Dated: May 26, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–14423 Filed 5–29–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580–AA54

General Regulations and Standards for Certain Agricultural Commodities

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the regulations under the Agricultural Marketing Act (Act) of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. GIPSA has determined that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators, may be able to perform some inspection services, at certain locations, more effectively or at less cost than if those services were performed by Department or State employees. Consequently, GIPSA is amending the regulations to allow GIPSA and State cooperators to contract for service work and to license individual contractors and those employed by contractors.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, Room 0623–S, Stop 3649, Washington, D.C. 20250–3649; FAX (202) 720–4628; or E-mail gwollam@fgisdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be nonsignificant for the purpose of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This final rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or application of its provisions.

Effects on Small Entities

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). GIPSA believes that allowing contracts with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations. Many users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act. For example, the primary user of pulse inspection services is the U.S. Government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. The action will allow GIPSA and the 13 State cooperators to use contractors to perform specified inspection services. Currently, contract samplers are used by both GIPSA and State cooperators which has resulted in reduced operating expenses and, in many cases, quicker services to applicants for services. It is expected that this action would result in similar benefits.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 868 have been approved previously by OMB and assigned OMB No. 0580–0013.

Background

GIPSA is committed to carrying out its statutory and regulatory mandates in a cost-effective manner that best serves the public interest. Concurrently, GIPSA is constantly seeking ways to reduce the cost of providing official services, without reducing the quality of that service. One measure that has proven effective is the use of contract samplers at outlying service points or during periods of peak demand. By judiciously using contract samplers, GIPSA field offices and State cooperators have been able to reduce their operating expenses and, in many cases, provide quicker service to their applicants for services. GIPSA believes that contract inspections may be equally beneficial in certain situations; e.g., providing quality inspections on an intermittent basis at geographically isolated service points.

On January 15, 1998, GIPSA published in the **Federal Register** (63 FR 2353) a proposal to amend the regulations under the Act of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. The Act of 1946 provides authority to the Secretary of Agriculture to enter into contracts and agreements with States and agencies of States, private firms, institutions, and individuals for the purpose of performing specified inspection services. According to Section 868.1(b)(23) of the regulations, such services may include ''applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examination; and any other services as related to commodities, as necessary; and issuing an inspection certificate.'' However, Section 868.80(a)(1) of the regulations states that only persons employed by a cooperator may be licensed to inspect commodities or to perform related services. Consequently, GIPSA proposed to amend the regulations to provide for GIPSA and State cooperators to contract for quality (grading) inspection services and to license individual contractors and those employed by a contractor.

Comment Review

During the 60-day comment period, GIPSA received eight comments: One from a Midwest bean export company; one from a national association that represents grain, feed, and processing companies; one from a regional grain exchange; one from an animal welfare organization; and four from privately-owned official inspection and weighing agencies. Seven of the commenters supported the proposed action, as written. One commenter noted several concerns, but did not object to the proposed action.

Several of the commenters indicated that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators, would improve the timeliness of service. One commenter stated that allowing GIPSA to use contractors ''would eliminate time consumed by mailing samples to the field offices, which should result in quicker turnaround and be more cost-effective.'' Another indicated that this action ''would greatly simplify and speed up the process of exporting.''

The national grain industry association commented that, ''In today's highly competitive business environment, it is important that all service providers seek new ways to meet customer needs in the most cost-effective way possible. We are not surprised to learn that GIPSA has determined that private contractors can, in some cases, perform inspection services more effectively or, at least, at less cost than traditional service providers. For example, GIPSA reports that the use of private contractors has proven effective when using contract samplers at remote service points. Also, as GIPSA notes, the use of private contractors can increase the flexibility of GIPSA and State cooperators to meet customer needs during periods of peak demand.'' An official agency also commented that using contractors would help lower the cost of providing official services.

The animal welfare organization indicated several concerns about any type of inspection services which the Government is considering contracting out. The organization stated that it is imperative that ''All contractors, subcontractors, and employees of either must be properly trained and free of any financial or other business interest in any of the 'commodities' they inspect.'' They went on to state that ''Citizens expect that the law and its regulations will be enforced objectively, and the inspectors will be licensed using criteria which is designed to select only experienced and qualified men and women.'' We do note that all official inspection personnel, whether employed by GIPSA, a cooperator, or a contractor, will be held to the same standards of fitness; i.e., they must be fully trained, tested according to established GIPSA procedures, free of any conflicts of interest, and licensed/authorized by GIPSA to inspect graded commodities.

On the basis of these comments and other available information, GIPSA has decided to amend the regulations to allow GIPSA and cooperators to contract for service work and to license individual contractors and those employed by contractors.

Final Action

To provide for more responsive, cost-effective inspection services under the Act of 1946, GIPSA is revising:

1. Section 868.1(b)(13) to expand the definition of contractor to provide for cooperators to use contractors for specified services.

2. Section 868.80(a)(1) to add provisions for licensing individual contractors and employees of contractors.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set forth in the preamble, 7 CFR part 868 is amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for Part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 868.1(b)(13) is revised to read as follows:

§ 868.1 Meaning of terms.

* * * * *

(b) * * *

(13) *Contractor.* Any person who enters into a contract with the Service or with a cooperator to perform specified inspection services.

* * * * *

3. Section 868.80(a)(1) is revised to read as follows:

§ 868.80 Who may be licensed.

(a) *Inspectors.* * * *

(1) Is employed by a cooperator, is a contractor, or is employed by a contractor.

* * * * *

Dated: May 21, 1998.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–14054 Filed 5–29–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV98–989–1 FIR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 1997–98 Crop Natural (Sun-Dried) Seedless and Zante Currant 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 volume regulation percentages for 1997–98 crop Natural (sun-dried) Seedless (Naturals) and Zante Currant (Zantes) raisins covered under the Federal marketing order for California raisins. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). The volume regulation percentages are 66 percent free and 34 percent reserve for Naturals and 44 percent free and 56 percent reserve for Zantes. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through various programs authorized under the order. The volume regulation percentages are intended to help stabilize raisin supplies and prices and strengthen market conditions.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the ''Act.''

The 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 order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for Natural and Zante raisins for the 1997–98 crop year, which began August 1, 1997, and ends July 31, 1998. This rule will not