was adulterated to ensure that the raisins remain in non-commercial channels. The program helped the industry reduce its burdensome oversupply of raisins. It also helped to make available bins for storing raisins during the new crop year, which began August 1, 2003. Nearly all of the reserve tonnage that was used as cattle feed was removed from handler premises by mid-September 2003 (about 425 tons remained).

RAC Recommendation

The RAC met on July 2, 2003, and unanimously recommended reducing the additional holding and storage payments regarding 2002 NS reserve raisins held by handlers on August 1, 2003, and used as cattle feed. Specifically, additional payments for such raisins were accrued beginning September 13, 2003, rather than August 1, 2003. Thus, additional costs were only incurred for such tonnage that remained at handler premises after September 12, 2003 (425 tons). Payments for storing and holding reserve raisins are deducted from reserve pool proceeds, and net proceeds are ultimately distributed to equity holders. Thus, reducing the expenses for 2002 NS reserve tonnage used as cattle feed will help improve returns to 2002 equity holders.

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 service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. 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. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule continues to reduce the additional holding and storage payments specified in paragraphs (b) and (c) of § 989.401 regarding 2002 NS reserve raisins that were used as cattle feed. Specifically, additional payments for such raisins accrued beginning September 13, 2003, rather than August 1, 2003. Under the order, handlers are compensated for receiving, storing, fumigating, and handling reserve tonnage raisins acquired during a crop year. The order also authorizes additional holding and storage payments for reserve raisins held beyond the crop year of acquisition. This action continues to reduce these additional payments for 2002 NS reserve raisins held by handlers on August 1, 2003, that were used as cattle feed. Authority for this action is provided in § 989.66(f) of the order.

Regarding the impact of this rule on affected entities, handlers and producers, the order provides that handlers store reserve raisins for the account of the RAC. Net proceeds from sales of such reserve raisins are distributed to the reserve pool's equity holders, primarily producers. Handlers are compensated from reserve pool funds for their costs in receiving, storing, fumigating, and handling reserve raisins during the crop year of acquisition and for the subsequent crop year. Compensation is also paid for the use of bins and boxes for storing reserve raisins held beyond the crop year of acquisition.

Under the disposal program, 22,541 tons of reserve raisins remained at handler premises after August 1, 2003. About 525 tons were removed per day. The cost to store, handle, and fumigate the remaining tonnage at the rate of $2.30 per ton per month between August 1 and September 12, 2003, would have been about $66,256. Bin-rental costs for the same period at the current rate of $0.20 per day per bin would have been about $198,075.00. Thus, the RAC saved about $264,331 in costs that would have been used for holding and storing 2002 reserve raisins intended for use as cattle feed between August 1 and September 12, 2003. This rule continues to reduce these costs to zero and thereby reduce expenses incurred by the 2002 NS reserve pool. Handlers, however, will not be compensated this amount for holding and storing this tonnage.

Regarding alternatives to this action, one option would be to maintain the status quo and have the 2002 reserve pool incur these costs. However, this would not help to improve returns to 2002 equity holders. Another alternative would be to reduce the payments for the period August 1 through September 12, 2003, to figures lower than those currently specified in § 989.401. However, all RAC members supported reducing the additional holding and storage payments for 2002 reserve raisins intended for use as cattle feed so that such payments accrued beginning September 13, 2003, rather than August 1, 2003.

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

Further, the RAC's Administrative Issues Subcommittee and RAC meetings on July 2, 2003, where this action was deliberated were both 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 July 31, 2003 (68 FR 44857). Copies of the rule were mailed by the RAC staff to all RAC 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 and USDA. The rule provided for a 60-day comment period that ended on September 29, 2003. 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 RAC 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 68 FR 44857 on July 31, 2003, is adopted as a final rule without change.

Dated: November 7, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–28519 Filed 11–13–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 03–036–2]

Veterinary Services User Fees; Pet Food Facility Inspection and Approval Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the user fee regulations to replace the flat rate annual user fees currently charged for the inspection and approval of pet food manufacturing, rendering, blending,