# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 958

### Onions Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Amendment No. 2 to Handling Regulations

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

**ACTION:** Final rule.

**SUMMARY:** This final rule further amends continuing regulation § 958.328 by defining "pearl onions," permitting their shipment under special purpose shipments and exempting them from grade, size, maturity, inspection and assessments, and extending the regulated period to twelve months from ten. This should improve the efficiency of the order and permit shippers to ship relatively small quantities of specialized onions that do not meet size requirements to a specialty-type market.

**EFFECTIVE DATE:** December 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-5764.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

Approximately 23 handlers of onions will be subject to regulation under the Idaho-Eastern Oregon Onion Marketing Order during the course of the current season and the great majority of this group may be classified as small entities.

Notice was published in the **Federal Register** of October 8, 1985 (50 FR 40981) allowing interested persons opportunity to file written comments regarding this proposed amendment. None was filed.

Marketing Agreement No. 130 and Order No. 958, both as amended, regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho Oregon Onion Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in June 1982 the committee recommended and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation of the committee or other information available to the Secretary.

At its public meetings on June 18 and August 21, at Ontario, Oregon, the committee recommended the continuing handling regulation be amended. The current regulation regulates from August 1 to June 1 of each season. The committee believes that by extending the regulation for all twelve months, the relatively few shipments made during June and July will be required to meet the same requirements as those made during the rest of the shipping season. This should benefit producers by ensuring a constant minimum quality level year round for production area onions.

The committee also recommended that pearl onions be exempt from grade, size, maturity and inspection regulations and be handled under special purpose shipments. Pearl onions are onions grown specifically to small sizes using special cultural techniques for a specialized market. By their own definition, i.e., onions of the same general size as boiler and picklers, they are unable to meet the size requirements of the regulations. By recommending shipment under special purpose shipments the committee is recognizing that a limited market exists for small onions both for fresh use and planting, thus responding to industry needs.

*Findings:* After considering all relevant matters, including the proposal in the notice, it is found that the following amendment will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after its pubication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of onions grown in the production area have begun, (2) to maximize benefits to producers this regulation should apply to as many shipments as possible during the marketing season, (3) notice was given in the October 8, 1985, **Federal Register** (50 FR 40981) allowing interested persons until November 7, 1985, in which to file comments and none was filed, and (4) compliance with this regulation, which is similar to regulations issued during previous seasons, requires no special preparation by handlers subject to it which cannot be completed by the effective date.

### List of Subjects in 7 CFR Part 958

Marketing agreements and orders, Onions, Idaho, Oregon.

## PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. The authority citation for Part 958 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 958.328 (47 FR 32912, July 30, 1982, and 49 FR 31257, August 6, 1984) is hereby further amended by revising the introductory text, paragraph (c), paragraph (d) and adding the definition "pearl onions" after "moderately cured" to paragraph (f), to read as follows:

**§ 958.328 Handling regulation.**

From the effective date hereafter, no person may handle any lot of onions, except braided red onion, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d) or (e) of this section

* * * * *

(c) *Special purpose shipments.* The minimum grade, size, maturity, assessment and inspection requirements of this section shall not be applicable to shipments of pearl onions or onions for any of the following purposes: (1) planting, (2) livestock feed, (3) charity, (4) dehydration, (5) canning, (6) freezing, (7) extraction, and (8) pickling.

(d) *Safeguards.* Each handler making shipments of pearl onions or onions for dehydration, planting, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

* * * * *

(f) *Definitions.*

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"Pearl onions" means onions produced using specific cultural practices that limit growth to the same general size as boilers and picklers, usually less than 1½ inches in diameter.

* * * * *

Dated: December 3, 1985. To become effective December 9, 1985.

**Joseph A. Gribbin,**

*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 85-29161 Filed 12-6-85; 8:45 am]

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## 7 CFR Part 989

## Raisins Produced From Grapes Grown in California; Changes to the Raisin Diversion Program Procedures

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

**ACTION:** Amendment and finalization of an interim final rule.

**SUMMARY:** The Department of Agriculture (USDA) has decided to make final an interim final rule which makes three changes in the Raisin Diversion Program's (RDP's) operating procedures. Two changes are necessary to bring the operating procedures into conformity with two order changes that were effective on October 4, 1985. These changes will require handlers to pay certain costs, in addition to harvest costs, when redeeming diversion certificates and allow the Raisin Administrative Committee (Committee) to increase the weight on diversion certificates issued to RDP participants agreeing to divert through vine removal or other means established by the Committee. A third change will require handlers to redeem diversion certificates promptly to the Committee after they obtain them from producers. These changes were recommended by the Committee, which works with USDA in administering the marketing order for California raisins.

**EFFECTIVE DATE:** December 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, Telephone: (202) 447-5053.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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 and rules proposed under the Agricultural Marketing Agreement Act are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 23 handlers of raisins will be subject to regulation under the Marketing Order for Raisins Produced from Grapes Grown in California during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers, the added burden imposed on small entities, by this amendment, if present at all is not significant.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) This action finalizes changes to the raisin diversion program procedures issued by the Department on October 2, 1985; (2) prompt implementation of this action is necessary to maintain 1985 program continuity; and to allow the Committee to begin planning for the 1986 RDP; and (3) delaying the effective date would serve no useful purpose.

This action finalizes the interim final rule which amended § 989.156 of Subpart—Administrative Rules and Regulations (7 CFR 989.102—989.176; 50 FR 3879; 33911) to improve the effectiveness and operation of the RDP in 1985 and in future years. This subpart is operative pursuant to the Marketing Agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (50 FR 1830; 40476). The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The interim final rule was issued on October 2, 1985, and published in the **Federal Register** on October 4, 1985 (50 FR 40475). Interested persons were given until November 4, 1985, to submit written comments. One comment was received from the Committee proposing an additional change in the RDP unrelated to the three procedural changes in the interim final rule. Therefore, it could not be considered in this action and was referred back to the Committee.

The first change revising § 989.156(k) will require handlers to pay receiving, storing, fumigating, handling, and inspecting costs, in addition to harvest costs, when redeeming diversion certificates under the RDP. This change will bring the provisions in paragraph (k) into conformity with the order change in § 989.56(d) bringing handlers' costs for the acquisition of reserve raisins purchased under the RDP in line with costs handlers pay for other purchases of reserve raisins. The order change will maintain consistency in reserve tonnage sales under the marketing order.

The second change will add authority to § 989.156(i) to recognize the order amendment in § 989.56(c) allowing the Committee to issue diversion certificates in an amount greater than the creditable fruit weight of the raisins produced on a particular production unit to an RDP applicant agreeing to divert that production unit, or portion thereof, from production, through vine removal or other means established by the Committee. This will provide an incentive for more producers to use vine removal which is the most direct and effective way currently known of bringing raisin supplies in line with market needs.

The third change, independent of the order changes, will revise § 989.156(k) and require handlers to report the acquisition of diversion certificates from producers and promptly submit them to the Committee for redemption. This will assure that reserve pool equity holders are promptly paid for tonnage acquired under the RDP and would be consistent with § 989.173(b) requiring handlers to submit a weekly report of their raisin acquisitions to the Committee.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, and other available information, it is further found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

### List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, and California.

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The interim final rule published October 4, 1985 (50 FR 40475) is hereby made final with the following changes: Paragraphs (i) and (k) of § 989.156 are revised to read as follows:

### § 989.156 Raisin diversion program.

* * * * *

(i) *Issuance of certificates.* On or before October 5 of the following crop year, the Committee shall issue diversion certificates to those approved applicants who have removed grapes in accordance with this section. Such certificates shall represent an amount of reserve tonnage raisins equal to the amount of raisins diverted from the production unit(s), or portion(s) thereof, specified in the producer application, or additional quantity granted by the Committee when vines are diverted through vine removal or any other means established by the Committee, as the case may be. If, prior to issuance of a certificate, the Committee is notified by an approved applicant that that applicant's interest in the production unit(s), or portion(s) thereof, involved in the program has been transferred to another person, the Committee may substitute the transferee for the applicant provided the transferee agrees to comply with the provisions of this section.

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(k) *Redemption of certificates.* Any handler holding diversion certificates may redeem such certificates for reserve pool raisins from the Committee. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest cost plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting raisins as specified in § 989.401 for the entire tonnage shown on the certificate. Handlers who acquire diversion certificates from producers shall report acquisitions of such certificates and submit them for redemption in a manner and for the reporting periods provided in § 989.173(b) for the acquisition of raisins acquired from producers. The Committee shall then issue a reserve release entitling the handler to a specified amount of reserve pool raisins for free tonnage use equal to the multiple of the free percentage and entire tonnage shown on the certificate. The Committee shall transfer the appropriate amount of reserve tonnage raisins to satisfy any reserve pool obligation and shall release to the handler the appropriate reserve tonnage for free tonnage use. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored by the Committee if presented to it for redemption on or before February 15 of the crop year for which they were issued.

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Dated: December 3, 1985.

Joseph A. Gribbin,

*Director, Fruit and Vegetable Division.*

[FR Doc. 85–29162 Filed 12–6–85; 8:45 am]

BILLING CODE 3410-02-M

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## Agricultural Marketing Service

### 7 CFR Part 1136

## Milk in the Great Basin Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

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

**ACTION:** Proposed suspension of rule.

**SUMMARY:** This notice invites written comments on a proposal to continue through April 1986 a suspension of certain diversion provisions of the Great Basin Federal milk order. The proposed suspension would continue to remove the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The requirement that at least 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order would also continue to be suspended. Suspension of the provisions was requested by a cooperative association representing most of the producers supplying the market to prevent uneconomic movements of milk. The proposed suspension would be for the months of January through April 1986.

**DATE:** Comments are due not later than December 16, 1985.

**ADDRESS:** Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

**SUPPLEMENTARY INFORMATION:** The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) the suspension of the following provisions of the order regulating the handling of milk in the Great Basin marketing area is being considered for the months of January through April 1986:

(1) section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968 South Building, U.S. Department of Agriculture, Washington, DC 20250, not