Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 920 and Marketing Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California. The Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirement set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on 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 disaproportionately 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 145 handlers of California kiwifruit subject to regulation under the marketing order and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having average annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The Kiwifruit Administrative Committee (committee), which is responsible for local administration of the marketing order, met on July 19, 1989, and recommended that an interest charge be established for delinquent handler assessments. Under § 920.40 of the marketing order, the committee is authorized to incur expenses that are reasonable and necessary to operate the program. Section 920.41 provides that handlers be assessed on a pro-rata basis to cover costs. Further, § 920.41 authorizes the committee, with the approval of the Secretary, to establish an interest charge on assessments that are not paid within a time period prescribed by the committee.

The timely payment of assessments is important to the efficient functioning of the committee. The committee incurs expenses on a continuous basis and must be assured of a positive cash flow in order to meet its financial obligations, such as salaries and rent.

At its meeting on July 19, 1989, the committee recommended that handlers whose assessments were in arrears be subject to an interest charge of 18 percent per year or 1.5 percent per month on the balance owed. In order to give handlers time to make payment before being subject to this charge, assessments will not be considered subject to interest charges until 60 days after billing by the committee office. Interest will begin to accrue immediately following this 60-day grace period.

Therefore, a new § 920.112 is added to the rules and regulations under the kiwifruit marketing order which will specify that an interest charge of 18 percent per year or 1.5 percent per month will be charged on assessments not received 60 days after billing by the committee.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant ecnomic impact on a substantial number of small entities.

Notice of this action was given in a proposed rule published in the September 6, 1989, **Federal Register** (54 FR 36984) affording interested persons until October 6, 1989, to file written comments. None were received.

It is further found that the effective date of this rule should not be postponed until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season has begun and to be of maximum benefit to the committee, this interest charge should apply to as many delinquent assessments that may occur as possible during the season.

List of Subjects in 7 CFR Part 920

California, Kiwifruit, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. Part 920 is amended by adding a new § 920.112 to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 920.112 Late payments.

Pursuant to § 920.41(a), late payment of assessments shall be subject to an interest charge of 1½ percent per month on the balance due. Assessments shall be deemed late 60 days after the invoice date.

Dated: November 2, 1989.

William J. Doyle,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26206 Filed 11-6-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 947

[Docket No. FV–89–075]

Irish Potatoes Grown in Designated Areas in California and Oregon; Amendment To Revise Handling Requirements for Certain Small Sized Potatoes and Establish Reporting Requirements for Shipments to Processors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule eliminates current pack and reporting requirements associated with shipments of small non-red-skinned potatoes that otherwise grade at least U.S. No. 1. The objective of this action is to facilitate the movement of such potatoes to meet current consumer demand by relieving shippers from handling requirements that are no longer deemed necessary. This rule also establishes reporting requirements for potatoes shipped for canning, freezing, prepeeling and other processing. The intent of this action is to provide assurance that potatoes shipped without regard to the size, quality and inspection requirements of the handling regulation are shipped to authorized exempt outlets.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 114 and Marketing Order No. 947 (7 CFR part 947), both as amended, regulating the handling of potatoes grown in Modoc and Siskiyou

Counties, California, and in all counties in Oregon, except Malheur County. The marketing agreement and order are authorized by the Agricultural Marketing Agreeement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 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 (AMS) has considered the economic impact of this rule on 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 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 50 handlers of Oregon-California potatoes subject to regulation under the marketing order, and approximately 470 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Oregon-California potatoes may be classified as small entities.

The 1988 crop of potatoes grown in the production area totalled 23,623,460 hundredweight (cwt.). About 36 percent of the crop (8,553,575 cwt.) was shipped to fresh markets, and an additional 22 percent was used for seed. The remaining 42 percent of the crop was utilized primarily in processing outlets. Potatoes shipped to fresh markets are required to meet the handling requirements specified in 7 CFR 947.340 [as amended at 53 FR 2996, February 3, 1988, and 53 FR 49114, December 6, 1988]. The current requirements are that potatoes grade at least U.S. No. 2 and, if shipped within the continental United States, be at least 2 inches in diameter or at least 4 ounces in weight. Potatoes shipped to export destinations must meet a minimum diameter of 1½ inches and grade at least U.S. No. 2.

Currently, red-skinned varieties of potatoes may be shipped without regard to the minimum size requirements if they otherwise grade at least U.S. No. 1. Non-red-skinned potatoes that are 1½ inches or less in diameter may be shipped if they grade at least U.S. No. 1, and are packed in containers of at least 50 pounds. In addition, handlers who ship such potatoes must meet certain reporting requirements. Also included in the handling regulation are safeguard procedures for potatoes shipped to authorized exempt outlets, which are not required to meet the established quality and size requirements.

At a meeting held on June 9, 1989, the Oregon-California Potato Committee (committee), which is responsible for local administration of the marketing order, recommended the following changes in the existing requirements to become effective in late fall, when the 1989–90 marketing season begins.

Upon the basis of the committee's recommendation, this rule revises the size requirements for non-red-skinned potatoes by providing that such potatoes that are 1¾ inches in diameter or smaller that otherwise grade at least U.S. No. 1 may be shipped, and by eliminating the pack and reporting requirements. This rule also adds reporting requirements for all potatoes shipped for canning, freezing, prepeeling and other processing to assure that these potatoes for processing are shipped to exempt outlets and are not sold in fresh markets.

Until fairly recently, consumer demand for smaller sized potatoes was limited. Over the last several seasons, however, opportunities for marketing small, high quality potatoes have expanded. To determine the potential market demand for these potatoes and to promote market expansion, the handling regulation was amended in February 1987 (52 FR 7119) to relax the minimum size requirements for potatoes shipped under certain conditions. That action temporarily relaxed the minimum size requirements for high quality white-fleshed potatoes handled for market expansion purposes and exempted all non-white fleshed varieties of potatoes from handling regulations under the order. These relaxed size requirements became effective February 3, 1988, on a continuous basis (53 FR 2995). Prior to shipping potatoes under these relaxed size requirements, handlers were required to apply for and obtain from the committee each marketing season a special purpose certificate authorizing shipment of the potatoes. In addition, handlers who shipped potatoes under the relaxed minimum size provisions were required to promptly report information requested by the committee relating to such shipments, including the grade and usage of the potatoes, once the shipments were concluded. The reporting requirements were designed to provide adequate safeguards to assure that the potatoes shipped under these provisions were shipped to the intended market for the purpose of market expansion, and to provide the committee with information necessary to monitor and evaluate the effects of such shipments on the overall market for Oregon-California potatoes.

The committee reports that these actions, intended to further the development of new markets and expand marketing opportunities for Oregon-California potato growers and handlers, have proven successful. Shipments of the smaller-sized potatoes have been well received and have not adversely impacted the market for larger-sized potatoes. Demand was particularly strong for small red-skinned potatoes, and in 1988 the safeguard provisions pertaining to such potatoes were eliminated (53 FR 31650).

Based on an additional year of experience, the committee believes that shipping non-red-skinned potatoes that are 1¾ inches in diameter or less that otherwise grade at least U.S. No. 1 should be permitted without the reporting and pack requirements. The reporting requirements have served their purpose and are no longer necessary. The deletion of the 50-pound pack requirement will allow handlers to ship non-red-skinned potatoes in smaller containers. This will provide handlers with maximum flexibility in marketing such potatoes, and enable them to take advantage of current market demand. This change will benefit consumers by providing them with a product they desire, and producers and handlers by increasing sales. The committee believes that permitting the shipment of small, high quality, non-red-skinned potatoes will not adversely affect the market for larger sized potatoes.

The handling regulation specifies that potatoes shipped for certain exempt purposes are not required to meet the size and quality standards established for those shipped to commercial fresh market outlets. Among the exempt purposes are certified seed, livestock feed, and charity. Handlers shipping for these purposes are required to comply with established safeguard procedures. These include applying for and obtaining a Certificate of Privilege from the committee prior to making such shipments, and filing reports with the committee after such shipments are made. These requirements are in place to provide the committee with the information necessary to determine that potatoes shipped without regard to the fresh requirements enter authorized exempt outlets, and are not sold in fresh markets.

All varieties of potatoes shipped for canning, freezing, prepeeling and other processing are also exempt from the size and quality requirements of the handling regulation. For such shipments, no handler reporting requirements are currently in effect. The regulation only provides that handlers making shipments for such purposes must ship them to persons or firms the committee has designated as manufacturers of potato products. The committee believes that the current requirement does not provide adequate assurance that the potatoes are actually shipped to designated processors. For that reason, the committee recommended that handlers making shipments to these outlets be required to obtain a Certificate of Privilege from, and file shipment reports with, the committee. This procedure will enable the committee to ascertain compliance with the requirements of the handling regulation.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area. The import requirements for all non-red-skinned potatoes are based on those established under the marketing orders covering Virginia-North Carolina potatoes (M.O. 953), Colorado Area No. 3 potatoes (M.O. 948), and Idaho-Eastern Oregon potatoes (M.O. 945). These changes in the handling requirements for Oregon-California potatoes will not change the findings and determinations or provisions that appear in the potato import regulation (7 CFR 980.1)

The information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581–0112. This action reduces the current information collection burden by eliminating the reporting requirements applicable to shipments of small, high quality non-red-skinned potatoes. The appropriate forms for reporting potatoes for processing have been submitted previously to the OMB for approval and are currently approved by OMB to be used for information collection purposes.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the August 21, 1989, **Federal Register** (54 FR 34522) providing interested persons until September 20, 1989 (as corrected, 54 FR 35756 (August 29, 1989)), to file written comments. No comments were received.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that the rule, as hereinafter set forth, 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 rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season for Oregon-California potatoes has already begun and this rule, in order to be of maximum benefit to producers, should apply to as many shipments as possible.

List of Subjects in 7 CFR Part 947

California, Marketing agreements and orders, Oregon, Potatoes.

For the reasons set forth in the preamble, 7 CFR part 947 is amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CA, AND ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

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

2. Section 947.340 is amended by revising paragraphs (b)(3) and (h)(3) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 947.34 Handling regulation.

* * * * *

(b) * * *

(3) All non-red-skinned varieties of potatoes that measure 1¾ inches in diameter or less may be shipped if such potatoes otherwise grade at least U.S. No. 1.

* * * * *

(h) * * *

(3) Each handler making shipments pursuant to paragraph (g)(7) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee pursuant to § 947.134. Further, each handler making such shipments shall obtain a Certificate of Privilege from the committee and shall promptly report each shipment to the committee on Special Purpose Shipment Report forms.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26100 Filed 11–6–89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 982

[Docket No. FV-89-020FR]

Filberts/Hazelnuts Grown in Oregon and Washington; Administrative Changes to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action makes deletions, revisions, and additions to the administrative rules and regulations under the Federal marketing order for filbert/hazelnut grown in Oregon and Washington. These changes were unanimously recommended by the Filbert/Hazelnut Marketing Board (Board), which is responsible for local administration of the order. These changes are intended to reflect the Board's current needs and practices by making administrative changes to improve administration of the order.

EFFECTIVE DATE: December 7, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3920.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), as amended, regulating the handling of filbert/hazelnut grown in Oregon and Washington. This 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.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 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 (AMS) has considered the economic impact of this action on 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 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 26 handlers of filberts/hazelnuts subject to regulation under the filbert/hazelnut marketing order and approximately 1,000 producers in the Oregon and Washington production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose average gross annual receipts are less than $3,500,000. The majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

This rule will make several changes to the administrative rules and regulations of the filbert/hazelnut marketing order. Several changes are necessary to reflect the August 19, 1986, (51 FR 2947) amendments to the marketing order.

In addition, form numbers specified in the administrative rules and regulations need to be changed to reflect the current form numbers used by the Board. Additionally, for clarity, other specific form references will be inserted into sections that previously contained only a general reference to reporting requirements. No new forms are added as a result of reference changes.

Further, the term "hazelnuts" will be added to the rules and regulations to reflect the fact that filberts may also be called hazelnuts. This change also conforms with the definition of filberts in the order. In addition, hazelnuts is the term used in Europe where a portion of the domestic crop is marketed. Therefore, this rule will change all references to filberts to filberts/hazelnuts.

The first change will delete § 982.432 from the rules and regulations. This section describes nomination procedures which independent growers should follow when nominating independent grower members for Board membership. During the formal rulemaking process completed in 1986, § 982.30 was changed to no longer distinguish between independent and cooperative grower members on the Board. Therefore, § 982.432 is deleted as it is unnecessary.

Most of § 982.446, dealing with inspection documentation of restricted filberts/hazelnuts is no longer applicable. The industry no longer uses seals, stamps, or tags as specified in § 982.446(a) to identify product. Rather, the industry uses the identification procedures specified in current § 982.446(c). Therefore, this rule will delete paragraph (a) of § 982.446 from the rules and regulations and § 982.446 will be revised to reflect the current identification procedures contained in paragraph (c).

Paragraphs (b)(1), (b)(2), (b)(3), and (d) of § 982.446 will also be deleted from the rules and regulations because the industry no longer has reason to physically identify stored inshell filberts/hazelnuts as free or restricted filberts/hazelnuts. Currently filberts/hazelnuts declared as restricted are identified by lot numbers on records kept by handlers. In the past, handlers stored free and restricted filberts/hazelnuts in 100-pound sacks that were labeled free or restricted. Handlers no longer use these sacks. Rather, large bins or cartons are used to store such filberts/hazelnuts. Designation as free and restricted is easily identifiable in handlers' records.

Section 982.450 provides procedures for handling restricted filberts/hazelnuts. The Board has recommended that specific form references be inserted in paragraphs (a), (b), and (c) of § 982.450 to identify the forms that handlers are currently required to submit. Under this rule, references to F/H Form 1d will be added to paragraph (a), F/H Form 4 will be added to paragraph (b), and F/H Form 1d and F/H Form 7 will be added to paragraph (c). In addition, revisions of paragraph (c) of § 989.450 provides gender neutral language.

Paragraphs (a)(1), (a)(2), and (b) of § 982.452 provide procedures for the disposition of restricted filberts/hazelnuts and contain outdated form number references. The Board recommended that these be changed to the new form number references. In paragraph (a)(1) of § 982.452 the form reference will be changed to F/H Form B, and in paragraph (a)(2) the form reference will be changed to F/H Form 7. The form reference for the export agreement between handlers and the Board found in paragraph (b) will be stated as F/H Form A. Paragraph (b) of § 982.452 provides authority for handlers to act as agents of the Board in arranging sales of inshell filberts/hazelnuts into export markets. The Board recommended revising the language of paragraph (b) to reference the provisions of § 982.52(b) of the order. Therefore, the phrase "including those as set forth in § 982.52(b)" will be added to this paragraph. Revisions of paragraphs (a) (1) and (2) of § 982.452 provide gender neutral language. The proposed rule inadvertently did not include language to retain § 982.452(c). This action retains that provision.

Handlers are required to be bonded if they intend to defer their withholding obligations under the order into the next season. Section 982.454 describes the types of bonds accepted by the Board. The Board currently requires handlers to submit F/H Form C to document handlers' use of this provision. Therefore, based on the Board's recommendation, this action will add the specific form reference to § 982.454.

Section 982.456 describes procedures for interhandler transfers of filberts/hazelnuts and contains an outdated form reference. Under this action, the form reference will be changed to F/H Form 2.

In 1986, § 982.57 of the order was amended to allow growers acting as handlers to seel unlimited quantities of their own production directly to consumers from their orchards, at roadside stands, or at farmers' markets. Quantities of filberts/hazelnuts sold in this manner are exempt from the volume regulation and assessment provisions of the order. Section 982.457 allows handlers to be exempt from certian order requirements (inspection, certification, restricted obligation, assessments, and reporting requirements) if they handle less than 250 pounds of inshell filberts/hazelnuts during any fiscal year. Section 982.457 was originally implemented to allow growers who acted as handlers by selling small quantities of their filberts/hazelnuts directly to consumers to be exempt from the order's regulatory and assessment provisions. Section 982.57, however, now provides authority for growers to sell unlimited quantities of the grower's own production directly to consumers. Therefore, since the 250-pound limitation no longer applies, § 982.457 will be deleted from the rules and regulations.

Section 982.460 provides procedures for transferring excess restricted credits of filberts/hazelnuts and contains outdated form references. The Board recommended that these be changed to the new form references. Therefore, in paragraphs (b) and (c) of § 982.460, the form reference will be changed to F/H Form 3. In addition, the revision of paragraph (b) will provide gender neutral language.

The Board recommended that § 982.466 include a reference to the complete series of forms currently used. Reference to F/H Forms 1a through 1e should be added to § 982.466. Also, the Board recommended changing the frequency of reports on these forms. The Board has indicated that handlers have found it difficult to submit weekly reports of shipments in October, November, and December (the busiest time of the marketing season) in a timely manner. The Board, therefore, recommended that F/H Forms 1a through 1e be submitted once a month, rather than weekly. Accordingly, this change will reduce the information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Such reports will include shipment transactions from the beginning of the month to the end of the month. Such reports will be due in the Board office 10 days following the end of the reporting period. The Board indicated that monthly reporting will provide sufficient and timely information essential to the filbert/hazelnut industry. The Board also recommended that provisions be added to § 982.466 to allow the Board to request reports on other dates, with the approval of the Secretary. Therefore, this action will revise § 982.466 accordingly.

Section 982.468 contains two outdated form references that will be changed to reflect new form references. The outdated form references will be changed to F/H Form 5 and F/H Form 6 in § 982.468. In addition, the dates of the reporting periods will be changed to make them correspond with the order's marketing year and, as recommended by the Board, provision will be made for the Board to request reports on other dates, with the approval of the Secretary. Section 982.17 of the order was amended in 1986 to change the dates of the marketing year.

Sections 982.455 and 982.471 will be revised to change references to "filberts" to "filberts/hazelnuts." The Board recommended that "filberts" be changed to "hazelnuts." However, the order provides that the term "filberts" means filberts or hazelnuts produced in the States of Oregon and Washington from trees of the genus *Corylus*. Therefore, the Department substituted the term "filbert/hazelnut" in this rule and in appropriate sections of the rules and regulations. The term "filbert/hazelnut" will accomplish the Board's purpose. It will also avoid the confusion which might have occurred if the order referred to "filberts" alone and the rules and regulations referred to "hazelnuts."

One change in the proposed rule will not be made by this action. The proposed rule indicated that § 982.453 would be revised to change references to "filberts" to "filberts/hazelnuts". This change was previously made when new safeguards concerning the disposition of inshell or shelled substandard filberts/hazelnuts were added on June 7, 1989 (54 FR 24326). Therefore, it is not necessary to revise § 982.453.

A proposed rule was published in the September 5, 1989, issue of the Federal Register (54 FR 36803). Comments on the proposed rule were invited from interested persons until October 5, 1989. No comments were received.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in the revised sections of the regulations have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0144.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is found that the changes to the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts/hazelnuts, Marketing agreements and orders, Oregon and Washington.

For the reasons set forth in the preamble, 7 CFR part 982 is revised as follows:

Note: These sections will appear in the annual Code of Federal Regulations.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Section 982.432 is removed.

§ 982.432 [Removed]

3. Section 982.446 is revised to read as follows:

§ 982.446 Inspection documentation.

Pursuant to § 982.46(b), handlers are required to use the following identification on bags and cartons of 25 pounds or larger capacity which contain certified filberts/hazelnuts:

(a) The words "This Produce Inspected and Certified Per Federal Marketing Order No. 982" shall be contained within an outline of the combined States of Oregon and Washington; and

(b) This identification shall be printed on the upper right quarter of the printed side of a bag; or

(c) This identification shall be printed on the upper right quarter of one of the side panels of a carton.

4. Section 982.450 is revised to read as follows:

§ 982.450 Application of restricted obligation.

(a) Each handler required to withhold restricted filberts/hazelnuts pursuant to § 982.50 or § 982.51 shall hold such filberts/hazelnuts separate from all other filberts/hazelnuts and shall maintain the identity of each lot so withheld. The restricted product withheld must be reported to the Board on F/H Form 1d, Restricted Inshell Certified.

(b) Each handler making the election pursuant to § 982.50(c) in connection with certified merchantable filberts/hazelnuts which have not been handled, shall thereupon give written notification to the Board on F/H Form 4 of the particular election and of the weight and identity of the filberts/hazelnuts involved.

(c) Pursuant to § 982.50(d), a handler may withdraw from withholding restricted filberts/hazelnuts in excess of such handler's restricted obligation upon advising the Board of the weight and lot identity of the filberts/hazelnuts to be withdrawn. When the quantity of restricted filberts/hazelnuts to be withdrawn from withholding consists of a part of a lot of ungraded filberts/hazelnuts, no part of such lot shall be withdrawn unless the remainder of such lot is reinspected and meets the requirements of § 982.51. Handlers will use F/H Form 1d prior to the end of the marketing year or F/H Form 7 after the end of the marketing year, when reporting the withdrawal of restricted filberts/hazelnuts from withholding status.

5. Section 982.452 is amended by revising the introductory text and paragraphs (a)(1) (i), (ii) and (iii), (a)(2) and (b) to read as follows:

§ 982.452 Disposition of restricted filberts/hazelnuts.

(a) *Shelling.* (1) Any person desiring to shell restricted filberts/hazelnuts during a fiscal year may do so upon being designated by the Board as an authorized sheller for such year. Application for such designation shall be made in duplicate on F/H Form B and include, in addition to the conditions specified in § 982.52(a), the following: (i) The location of the applicant's shelling operation; (ii) the number of years such person has operated a filbert/hazelnut shelling plant; and (iii) the daily (8-hour) shelling capacity of the plant. * * *

(2) When an authorized sheller completes the shelling of a lot of restricted filberts/hazelnuts, the sheller shall submit a report thereon to the Board on F/H Form 7 showing: (i) The date shelling was completed; (ii) the inspection certificate or lot number; (iii) the quantity shelled; (iv) the weight of the kernels produced; and (v) the location where restricted filberts/hazelnuts were held immediately prior to shelling.

(b) *Exports.* Any handler who desires to act as agent of the Board in negotiating export sales of certified merchantable restricted filberts/hazelnuts may do so upon the execution of an "Export Agreement", F/H Form A, wherein the handler agrees, among other things, to negotiate such export sales at not less than such price as the Board may prescribe, and in conformity to and compliance with the other terms and conditions of the Export Agreement including those set forth in § 982.52(b).

* * * * *

6. Section 982.454 is revised to read as follows:

§ 982.454 Sureties acceptable to the Board.

Bonds secured by cash, cashier's or certified checks, or by assets that are entirely separate and apart from the handler named in the bond may be accepted by the Board pursuant to § 982.54(a). As a condition of accepting any surety, the Board may require such financial statements or other information relating to the ability of such surety to guarantee a handler's bond as it deems necessary. Handlers are also required to submit F/H Form C to the Board to document the handler's execution of a bond.

7. Section 982.455 is revised to read as follows:

§ 982.455 Exchange of certified merchantable filberts/hazelnuts withheld.

Each handler desiring to exchange filberts/hazelnuts pursuant to § 982.55 shall prior thereto file a written notification with the Board setting forth for the respective quantities of filberts/hazelnuts involved in the exchange, the inspection certificate numbers, quantities, locations, and applicable lot numbers.

8. Section 982.456 is revised to read as follows:

§ 982.456 Interhandler transfers.

Each interhandler transfer of filberts/hazelnuts pursuant to § 982.56 (a) and (c) may be made upon notification to the Board in triplicate by the receiving handler on F/H Form 2 signed by both the transferring handler and the receiving handler which shall include the following information: (a) Date of transfer; (b) names of the transferring and receiving handlers; (c) locations between which the filberts/hazelnuts were transferred; (d) whether uncertified inshell or certified merchantable; (e) net weight of the filberts/hazelnuts transferred, by size and variety; (f) the inspection certificate, or lot number covering the filberts/hazelnuts; and (g) if certified merchantable, the name of the handler responsible for compliance with the applicable requirements pursuant to this part relating to such filberts/hazelnuts.

9. Section 982.457 is removed.

§ 982.457 [Removed]

10. Section 982.460 is amended by revising the first sentence in paragraph (b) and revising paragraph (c) to read as follows:

§ 982.460 Transfer of excess restricted credits.

* * * * *

(b) *Application.* Each handler who has excess restricted credits and desires to transfer them to another handler, may submit such request to the Board on F/H Form 3. * * *

(c) *Transfer.* The Board shall transfer the requested amount of the excess restricted credits from one handler to a designated handler upon receipt of a completed F/H Form 3 together with such information as may be required by this section.

11. Section 982.466 is revised to read as follows:

§ 982.466 Reports of inshell filberts/hazelnuts handled, shelled and withheld.

Each handler shall report to the Board monthly on F/H Form 1 and F/H Forms 1a through 1e, as applicable, the quantities of inshell filberts/hazelnuts handled or withheld for restricted use and all product shelled and certified since the last report. All reports shall be submitted to include transactions through the end of each month, or other reporting periods established by the Board, and are due in the Board office on the tenth day following the end of the reporting period. The quantities of inshell filberts/hazelnuts handled shall be reported by size. The respective quantities of merchantable or ungraded filberts/hazelnuts withheld as restricted product shall be reported separately, and with respect to filberts/hazelnuts certified for shelling, or certified kernels withheld, the kernel weight and inshell equivalent weight shall be reported separately by size.

12. Section 982.468 is revised to read as follows:

§ 982.468 Report of filbert/hazelnut receipts, disposition, and inventory.

On or before January 15 and July 15, or any other date requested by the Board with the approval of the Secretary, each handler shall:

(a) Report to the Board on F/H Form 6 such handler's receipts and disposition of inshell filberts/hazelnuts and production of filbert/hazelnut kernels during the respective preceding six-month period of July 1 to December 31, and the preceding 12-month period of July 1 to June 30; and

(b) Report to the Board on F/H Form 5 such handler's inventory of filberts/hazelnuts as of January 1 and July 1, respectively, showing the quantities of inshell filberts/hazelnuts separately in terms of certified merchantable, graded uncertified merchantable, restricted, and ungraded. The certified merchantable filberts/hazelnuts shall be reported on the basis of whether located within or outside the production area and whether or not the restricted obligation has been met.

13. Section 982.471 is revised to read as follows:

§ 982.471 Records.

Each handler shall maintain complete and accurate records showing the receipt, shipment and sale of all filberts/hazelnuts handled, used or otherwise disposed of and shall retain such records for the two-year period prescribed in § 982.71. Handlers shall also maintain a current record of all filberts/hazelnuts held in inventory.

Dated: November 2, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

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7 CFR Part 989

[Docket No. FV-89-081FR]

Raisins Produced From Grapes Grown in California; Addition of the Dominican Republic as a Country Eligible for Exports of Reserve Pool Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture is adopting, without modification, as a final rule the provisions of an interim final rule which adds the Dominican Republic as a country eligible for exports of reserve pool California raisins. This action was unanimously recommended by the Raisin Administrative Committee (RAC), which is responsible for local administration of the Federal marketing order regulating raisins produced in California. By providing handlers with another market for their reserve raisins, this action will reduce the burden or oversupply currently confronting the industry.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 382-1754.

SUPPLEMENTARY INFORMATION:

This final 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. The 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."

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 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 (AMS) has considered the economic impact of this rule on 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 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 23 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A majority of producers and a minority of handlers of California raisins may be classified as small entities.

The raisin order provides for the establishment of "free" and "reserve" percentages by variety of raisin for each crop year. "Free" raisins are those which may be shipped freely to any market. Raisins in excess of free tonnage are reserve raisins which must be held by handlers in a pool for the account of the RAC. Most reserve raisins withheld under the order have been marketed as food in domestic and eligible export outlets. In crop years with inadequate raisin production, reserve raisins are available to supplement new crop supplies.

Pursuant to § 989.221, reserve raisins are currently sold to handlers for export to islands on the continental shelf of South America and to all other markets in the world except the following: Canada, Mexico, and all islands adjacent to these countries, and all of the Caribbean Islands north of the 12th parallel, including the Dominican Republic. Canada, Mexico, and the mentioned islands are excluded because of the potential for shipment of raisins back to the United States for sale in competition with free tonnage raisins.

Adding the Dominican Republic as a country eligible for exports of reserve pool raisins will give handlers another market outlet for their reserve raisins. Since this provision utilizes reserve raisins, it will reduce the burden of oversupply that is currently confronting the industry.

According to the RAC, the Dominican Republic is a developing market for California raisins and the potential for expansion is good. The fact that nearly all raisins imported into the Dominican Republic are already in readily identifiable consumer packages is an effective deterrent to the transshipment of raisins to the United States.

Further, upon addition of the Dominican Republic as a country eligible for export of reserve raisins, the RAC has indicated that it would seek approval under § 989.53 for the implementation of an export incentive program for the Dominican Republic.

In addition, this rule makes editorial changes to § 989.221 for the purpose of clarity.

An interim final rule adding the Dominican Republic as a country eligible for exports of reserve raisins was published in the **Federal Register** on August 21, 1989 (54 FR 34484). That rule provided that interested persons could file written comments through September 20, 1989. No comments were received. Accordingly, the addition of the Dominican Republic as established by that interim final rule is adopted as a final rule without change.

Based on the available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the revision of § 989.221, 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 that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1989-90 crop year began on August 1; (2) interested persons were provided a 30-day comment period in which to respond; (3) this final rule is an adoption, without modification, of an interim final rule effective August 21, 1989, adding the Dominican Republic as a country eligible for exports of reserve pool raisins.

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

Note: This section will appear in the Code of Federal Regulations.