

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1690

#### Miscellaneous Regulations

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Final rule.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) is adopting as final the Board's interim Thrift Savings Plan (TSP) plan year regulations.

**DATES:** This regulation is effective June 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Merritt A. Willing on (202) 942-1666.

**SUPPLEMENTARY INFORMATION:** The Board administers the TSP, a defined contribution plan for Federal employees established by the Federal Employees' Retirement System Act of 1986, Pub. L. 99-335, 100 Stat. 514 (codified, as amended, largely at 5 U.S.C. 8401-8479).

An employee benefit plan must establish a plan year for accounting and auditing purposes. Under 5 U.S.C. 8439(b), the Board must engage a certified public accountant to perform an annual audit of the Thrift Savings Fund for the preceding year. A plan year must be established by the TSP to allow these necessary audits to be performed. On November 12, 1987, the Board published an interim rule, with a request for comments, in the **Federal Register** (52 FR 43315), establishing a plan year for the TSP. For administrative convenience, the plan year adopted by the Board is the same as the calendar year. Unless otherwise indicated in future regulations, this plan year will apply in all cases where the TSP must be evaluated on an annual basis. The sole exception to this principle will be situations where the Board is subject to Government

financial requirements on a fiscal year basis. (The Federal Government's fiscal year is October 1 through September 31.) The Board received no comments on the interim rule and therefore is adopting it as final without change.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only Federal Government procedures related to the TSP.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

#### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, section 201, 109 Stat. 48, 64, the effect of these regulations on State, local and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by any State, local or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

#### Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined in 5 U.S.C. 804(2). Federal Retirement Thrift Investment Board.

**Roger W. Mehle,**  
*Executive Director.*

Accordingly, the interim rule adding 5 CFR Part 1690, which was published at 52 FR 43315 on November 12, 1987, is adopted as final without change.

[FR Doc. 97-15723 Filed 6-13-97; 8:45 am]

BILLING CODE 6760-01-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[FV97-989-1 FIR]

#### Raisins Produced From Grapes Grown In California; Final Free and Reserve Percentages for the 1996-97 Crop Year for Natural (Sun-Dried) Seedless Raisins

**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 established final free and reserve percentages for 1996-97 crop Natural (sun-dried) Seedless raisins. The percentages are 86 percent free and 14 percent reserve. These percentages are intended to stabilize supplies and prices, and strengthen market conditions. This rule was recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.

**EFFECTIVE DATE:** July 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Maureen Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209-487-5901, Fax (209) 487-5906; or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: 202-205-2830. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax # (202) 720-5698.

**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."

The Department of Agriculture (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 provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule finalizes an interim final rule which established final free and reserve percentages for Natural (sun-dried) Seedless raisins for the 1996-97 crop year, beginning August 1, 1996, through July 31, 1997. 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 requesting a modification of the order or to be exempt therefrom. Such 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.

The order prescribes procedures for computing trade demands and preliminary and final percentages that establish the amount of raisins that can be marketed throughout the season. The regulations apply to all handlers of California raisins. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Committee, which is responsible for local administration of the order. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use or to replace part of the free raisins they exported; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets

noncompetitive with those for free tonnage raisins.

While this rule may restrict the amount of Natural (sun-dried) Seedless raisins that enter domestic markets, final free and reserve percentages are intended to promote stronger marketing conditions, to stabilize prices and supplies, and to improve grower returns. In addition to the quantity of raisins released under the preliminary percentages and the final percentages, the order specifies methods to make available additional raisins to handlers by requiring sales of reserve pool raisins for use as free tonnage raisins under "10 plus 10" offers, and authorizing sales of reserve raisins under certain conditions, such as a national emergency, crop failure, change of economic or marketing conditions, or if free tonnage shipments during the current crop year exceed shipments of the prior crop year by more than 5 percent.

The Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal is met by the establishment of a final percentage which releases 100 percent of the computed trade demand and the additional release of reserve raisins to handlers under "10 plus 10" offers. The "10 plus 10" offers are two simultaneous offers of reserve pool raisins which are made available to handlers each season. For each such offer, a quantity of raisins equal to 10 percent of the prior year's shipments is made available for free use. Approximately 59,000 tons of Natural (sun-dried) Seedless were purchased by handlers for free use pursuant to these offers. The quantity available under this rule would be about 406,000 tons natural condition raisins or 381,000 tons packed raisins. This is 129 percent of the quantity shipped in 1995.

Pursuant to section 989.54(a) of the order, the Committee met on August 15, 1996, to review shipment data, inventory data, and the 1995 crop conditions for raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. The trade demand is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use for each varietal type into all market outlets, adjusted by subtracting the carryin of each varietal type on August 1 of the current crop year and by adding to the trade demand the desirable carryout for each varietal type at the end of that crop year. As

specified in section 989.154, the desirable carryout for each varietal type shall be equal to the shipments of free tonnage raisins of the prior crop year during the months of August and September. If the prior year's shipments are limited because of crop conditions, the total shipments during that period of time during one of the three years preceding the prior crop year may be used. In accordance with these provisions, the Committee computed and announced a 1996-97 trade demand of 232,765 tons for Natural (sun-dried) Seedless raisins.

As required under section 989.54(b) of the order, the Committee met on October 3, 1996, and computed and announced a preliminary crop estimate and preliminary free and reserve percentages for Natural (sun-dried) Seedless raisins which released 85 percent of the trade demand. On October 3, 1996, the Committee's crop estimate and preliminary free and reserve percentages were as follows: 272,034 tons, and 73 percent free and 27 percent reserve.

Also at that meeting, the Committee computed and announced preliminary crop estimates and preliminary free and reserve percentages for Dipped Seedless, Oleate and Related Seedless, Golden Seedless, Zante Currant, Sultana, Muscat, Monukka, and Other Seedless raisins. The Committee determined, however, that volume control percentages only were warranted for Natural (sun-dried) Seedless raisins. It determined that the supplies of the other varietal types would be less than or close enough to the computed trade demands for each of these varietal types. These varietal types are produced in much smaller quantities than Natural (sun-dried) Seedless raisins. In view of these factors, volume control percentages either would not be necessary to maintain market stability or would not be economically practical for the other varietal types.

Pursuant to section 989.54(c), the Committee may adopt interim free and reserve percentages. Interim percentages may release less than the computed trade demand for each varietal type. Interim percentages for Natural (sun-dried) Seedless raisins of 85.75 percent free and 14.25 percent reserve were announced by the Committee on February 3, 1997. The Committee considered its final estimate of 270,999 tons of 1996-97 production of Natural (sun-dried) Seedless raisins when it established the interim percentages. That action released most, but not all, of the computed trade demand for Natural (sun-dried) Seedless raisins.

In addition, under section 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15 of each crop year, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type. The Committee met on February 3, 1997, for this purpose.

The computed trade demand (232,765 tons) is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets (282,289 tons), adjusted by subtracting the carryin of each varietal type on August 1 of the current crop year (113,697 tons) and by adding to the trade demand the desirable carryout for each varietal type at the end of that crop year (64,173 tons). No information was presented between the August 15, 1996, meeting and the February 3, 1997, meeting to cause the Committee to make any change to the computed trade demand. Thus, the Committee divided the computed trade demand of 232,765 tons by the final production estimate (270,999 tons) and recommended a final free percentage of 86 percent and a final reserve percentage of 14 percent.

The free and reserve percentages established by the interim final rule finalized herein apply uniformly to all handlers in the industry, whether small or large, and there are no known additional costs incurred by small handlers. Although raisin markets are limited, they are available to all handlers, regardless of size. The stabilizing effects of the percentages impact both small and large handlers positively by helping them maintain and expand markets.

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.

There are approximately 20 handlers of California raisins who are subject to regulation under the raisin marketing order and approximately 4,500 producers of raisins in the regulated area. Small agricultural service firms, which includes handlers, 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 8 handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation

have annual sales estimated to be at least \$5,000,000, and the remaining 8 handlers have sales less than \$5,000,000, excluding receipts from any other sources.

Committee and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Committee recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The current volume control procedures fully supply the domestic and export markets, provide for market expansion, and help prevent oversupplies in the domestic market.

In discussing the possibility of marketing percentages for the 1996–97 crop year, the Committee considered: (1) The estimated tonnage held by producers, handlers, and for the account of the Committee at the beginning of the crop year (113,697 tons); (2) the estimated tonnage of standard raisins which will be produced in 1996–97 (270,999 tons); (3) the trade demand for raisins in free tonnage outlets in 1996–97 (232,765 tons); (4) the estimated desirable carryout at the end of the 1996–97 crop year for free tonnage (64,173 tons); (5) the estimated world raisin supply and demand situation; (6) the current prices being received and the probable level of prices to be received for raisins by producers and handlers; and (7) the trend and level of consumer income.

The Committee's review of the factors resulted in the computation and announcement in October 1996 of preliminary free and reserve percentages for Natural (sun-dried) Seedless raisins. This varietal type is the major commercial varietal type produced in California. Although the 1996–97 crop was estimated to be down from previous crop years, the total supply available for marketing (270,999 tons) exceeded the computed trade demand (232,765 tons) by a large enough quantity (38,234 tons) to support limiting the quantity available for sale in free tonnage markets by placing a portion of the crop

aside to be sold when demand improved in the current or subsequent season.

This rule finalizes an interim final rule which established free and reserve percentages for Natural (sun-dried) Seedless raisins in accordance with the volume control provisions in section 989.54. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Committee, which is responsible for local administration of the order. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use or to replace part of the free use raisins they exported; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free tonnage raisins. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic market. That market is available to all handlers, regardless of handler size.

Raisin variety grapes can be marketed as fresh grapes, crushed for use in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets cause fluctuations in raisin supply. These supply fluctuations can cause producer price instability and disorderly market conditions. Volume control is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. Industry statistics show that Natural (sun-dried) Seedless raisin receipts have varied widely over the last ten years, from a low of 325,911 tons in 1995 to a high of 395,501 tons in 1989. Average receipts for the last 10 years have been around 365,000 tons. As crop size has fluctuated, volume regulations have contributed toward orderly marketing and market stability, and have helped moderate the variation in returns for all growers and handlers, both large and small. For instance, handler receipts in the shortest crop year (1995) were 89 percent of the ten-year average (1986–1995). Handler receipts in the biggest crop year (1989) were 108 percent of the ten-year average.

Free and reserve percentages are established by variety, and only in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume control is necessary to maintain market stability. Accordingly, in assessing whether to apply volume control regulation or, as an alternative, not to

apply such regulation, the Committee recommended only one of the 9 raisin varietal types defined under the marketing order for volume control regulation this season.

As mentioned earlier, the Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 129 percent of the quantity shipped in 1995.

The free and reserve percentages established by the interim final rule released the full trade demand and apply uniformly to all handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their raisins will generate.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though raisin supplies fluctuate widely from season to season.

This rule will not impose any 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. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was issued by the Department on April 7, 1997, put on display at the Office of the Federal Register on April 11, 1997, and published in the **Federal Register** on April 14, 1997. Copies of the rule were mailed by the Committee's staff to all Committee members, raisin handlers, and dehydrators. Finally, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 30-day comment period which ended May 14, 1997. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and

other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (62 FR 18029, April 14, 1997) 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 62 FR 18029 on April 14, 1997, is adopted as a final rule without change.

Dated: June 6, 1997.

**Eric M. Forman,**

*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 97-15669 Filed 6-13-97; 8:45 am]

BILLING CODE 3410-02-P

### **DEPARTMENT OF AGRICULTURE**

#### **Rural Utilities Service**

#### **7 CFR Part 1753**

#### **Acceptance Test Policy**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is publishing a minor amendment to its test acceptance procedures to correct 7 CFR part 1753.39, paragraph (c), to reflect new acceptance tests guidelines covered under RUS Bulletin 1753E-201, Acceptance Tests for Digital, Stored Program Controlled Central Office Equipment.

**DATES:** This rule will become effective on August 15, 1997 unless we receive written adverse comments or notice of intent to submit adverse comments on or before July 16, 1997. Written comments must be received by RUS, or bear a postmark or equivalent, not later than July 16, 1997. If we receive such comment or notice, we will publish a timely notice in the **Federal Register** stating that the rule will not become effective until we have addressed the comments received and published a final rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**ADDRESSES:** Submit any adverse comments or notice of intent to submit adverse comments to Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities

Service, STOP 1598, United States Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250-1598. RUS requires, in hard copy, a signed original and three copies of all comments (7 CFR part 1700.30(e)). All comments received will be available for public inspection at Room 2835 (address as above) during regular business hours (7 CFR part 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** John J. Schell, Chief, Central Office Equipment Branch, Telecommunications Standards Division, Rural Utilities Service, United States Department of Agriculture, STOP 1598, 1400 Independence Avenue, SW., Washington, DC 20250-1598, telephone number (202) 720-0671.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

This rule has been determined to be not significant for the purposes of Executive Order 12866, Regulatory Planning and Review, and, therefore has not been reviewed by the Office of Management and Budget (OMB).

#### **Regulatory Flexibility Act Certification**

The Administrator of RUS has determined that this rule is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, the Regulatory Flexibility Act does not apply to, this action.

#### **National Environmental Policy Act Certification**

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

#### **Executive Order 12372**

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS telephone loans and loan guarantees from coverage under this Order.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in Sec. 3. of the Executive Order.