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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–4 FIR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2001–02 Crop Natural (sun-dried) Seedless and Other 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 2001–02 crop Natural (sun-dried) Seedless (NS) and Other Seedless (OS) 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 63 percent free and 37 percent reserve for both NS and OS raisins. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

EFFECTIVE DATE: August 19, 2002. This rule applies to acquisitions of NS and OS raisins from the 2001–02 crop until the reserve raisins from that crop are disposed of under the marketing order.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, 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.

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@usda.gov.*

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.''

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 final free and reserve percentages for NS and OS raisins for the 2001–02 crop year, which began August 1, 2001, and ends July 31, 2002. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with 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. Such 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 final volume regulation percentages for 2001–02 crop NS and OS raisins covered under the order. The percentages were established through an interim final rule published on April 3, 2002 (67 FR 15707). The volume regulation percentages are 63 percent free and 37 percent reserve for both NS and OS raisins. 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. Final percentages were recommended by the Committee on February 14, 2002. One Committee member opposed the NS raisin percentages. He believes that the Committee failed to properly consider certain factors in its deliberations, particularly the impact of additional free tonnage on a weakening market. Another Committee member opposed the OS percentages. That handler claims he has developed a specialty market for OS raisins and indicated that he cannot meet his market needs under the volume regulation percentages.

Computation of Trade Demands

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 14, 2001, 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 each varietal type is equal to a 5-year rolling average, dropping the high and low figures, of free tonnage shipments during the months of August, September, and October. In accordance with these provisions, the Committee computed and announced 2001–02 trade demands for NS and OS raisins at 235,850 tons and 1,692 tons, respectively, as shown below.

COMPUTED TRADE DEMANDS

[Natural condition tons]

	NS Raisins	OS Raisins
Prior year's shipments	295,477	5,544
Multiplied by 90 percent	0.90	0.90
Equals adjusted base	265,929	4,990
Minus carryin inventory	116,131	4,273
Plus desirable caryout	86,052	975
Equals computed trade demand	235,850	1,692

Computation of Preliminary Volume Regulation Percentages

As required under § 989.54(b) of the order, the Committee met on September 20, 2001, and announced a preliminary crop estimate for NS raisins of 359,341 tons, which is comparable to the 10-year average of 344,303 tons. NS raisins are the major varietal type of California raisin. Adding the carryin inventory of 116,131 tons, plus 32,193 tons of reserve raisins released to handlers for free use in September 2001 through an export program, plus the 359,341-ton crop estimate resulted in a total available supply of 507,665 tons, which was significantly higher (about 115 percent) than the 235,850-ton trade demand. Thus, the Committee determined that volume regulation for NS raisins was warranted. The Committee announced preliminary free and reserve percentages for Naturals, which released 85 percent of the computed trade demand since the field price (price paid by handlers to producers for their free tonnage raisins) had been established. The preliminary percentages were 56 percent free and 44 percent reserve.

Also at its September 20, 2001, meeting, the Committee announced a preliminary crop estimate for OS raisins at 7,073 tons, which is almost double the 10-year average of 3,786 tons. Combining the carry-in inventory of 4,273 tons with the 7,073-ton crop estimate resulted in a total available supply of 11,346 tons. With the estimated supply significantly higher (over 500 percent) than the 1,692-ton trade demand, the Committee determined that volume regulation for OS raisins was warranted. The Committee announced preliminary percentages for OS raisins, which released 85 percent of the computed trade demand since field price had been established. The preliminary percentages were 20 percent free and 80 percent reserve.

In addition, preliminary percentages were also announced for Dipped Seedless, Oleate and Related Seedless, and Zante Currant raisins. The Committee ultimately determined that volume regulation was only warranted for NS and OS raisins. As in past seasons, the Committee submitted its marketing policy to USDA for review.

Modification to Marketing Policy Regarding OS Raisins

Pursuant to § 989.54(f) of the order, the Committee met on December 11, 2001, and revised its marketing policy regarding OS raisins due to a major change in economic conditions. The 7,073-ton crop estimate was reduced to 5,000 tons, and the 1,692-ton trade demand was increased to 2,800 tons. This resulted in volume regulation percentages at 48 percent free and 52 percent reserve to release 85 percent of the 2,800-ton trade demand.

The Committee took this action in response to concerns raised by OS handlers who were facing difficulties under the preliminary percentages of 20 percent free and 80 percent reserve. Volume regulation has not been implemented for OS raisins since the 1994–95 season. Some handlers who developed markets since that time, in the absence of volume regulation, were having difficulties meeting their customers' needs. The merits of suspending volume regulation were deliberated by the Committee. However, the majority of Committee members supported some level of regulation. The Committee ultimately determined that the OS trade demand should be increased to 2,800 tons which resulted in less restrictive volume regulation percentages.

Computation of Final Volume Regulation Percentages

Pursuant to § 989.54(c), the Committee met on February 14, 2002, and recommended interim percentages for NS and OS raisins to release slightly less than their full trade demands. Specifically, interim percentages were announced for both NS and OS raisins at 62.75 percent free and 37.25 percent reserve. The interim percentages were based on revised crop estimates. The NS crop estimate was increased from 359,341 to 372,499 tons, and the OS crop estimate was decreased from 5,000 to 4,416 tons. Pursuant to § 989.54(d), the Committee also recommended final percentages to release the full trade demands for NS and OS raisins. Final percentages compute to 63 percent free and 37 percent reserve for both varietal types. The Committee's calculations to arrive at final percentages for NS and OS raisins are shown in the table below:

FINAL VOLUME REGULATION PERCENTAGES

[Natural condition tons]

	NS Raisins	OS Raisins
Trade demand	235,850	2,800
Divided by crop estimate	372,499	4,416
Equals free percentage	63	63
100 minus free percentage equals reserve percentage	37	37

In addition, 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 and OS raisins by the establishment of final percentages, which released 100 percent of the trade demands and the offer of additional reserve raisins for sale to handlers 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 for free use. Handlers may sell their 10 plus 10 raisins to any market.

The ''10 plus 10 offers'' for NS raisins were held in November 2001. A total of 59,095 tons was made available to raisin handlers, and 4,000 tons of raisins were purchased. Adding the 4,000 tons of 10 plus 10 raisins to the 235,850-ton trade demand figure, plus 116,131 tons of 2000–01 carryin inventory, plus 32,193 tons of reserve raisins released for free use in September 2001 through an export program, equates to about 388,174 tons of natural condition raisins, or about 363,940 tons of packed raisins, that were actually under the control of handlers for free use or primary markets. This is about 131 percent of the quantity of NS raisins shipped during the 2000–01 crop year (295,477 natural condition tons or 277,030 packed tons).

For OS raisins, a total of 1,108 tons were made available to handlers through 10 plus 10 offers in February 2002, and 407 tons were purchased. Adding the 407 tons of 10 plus 10 raisins to the 2,800-ton trade demand figure, plus 4,273 tons of 2000–01 carryin inventory equates to 7,480 tons of natural condition raisins, or about 6,843 tons of packed raisins, that were actually under the control of handlers for free use or primary markets. This is about 135 percent of the quantity of OS raisins shipped during the 2000–01 crop year (5,544 tons natural condition tons or 5,072 packed tons).

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 of a comparable period of the prior crop year. Such reserve raisins may be sold by handlers to any market. When implemented, the additional offers of reserve raisins make even more raisins available to primary markets which is consistent with the USDA's Guidelines.

Final Regulatory Flexibility Analysis

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

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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. 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 control mechanism is used to stabilize supplies and prices and strengthen market conditions.

Pursuant to § 989.54(d) of the order, this rule continues in effect final volume regulation percentages for 2001–02 crop NS and OS raisins. The volume regulation percentages are 63 percent free and 37 percent reserve for both NS and OS raisins. 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 is warranted this season for NS raisins because the crop estimate of 372,499 tons combined with the carryin inventory of 116,131 tons, plus 32,193 tons of reserve raisins released for free use in September 2001 through an export program, plus 34,414 tons of reserve raisins released to-date for free use through another export program, results in a total available supply of 555,237 tons, which is 135 percent higher than the 235,850-ton trade demand. Volume regulation is warranted for OS raisins this season because the crop estimate of 4,416 tons combined with the carryin inventory of 4,273 tons results in a total available supply of 8,689 tons, which is significantly higher than the 2,800-ton trade demand.

Many years of marketing experience led to the development of the current volume regulation procedures. These procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The current volume 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, over 60 percent of raisins are sold in bulk. This means that raisins are now sold to consumers mostly as an ingredient in other products 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 1992–93 through the 1997–98 seasons, 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, or about 42 percent. 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 $901 in 1992–93 to a high of $1,049 in 1996–97, or 16 percent. Total producer prices for the 1998–99 and 1999–2000 seasons increased significantly due to back-to-back short crops during those years. Producer prices dropped dramatically for the 2000–01 season due primarily to record-size production.

NATURAL SEEDLESS PRODUCER PRICES

Crop Year	Deliveries (natural condition tons)	Producer Prices
2000–01	432,616	[1] $570.82
1999–2000	299,910	1,211.25
1998–99	240,469	[2] 1,290.00
1997–98	382,448	946.52
1996–97	272,063	1,049.20
1995–96	325,911	1,007.19
1994–95	378,427	928.27
1993–94	387,007	904.60
1992–93	371,516	901.41

[1] Return to date, reserve pool still open.
[2] No volume regulation.

There are essentially two broad markets for raisins—domestic and export. In recent years, both export and domestic shipments have been decreasing. 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 1999–2000. In addition, exports decreased from 114,576 packed tons in 1991–92 to a low of 91,600 packed tons in the 1999–2000 crop year.

In addition, the per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.55 pounds in 2000. 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 through out the year.

While the overall demand for raisins has been decreasing (as reflected in the decline in commercial shipments), production has been increasing. Deliveries of 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 and 299,910 tons in 1999–2000. Deliveries for the 2000–01 crop year soared to a record level because of increased bearing acreage and yields. Estimated production is more moderate at 372,499 tons in 2001–02. However, with 2000–01 carryin inventory totaling 116,131 tons, total available supply is quite large.

The order permits the industry to exercise supply control provisions, which allow for the establishment of free and reserve percentages, and the establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to equilibrate supply and demand. If raisin markets are over-supplied with product, grower 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 grower returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been constructed. The model developed is for the purpose of estimating nominal prices under a number of scenarios using the volume control authority under the Federal marketing order. The price growers receive for the harvest and delivery of their crop is largely determined by the level of production and the volume of carryin inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of reserve and free percentages for primary markets, and a reserve pool. The establishment of reserve percentages impacts the production that is marketed in the primary markets.

The reserve percentage limits what handlers can market as free tonnage. Assuming the 37 percent reserve limits the total free tonnage to 234,674 natural condition tons (.63 × 372,499 tons) and carryin is 116,131 natural condition tons, and purchases from reserve total 74,193 natural condition tons (which includes anticipated reserve raisins released through the export program and other purchases), then the total free supply is estimated at 424,998 natural condition tons. The econometric model estimates prices to be $123 per ton higher than under an unregulated scenario. This price increase is beneficial to all growers regardless of size and enhances growers' total revenues in comparison to no volume control. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Regarding OS raisins, OS raisin production is much smaller than NS raisin production. Volume regulation is warranted this season because the available supply significantly exceeds the trade demand. In assessing the impact of OS regulation, the Committee addressed concerns raised by some handlers who were facing difficulties under the initial preliminary percentages of 20 percent free and 80 percent reserve. Volume regulation has not been implemented for OS raisins since the 1994–95 season. Some handlers who developed markets since that time, in the absence of volume regulation, were having difficulties meeting their customers' needs under the preliminary percentages established. The merits of suspending volume regulation were deliberated by the Committee. However, the majority of Committee members supported some level of regulation. The Committee ultimately determined that the OS trade demand should be increased to 2,800 tons which resulted in less restrictive volume regulation percentages.

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, the Committee recommended that only two of the ten raisin varietal types defined under the order be subject to volume regulation this season.

The free and reserve percentages established by this rule release the full trade demands and apply uniformly to all handlers in the industry, regardless of size. For NS raisins, with the exception of the 1998–99 crop year, small and large raisin producers and handlers have been operating under volume regulation percentages every year since 1983–84. 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.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens 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 burdens on either small or large 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. As with other similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, Committee and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members, including small business entities, and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion.

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/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the FOR FURTHER INFORMATION CONTACT section.

An interim final rule concerning this action was published in the **Federal Register** on April 3, 2002 (64 FR 15707). Copies of the rule were mailed by Committee staff to all Committee members and alternates, the Raisin Bargaining Association, handlers and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period that ended on June 3, 2002. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, 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 67 FR 15707 on April 3, 2002, is adopted as a final rule without change.

Dated: July 15, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–18257 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') amends its Appliance Labeling Rule (''Rule'') by publishing new ranges of comparability to be used on required labels for standard and compact dishwashers. The Commission is also publishing minor and conforming changes to the requirements for EnergyGuide labels for dishwashers.

EFFECTIVE DATES: The amendments to § 305.11, Appendix C2 to part 305 (ranges for standard-size dishwashers), and Appendix L to part 305 will become effective September 17, 2002. The amendments to Appendix C1 to part 305 establishing new ranges of comparability for compact dishwashers will become effective March 22, 2003.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, (202) 326–2889; *hnewsome@ftc.gov.*

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers several categories of major household appliances including dishwashers.

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an ''Energy Guide'' label and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.[2] These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

I. 2002 Dishwasher Data

A. New Ranges

The Commission has analyzed the annual data submissions for dishwashers. The data submissions show significant change in the high or low ends of the range of comparability scale for standard and compact models.[3] Accordingly, the Commission is publishing new ranges of comparability for standard and compact dishwashers. These new ranges of comparability

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

[2] Reports for dishwashers are usually due June 1. For reasons detailed in the **Federal Register** on May 17, 2002 (67 FR 35006), this submission date was changed to June 17 for 2002 submissions.

[3] The Commission's classification of ''Standard'' and ''Compact'' dishwashers is based on internal load capacity. Appendix C of the Commission's Rule defines ''Compact'' as including countertop dishwasher models with a capacity of fewer than eight (8) place settings and ''Standard'' as including portable or built-in dishwasher models with a capacity of eight (8) or more place settings. The Rule requires that place settings be determined in accordance with appendix C to 10 CFR Part 430, subpart B, of DOE's energy conservation standards program.