

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

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

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

**Authority:** 7 U.S.C. 601–674.

■ 2. In § 989.154, the first sentence of paragraph (a) is revised to read as follows:

**§ 989.154 Marketing policy computations.**

(a) *Desirable carryout levels.* The desirable carryout level to be used in computing and announcing a crop year's marketing policy for Natural (sun-dried) Seedless raisins shall be 85,000 natural condition tons.

\* \* \* \* \*

Dated: July 11, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–17788 Filed 7–15–11; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 1210**

**[Document Number AMS–FV–10–0093]**

**Watermelon Research and Promotion Plan; Redistricting and Importer Representation**

**AGENCY:** Agricultural Marketing Service, USDA

**ACTION:** Final rule.

**SUMMARY:** This rule changes the boundaries of all seven districts under the Watermelon Research and Promotion Plan (Plan) to reapportion the producer, handler, and importer memberships on the National Watermelon Promotion Board (Board). In addition, the Board is adding two importer seats based on the quantity of watermelon imports in the past three years. These changes are based on a review of the production and assessments paid in each district and the amount of watermelon import assessments, which the Plan requires at least every five years. As a result of these changes, the importer seats will increase from six to eight. Therefore, the total Board membership will increase from 35 to 37 members. In addition, a new Code of Federal Regulation section is added to reflect the importer representation on the Board.

**DATES:** Effective July 19, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632–S, Washington, DC 20250–0244; telephone: (888) 720–9917; facsimile: (202) 205–2800; or electronic mail: [Jeanette.Palmer@ams.usda.gov](mailto:Jeanette.Palmer@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Watermelon Research and Promotion Plan [7 CFR part 1210]. The Plan is authorized under the Watermelon Research and Promotion Act (Act) [7 U.S.C. 4901–4916].

**Executive Orders 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

**Executive Order 12988**

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect.

The Act allows producers, producer-packers, handlers, and importers to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

**Regulatory Flexibility Act and Paperwork Reduction Act**

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601–612], AMS has examined the economic impact of this rule on the small producers, handlers, and importers that would be affected by this rule.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service

firms (handlers and importers) as those having annual receipts of no more than \$7 million. Under these definitions, the majority of the producers, handlers, and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

USDA's National Agricultural Statistics Service (NASS) data for the 2010 crop year was about 310 hundredweight (cwt.) of watermelons were produced per acre. The 2010 grower price published by NASS was \$12.00 per hundredweight. Thus, the value of watermelon production per acre in 2010 averaged about \$3,720 (310 cwt. × \$12.00). At that average price, a producer would have to farm over 202 acres to receive an annual income from watermelons of \$750,000 (\$750,000 divided by \$3,720 per acre equals 202). Accordingly, as previously noted, a majority of the watermelon producers would be classified as small businesses.

Based on the Board's data, using an average of freight on board (f.o.b.) price of \$.0164 per pound and the number of pounds handled in 2010, none of the watermelon handlers had receipts over the \$7.5 million threshold. Therefore, the watermelon handlers would all be considered small businesses. A handler would have to ship over 457 million pounds of watermelons to be considered large (457,317,073 times \$.0164 f.o.b. equals \$7,500,000).

According to the Board, there are approximately 950 producers, 230 handlers, and 137 importers who are required to pay assessments under the program.

Based on the watermelon import assessments received for the year 2010, the United States imported watermelons worth over \$260 million dollars. The largest imports of watermelon came from Mexico which accounted for 93 percent of the total in 2010. Other suppliers of imported watermelon are Guatemala at 3 percent and Honduras at 1 percent. The remaining 3 percent of imported watermelon came from Canada, Netherlands, Nicaragua, Nigeria, and Panama.

The Board's assessment records show imports for the years 2007, 2008, and 2009 at \$681,565, \$783,249, and \$742,363 respectively. Based on this data, the three-year average annual imports for watermelon total \$735,725 (2,207,177 divided by 3). This represents approximately 29 percent of the total assessments paid to the Board. Currently there are 6 importers on the Board representing 17 percent of the

total members. Accordingly, two importer seats should be added to the Board. The new Board membership distribution would be 14 producers, 14 handlers, 8 importers, and 1 public member which would bring the percentage of seats for importers to 22 percent of the total seats on the Board.

Nominations and appointments to the Board are conducted pursuant to sections 1210.321 of the Plan. The Plan requires producers to be nominated by producers, handlers to be nominated by handlers, and importers to be nominated by importers. This would not change. Because some current members are in States or counties which would be moved to other districts under this rule, one producer member vacancy in the new District 2, one handler member vacancy in the new Districts 3, and one producer member vacancy in the new District 7 would result with this change. Nomination meetings will be held in the new districts to fill these vacancies.

Appointments to the Board are made by the Secretary from a slate of nominated candidates. The nominees for the two producer, one handler and two importer positions will be submitted to the Secretary for appointment to the Board.

The overall impact is favorable because the new district boundaries provide more equitable representation for the producers, handlers, and importers who pay assessments in the various districts.

The Board chose the realignment scenario that kept the States together. For instance, California is currently divided into two districts and the Board has realigned California so that all the counties in California are located in one district. The new realignment would also give Georgia and Texas their own respective districts. The other States will be divided up to reflect their watermelon production levels and grouped together for the four remaining districts.

The Board considered several alignments of the districts in an effort to provide balanced representation for each district. The Board selected the alignment described in this rule as it provides proportional representation on the Board of producers, handlers, and importers. The addition of two importers would allow for more importers representation on the Board's decision making and also potentially provide an opportunity to increase diversity on the Board.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the

background form, which represents the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB number 0505-0001.

The Plan requires that two nominees be submitted for each vacant position. With regard to information collection requirements, adding two importers to the Board means that four additional importers will be required to submit background forms to USDA in order to be considered for appointment to the Board. However, serving on the Board is optional, and the burden of submitting the background form would be offset by the benefits of serving on the Board. The estimated annual cost of providing the information by four importers would be \$33 or \$8.25 per importer. The additional minimal burden will be included in the existing information collection package under OMB number 0505-0001.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

### Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection. This action will not have any impact on the assessment rates paid by producers, handlers, and importers.

Membership on the Board consists of two producers and two handlers for each of the seven districts established by the Plan, at least one importer, and one public member. The Board currently consists of 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

The seven current districts were established in 2006. They are:

*District 1*—The Florida counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, DeSoto, Flagler, Glades,

Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Marion, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington, and the Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, Seminole, and the States of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, and Virginia.

*District 3*—The Georgia counties not included in District two and the State of South Carolina.

*District 4*—The States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Kentucky, West Virginia, Maryland, New Hampshire, Maine, New Jersey, New York, Pennsylvania, Massachusetts, Rhode Island, Delaware, Vermont, Wisconsin, Connecticut, and Washington, DC.

*District 5*—The States of Alaska, Hawaii, Nevada, Oregon, and Washington and all of the counties in the state of California except for those California counties included in District Seven.

*District 6*—The counties in the state of Texas, except for those counties in Texas included in District Seven.

*District 7*—The counties in the state of Texas; Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, the States of New Mexico, Arizona, Utah, Colorado, Idaho, Montana, and Wyoming, and the following counties in California; San Bernardino, Riverside, San Diego, and Imperial.

Pursuant to section 1210.320(c) of the Plan, the Board shall review the seven districts every five years to determine whether realignment of the districts is necessary. When making a review, the Plan specifies that the Board should consider factors such as the most recent three years of USDA production reports

or Board assessment reports if USDA production reports are unavailable, shifts and trends in quantities of watermelons produced, and any other relevant factors. Any realignment should be recommended by the Board at least six months prior to the date of the call for nominations and should become effective at least 30 days prior to this date.

Pursuant to section 1210.320(e) of the Plan, the Secretary shall review importer representation every five years. According to the Plan, the Secretary shall review a three-year average of watermelon import assessments and adjust, to the extent practicable, the number of importers on the Board.

The Board appointed a subcommittee to begin reviewing the U.S. districts and to determine whether realignment was necessary based on production and assessment collections in the current districts. During the review, as prescribed by the Plan, the subcommittee reviewed USDA's Annual Crop Summary reports for 2007 through 2009, which provided figures for the top 17 watermelon producing States, and the Board's assessment collection records for 2007 through 2009. Both sets of data showed similar trends in production among the various States. However, the Board used the assessment reports because USDA's Annual Crop Summary reports were available for only 17 of the 34 States in which watermelons are produced.

The subcommittee recommended to the Board that the boundaries of all seven districts be changed in order to provide for a better distribution of production among producers and handlers in the districts.

The subcommittee also considered the assessments of watermelon imports paid to the Board. The Board's assessment records show imports for the years 2007, 2008, and 2009 at \$681,565, \$783,249, and \$742,363 respectively. Based on this data, the three-year average annual imports for watermelon total \$735,725 (2,207,177 divided by 3). The average annual percentage of assessments paid by importers represents almost 29 percent of the Board's assessment income. In contrast to the 2006 realignment, the importer's assessment collection represented 20 percent of the Board's assessment income. Because there was a 9 percent increase in the assessments on imports, the Board recommended an increase in the number of importers on the Board. USDA has evaluated information concerning importer assessments and has determined that the number of importer representatives on the Board should be increased by two members.

Therefore, the number of importer Board members would increase from six to eight.

Section 1647(3)(A) of the Act authorizes the Board to have at least one or more importer representative to serve on the Board. However, there is no section in the Plan that identifies the number of importers on the Board. Section 1210.502 is currently reserved and will be used to reflect importer representation on the Board.

The realignment was approved by the Board at its November 13, 2010, meeting. Under the realignment, each district would represent, on average, 16 percent of total U.S. production. The composition of the Board would increase to a total of 37 members: 14 producers, 14 handlers, 8 importers, and 1 public member.

Therefore, this rule realigns the districts as follows:

*District 1*—The Florida counties of Brevard, Broward, Charlotte, Collier, Dade, Desoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Volusia.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington, and the States of North Carolina and South Carolina.

*District 3*—The State of Georgia.

*District 4*—The States of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and Washington, DC.

*District 5*—The State of California.

*District 6*—The State of Texas.

*District 7*—The States of Alaska, Arkansas, Arizona, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

Under this realignment: (1) The Florida counties of Citrus, Flagler, Hernando, Marion, Putnam, St. Johns and Sumter are moved from District 1 to District 2; (2) Alabama, Tennessee, and Virginia are moved from District 2 to

District 4; (3) Arkansas, Louisiana, Mississippi, and Oklahoma are moved from District 2 to District 7; (4) Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, and Seminole are moved from District 2 to District 3; (5) South Carolina moved from District 3 to District 2; (6) Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota are moved from District 4 to District 7; (7) Alaska, Hawaii, Nevada, Oregon, and Washington are moved from District 5 to District 7; (8) The following counties in the State of Texas: Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hanaford, Hartley, Hemphill, Hockley, Hutchinson, Kent, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Wheeler, and Yoakum are moved from District 7 to District 6; (9) the following counties in California: San Bernardino, Riverside, San Diego, and Imperial are moved from District 7 to District 5.

Due to the re-alignment of districts, the following vacancies are created: one producer vacancy in District 2; one handler vacancy in District 3, one producer vacancy in District 7; and two importer vacancies. Current Board members would be affected because their States or counties would be moved to other districts. Nomination meetings will be held as soon as possible in the new districts to fill the vacancies.

A 30-day comment period was provided to allow interested persons to respond to the proposal which was published in the **Federal Register** on May 5, 2011 [76 FR 25619]. Copies of the rule were made available through the Internet by USDA and the Office of the Federal Register. The comment period ended June 6, 2011. Two comments were received by the deadline.

Two favorable comments were received. One commenter agreed with the Board's recommendation to realign the district boundaries. The other commenter supported the Board's recommendation to add two importers to the Board based on the 29 percent of assessments paid by importers to the Board. The number of importer members would increase from six to eight importer members on the Board.

After consideration of all relevant material presented, the Board's recommendation, and other information, it is hereby found that this rule is consistent with and will effectuate the purpose of the Act.

Pursuant to 5 U.S.C. 553, it also found that good cause exists for not postponing the effective date of this action until one day after publication in the **Federal Register** because the Board's term of office begins January 1, 2012, and this rule will allow the upcoming nominations and appointments to be conducted in a timely manner for the new members to be appointed to the Board so they can begin serving during the next term of office.

#### List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, Part 1210, Chapter XI of Title 7 is amended as follows:

#### PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR Part 1210 continues to read as follows:

**Authority:** 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

#### Subpart C—Rules and Regulations

■ 2. Section 1210.501 is revised to read as follows:

##### § 1210.501 Realignment of districts.

Pursuant to § 1210.320(c) of the Plan, the districts shall be as follows:

(a) *District 1*—The Florida counties of Brevard, Broward, Charlotte, Collier, Dade, Desoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Volusia.

(b) *District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington, and the States of North Carolina and South Carolina.

(c) *District 3*—The State of Georgia.

(d) *District 4*—The States of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and Washington, DC.

(e) *District 5*—The State of California.

(f) *District 6*—The State of Texas.

(g) *District 7*—The States of Alaska, Arkansas, Arizona, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

■ 3. Section 1210.502 is added to read as follows:

##### § 1210.502 Importer members.

Pursuant to § 1210.320(d) of the Plan, there are eight importer representatives on the Board based on the proportionate percentage of assessments paid by importers to the Board.

Dated: July 12, 2011.

**Rayne Pegg,**  
*Administrator.*

[FR Doc. 2011–17882 Filed 7–15–11; 8:45 am]

**BILLING CODE P**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 1260

[No. AMS–LS–10–0086]

#### Beef Promotion and Research; Reapportionment

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

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act of 1985 (Act), to reflect changes in cattle inventories and cattle and beef imports that have occurred since the most recent Board reapportionment rule became effective in October 2008. These adjustments are required by the Beef Promotion and Research Order (Order) and will result in a decrease in Board membership from 106 to 103, effective with the U.S. Department of Agriculture's (USDA) appointments for terms beginning early in the year 2012.

**DATES:** Effective July 19, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Craig Shackelford, Marketing Programs Branch, on 202/720–1115, fax 202/720–1125, or by e-mail at [craig.shackelford@ams.usda.gov](mailto:craig.shackelford@ams.usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

The Office of Management and Budget has waived the review process required

by Executive Order 12866 for this action.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601–612), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic effect of this action on small entities and has determined that this final rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the February 2010 publication of “Farms, Land in Farms, and Livestock Operations,” USDA's National Agricultural Statistics Service (NASS) estimates that in 2009 the number of operations in the United States with cattle totaled approximately 950,000. The majority of these operations that are subject to the Order may be classified as small entities.

The final rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory and cattle and beef imports. The adjustments are required by the Order and will result in a decrease in Board membership from 106 to 103.

#### Background and Final Action

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901–2911) and the Order issued thereunder. Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Secretary of Agriculture (Secretary) from