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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Doc. No. AMS-FV-08-0114; FV09-989-1 FIR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2008-09 Crop Natural (Sun-Dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that established final volume regulation percentages for 2008-09 crop Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 87 percent free and 13 percent reserve. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

DATES: *Effective Date:* September 28, 2009. The volume regulation percentages apply to acquisitions of NS raisins from the 2008-09 crop until the reserve raisins from that crop are disposed of under the marketing order.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901; Fax: (559) 487-5906; or E-mail: Rose.Aguayo@ams.usda.gov or Kurt.Kimmel@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237; Washington, DC 20250-0237; Telephone: (202) 720-2491; Fax: (202) 720-8938; or E-mail: Jay.Guerber@ams.usda.gov.

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

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. 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 continues in effect the action that established final free and reserve percentages for NS raisins for the 2008-09 crop year, which began August 1, 2008, and ends July 31, 2009.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the action that established final volume regulation percentages for 2008-09 crop NS raisins covered under the order. The volume regulation percentages are 87

percent free and 13 percent reserve and were established through an interim final rule published on March 9, 2009 (74 FR 9951). 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. For example, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. The Committee unanimously recommended final percentages for NS raisins on December 18, 2008.

Computation of Trade Demand

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate free and reserve percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 15, 2008, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is equal to 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets, adjusted by subtracting the carryin on August 1 of the current crop year, and adding the desirable carryout at the end of that crop year. As specified in § 989.154(a), the desirable carryout for NS raisins shall equal the total shipments of free tonnage during August and September for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three, or 60,000 natural condition tons, whichever is higher. For all other varietal types, the desirable carryout shall equal the total shipments

of free tonnage during August, September and one-half of October for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three. In accordance with these provisions, the Committee computed and announced the 2008–09 trade demand for NS raisins at 273,863 tons as shown below.

COMPUTED TRADE DEMAND

[Natural condition tons]

	NS Raisins
Prior year's shipments	355,680
Multiplied by 90 percent	0.90
Equals adjusted base	320,112
Minus carryin inventory	106,249
Plus desirable carryout	60,000
Equals computed NS trade demand	273,863

Computation of Volume Regulation Percentages

Section 989.54(b) of the order requires that the Committee announce, on or before October 5, preliminary crop estimates and determine whether volume regulation is warranted for the varietal types for which it computed a trade demand. That section allows the Committee to extend the October 5 date up to 5 business days if warranted by a late crop. If the Committee determines that volume regulation is warranted, it must also compute and announce preliminary free and reserve percentages. Section 989.54(c) provides that the Committee may modify the preliminary free and reserve percentages prior to February 15 by announcing interim percentages which release less than the trade demand. Section 989.54(d) requires the Committee to recommend final percentages no later than February 15 which will tend to release the full trade demand. Final percentages are established by USDA through informal rulemaking.

The Committee met on October 9, 2008, and announced a 2008–09 crop estimate of 300,000 tons for NS raisins pursuant to § 989.54(b). NS raisins are the major varietal type of California raisin. The crop estimate of 300,000 tons was higher than the computed trade demand of 273,863 tons. Thus, it was determined that volume regulation for NS raisins was warranted. Preliminary volume regulation percentages computed to 78 percent free and 22 percent reserve to release 85 percent of the computed trade demand.

Pursuant to § 989.54(c), at its December 18, 2008, meeting, the Committee announced a revised crop estimate of 313,231 tons of NS raisins

(up from the October estimate of 300,000 tons). The Committee also announced interim volume regulation percentages for NS raisins to release less than the full trade demand at 86.75 percent free and 13.25 percent reserve and recommended final volume regulation percentages of 87 percent free and 13 percent reserve pursuant to § 989.54(d). The Committee's calculations and determinations to arrive at final percentages for NS raisins are shown in the table below:

FINAL VOLUME REGULATION PERCENTAGES

[Natural condition tons]

	NS Raisins
Trade demand	273,863
Divided by crop estimate	313,231
Equals the free percentage ..	87.00
100 minus free percentage equals the reserve percentage	13.00

USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) specify that 110 percent of recent years' sales should be made available to primary markets each season for marketing orders utilizing reserve pool authority. This goal was met for NS raisins for the 2008–09 crop year. Application of the final percentages made 305,541 tons of raisins available to handlers based on actual deliveries of 351,196 tons of raisins through May 30, 2009. In addition, handlers are offered reserve raisins for sale under the "10 plus 10 offers." As specified in § 989.54(g), the 10 plus 10 offers are two offers of reserve pool raisins which are made available to handlers during each season. For each such offer, a quantity of reserve raisins equal to 10 percent of the prior year's shipments is made available to handlers for free use. Handlers may sell their 10 plus 10 raisins to any market and those who export free tonnage raisins may receive reserve raisins, (*raisin-back*) at a reduced price, or reserve pool cash (*cash-back*) to blend down the value of their exported tonnage.

Based on 2007–08 NS shipments of 355,680 natural condition tons, 71,136 tons should have been made available in the 10 plus 10 offers. However, only about 45,656 tons (.13 × 351,196 tons) of reserve raisins will be available in the 2008–09 crop year, because of the reserve percentage in effect.

In addition to the 10 plus 10 offers, § 989.67(j) of the order provides authority for sales of reserve raisins to handlers under certain conditions, such

as a national emergency, crop failure, change in economic or marketing conditions, or if free tonnage shipments in the current crop year exceed shipments during a comparable period of the prior crop year. Pursuant to § 989.67(j), 643 tons of 2007–08 reserve raisins were sold to handlers in June 2008 and released to handlers in August 2008.

Adding the estimated figure of 45,656 tons of raisins offered to handlers through the 10 plus 10 program (35,568 and 10,088 tons) to the 305,541 tons of free tonnage raisins available through applying the volume regulation percentages, plus 106,249 tons of carryin inventory, plus 643 tons of 2007–08 reserve raisins sold pursuant to § 989.67(j) and released during the 2008–09 crop year results in a total supply of 458,089 tons of natural condition raisins, or 432,935 packed tons (.94509 shrink × 458,089 tons). This equates to 129 percent of the 2007–08 shipments of 355,680 natural condition tons or 336,150 packed tons, which exceeds the USDA Guidelines goal of 110 percent.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 18 handlers of California raisins who are subject to regulation under the order and approximately 3,000 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. No more than 7 handlers and a majority of producers of California raisins may be classified as small entities.

Since 1949, the California raisin industry has operated under a Federal marketing order. The order contains authority to, among other things, limit the portion of a given year's crop that

can be marketed freely in any outlet by raisin handlers. This volume regulation mechanism is used to stabilize supplies and prices and strengthen market conditions. If the primary market (the normal domestic market) is over-supplied with raisins, grower prices decline substantially.

Pursuant to § 989.54(d) of the order, this rule establishes final volume regulation percentages for the 2008–09 crop year for NS raisins. The volume regulation percentages are 87 percent free and 13 percent reserve. 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 certain programs authorized under the order. Volume regulation was warranted this season because the crop estimate of 313,231 tons was significantly higher than the 273,863 ton trade demand. As mentioned previously, by the week ending May 30, 2009, acquisitions were at 351,196 tons.

The volume regulation 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 volume regulation procedures fully supply the domestic and export markets, provide for market expansion, and help reduce the burden of oversupplies in the domestic market.

Raisin grapes are a perennial crop, so production in any year is dependent

upon plantings made in earlier years. The sun-drying method of producing raisins involves considerable risk because of variable weather patterns.

Even though the product and the industry are viewed as mature, the industry has experienced considerable change over the last several decades. Before the 1975–76 crop year, more than 50 percent of the raisins were packed and sold directly to consumers. Now, about 62 percent of raisins are sold in bulk. This means that raisins are now sold to consumers mostly as an ingredient in another product such as cereal and baked goods. In addition, for a few years in the early 1970's, over 50 percent of the raisin grapes were sold to the wine market for crushing. Since then, the percent of raisin-variety grapes sold to the wine industry has decreased.

California's grapes are classified into three groups—table grapes, wine grapes, and raisin-variety grapes. Raisin-variety grapes are the most versatile of the three types. They can be marketed as fresh grapes, crushed for juice in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets, as well as weather-related factors, cause fluctuations in raisin supply. This type of situation introduces a certain amount of variability into the raisin market. Although the size of the crop for raisin-variety grapes may be known, the

amount dried for raisins depends on the demand for crushing. This makes the marketing of raisins a more difficult task. These supply fluctuations can result in producer price instability and disorderly market conditions.

Volume regulation is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. For example, producer prices for NS raisins remained fairly steady between the 1993–94 through the 1997–98 crop years, although production varied. As shown in the table below, during those years, production varied from a low of 272,063 tons in 1996–97 to a high of 387,007 tons in 1993–94.

According to Committee data, the total producer return per ton during those years, which includes proceeds from both free tonnage plus reserve pool raisins, has varied from a low of \$904.60 in 1993–94 to a high of \$1,049.20 in 1996–97. Producer prices for the 1998–99 and 1999–2000 crop years increased significantly due to back-to-back short crops during those years. Record large crops followed and producer prices dropped dramatically for the 2000–01 through 2003–04 crop years, as inventories grew while demand stagnated. However, as noted below, producer prices were higher for the 2004–05 through the 2007–08 crop years:

NATURAL SEEDLESS (NATURAL CONDITION) DELIVERIES, FIELD PRICES AND PRODUCER PRICES

Crop year	Deliveries (tons)	Field prices (per ton) ¹	Producer prices (per ton)
2007–08 ...	329,288	\$1,210.00	² \$1,028.50
2006–07 ...	282,999	1,210.00	1,089.00
2005–06 ...	319,126	1,210.00	² 998.25
2004–05 ...	265,262	1,210.00	³ 1,210.00
2003–04 ...	296,864	810.00	567.00
2002–03 ...	388,010	745.00	491.20
2001–02 ...	377,328	880.00	650.94
2000–01 ...	432,616	877.50	603.36
1999–2000	299,910	1,425.00	1,211.25
1998–99 ...	240,469	1,290.00	³ 1,290.00
1997–98 ...	382,448	1,250.00	946.52
1996–97 ...	272,063	1,220.00	1,049.20
1995–96 ...	325,911	1,160.00	1,007.19
1994–95 ...	378,427	1,160.00	928.27
1993–94 ...	387,007	1,155.00	904.60

¹ Field prices for NS raisins are established by the Raisin Bargaining Association, and are also referred to in the industry as the free tonnage price for raisins.

² Return-to-date, reserve pool still open.

³ No volume regulation.

There are essentially two broad markets for raisins—domestic and export. Domestic shipments generally increased over the years. Although domestic shipments decreased from a high of 204,805 packed tons during the

1990–91 crop year to a low of 156,325 packed tons in the 1999–2000 crop year, they increased from 174,117 packed tons during the 2000–01 crop year to 193,609 packed tons during the 2007–08 crop year. Export shipments ranged

from a high of 107,931 packed tons in 1991–92 crop year to a low of 91,599 packed tons in the 1999–2000 crop year. Since that time, export shipments increased to 106,755 tons of raisins during the 2004–05 crop year, fell to

101,684 tons in 2006–07 crop year, and again increased to 142,541 tons in 2007–08 crop year. This significant increase was due to a short crop in Turkey.

The per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.47 pounds in 2007. This decrease is consistent with the decrease in the per capita consumption of dried fruits in general, which is due to the increasing availability of most types of fresh fruit throughout the year.

While the overall demand for raisins has increased in four of the last five years (as reflected in increased commercial shipments), production has been decreasing. Deliveries of NS dried raisins from producers to handlers reached an all-time high of 432,616 tons in the 2000–01 crop year. This large crop was preceded by two short crop years; deliveries were 240,469 tons in 1998–99 crop year and 299,910 tons in 1999–2000 crop year. Deliveries for the 2000–01 crop year soared to a record level because of increased bearing acreage and yields. Deliveries for the 2001–02 crop year were at 377,328 tons, 388,010 tons for the 2002–03 crop year, 296,864 for the 2003–04 crop year, and 265,262 tons for the 2004–05 crop year. After three crop years of high production and a large 2001–02 carryin inventory, the industry diverted raisin production to other uses or removed bearing vines. Diversions/removals totaled 38,000 acres in 2001; 27,000 acres in 2002; and 8,000 acres of vines in 2003. These actions resulted in declining deliveries of 296,864 tons for the 2003–04 crop year and 265,262 tons for the 2004–05 crop year. Although deliveries increased in the 2005–06 crop year to 319,126 tons, this may have been because fewer growers opted to contract with wineries, as raisin variety grapes crushed in 2005–06 crop year decreased by 161,000 green tons, the equivalent of over 40,000 tons of raisins. In the 2006–07 crop year, raisin deliveries were again less than 300,000 tons at 282,999 tons and increased to 329,288 tons in 2007–08 crop year. Deliveries have increased for the 2008–09 crop year, and were at 351,196 tons for the week ending May 30, 2009.

The order permits the industry to exercise volume regulation provisions, which allow for the establishment of free and reserve percentages, and establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to balance supply and demand. If raisin markets are over-supplied with product, producer prices will decline.

Raisins are generally marketed at relatively lower price levels in the more elastic export market than in the more

inelastic domestic market. This results in a larger volume of raisins being marketed and enhances producer returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

The reserve percentage limits provide for raisins that handlers can market as free tonnage. Data available as of May 30, 2009, showed that deliveries of NS raisins were at 351,196 tons. The 13 percent reserve thus provided handlers with free tonnage of 305,541 natural condition tons ($.87 \times$ the 351,196 ton crop).

Adding the estimated figure of 45,656 tons of raisins offered to handlers through the 10 plus 10 program (35,568 and 10,088 tons) to the 305,541 tons of free tonnage raisins available through applying the volume regulation percentages, plus 106,249 tons of carryin inventory, plus 643 tons of 2007–08 reserve raisins sold pursuant to § 989.67(j) and released during the 2008–09 crop year results in a total supply of 458,089 tons of natural condition raisins, or 432,935 packed tons ($.94509 \text{ shrink} \times 458,089 \text{ tons}$).

With volume regulation, producer prices are expected to be higher than without volume regulation. This price increase is beneficial to all producers regardless of size and enhances producers' total revenues in comparison to no volume regulation. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Free and reserve percentages are established by varietal type, and usually in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume regulation is necessary to maintain market stability. Accordingly, in assessing whether to apply volume regulation or, as an alternative, not to apply such regulation, it was determined that volume regulation was warranted for the 2008–09 season for only one of the nine raisin varietal types defined under the order.

The free and reserve percentages continue in effect, the release of the full trade demand for Natural Seedless raisins and apply uniformly to all handlers in the industry, regardless of size. For NS raisins, with the exception of the 1998–99 and 2004–05 crop years, small and large raisin producers and handlers have been operating under volume regulation percentages every year since the 1983–84 crop year. There are no known additional costs incurred by small handlers that are not incurred by large handlers. While the level of benefits of this rulemaking are difficult

to quantify, the stabilizing effects of the volume regulations impact small and large handlers positively by helping them maintain and expand markets even though raisin supplies fluctuate widely from season to season. Likewise, price stability positively impacts small and large producers by allowing them to better anticipate the revenues their raisins will generate.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

There are some reporting, recordkeeping and other compliance requirements under the order. The reporting and recordkeeping requirements are necessary for compliance purposes and for developing statistical data for maintenance of the program. The requirements are the same as those applied in past seasons. Thus, this action imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information collection and recordkeeping requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178, Vegetable and Specialty Crops. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meetings were widely publicized throughout the raisin industry and all interested persons were invited to attend the meetings and participate in the Committee's deliberations. Like all Committee meetings, the August 15, 2008, October 9, 2008, and December 18, 2008, meetings were public meetings and all entities, both large and small, were able to express their views on this issue.

Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Committee's Reserve Sales and Marketing Subcommittee met on August 15, 2008, October 9, 2008, and

December 18, 2008, and discussed these issues in detail. Those meetings were also public meetings and both large and small entities were able to participate and express their views.

An interim final rule concerning this action was published in the **Federal Register** on March 9, 2009. Copies of the rule were mailed by the Committee's staff to all Committee members and alternates, and raisin handlers. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided a 60-day comment period which ended May 8, 2009. No comments were received during the comment period.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 9951, March 9, 2009) 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 74 FR 9951 on March 9, 2009, is adopted as a final rule without change.

Dated: August 24, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9-20766 Filed 8-27-09; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 600 and 1024

RIN 1991-AB77

Assistance Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Financial Assistance Regulations to update, streamline, and simplify the general rules. DOE also removes regulations governing the DOE Financial Assistance Appeals Board.

DATES: This rulemaking is effective September 28, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Kniskern, Office of Procurement and Assistance Policy, U.S. Department of Energy, at 202-287-1342, or by e-mail at jacqueline.kniskern@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

II. Procedural Requirements

- A. Review Under Executive Order 12866
- B. Review Under the Regulatory Flexibility Act of 1980
- C. Review Under the Paperwork Reduction Act of 1980
- D. Review Under the National Environmental Policy Act
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act of 1995
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under the Treasury and General Government Appropriations Act, 2001
- J. Review Under Executive Order 13211
- K. Approval by the Office of the Secretary of Energy

I. Background

DOE has been actively engaged in the government-wide effort to streamline and simplify the application, administrative and reporting procedures for Federal financial assistance programs pursuant to the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107.

As part of this initiative, DOE has solicited comments and suggestions from the grant community and made changes to its assistance regulations. In particular, the DOE added to 10 CFR part 600 Subpart D, Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations, in a rule published in the **Federal Register** at 68 FR 50645 on August 21, 2003.

DOE has also incorporated policy directives issued by the Office of Management and Budget (OMB) that established a standard format for Federal agency announcements of funding opportunities under programs that award discretionary grants or cooperative agreements, established standard data elements for electronically posting synopses of Federal agencies' announcements of

funding opportunities, and required Federal agencies to post synopses of their discretionary grant and cooperative agreement funding opportunity announcements on the Grants.gov Web site, <http://www.Grants.gov>. The final rule incorporating these policy directives was published in the **Federal Register** at 69 FR 7865 on February 20, 2004. In addition, DOE developed a standard format for its funding opportunity announcements and revised systems to comply with the new posting requirements.

On May 16, 2008, a Notice of Proposed Rulemaking (NPR) was published in the **Federal Register** (73 FR 28385) that detailed changes to update, streamline and simplify the general rules in 10 CFR 600, Subpart A of its Financial Assistance Rules. The NPR also proposed to remove the regulations at 10 CFR part 1024 governing the DOE Financial Assistance Appeals Board. This Board was abolished when DOE's Energy Board of Contract Appeals was merged into the Civilian Board of Contract Appeals as required by Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163.

DOE received no comments from members of the public in response to the NPR. Nevertheless, DOE made the following technical changes to the text of the rule.

1. Section 600.5(d) is revised to add a reference to Section 600.352 after 600.162 and 600.243.

2. Section 600.7(c) is revised to show the referenced Sections to be 600.144, 60.236 and 600.331.

3. Section 600.25(a)(2) is revised to correct the modifying "An" to "A".

II. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant