

Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Last year, eight of the 20 handlers subject to regulation had annual grape sales of at least \$5,000,000. In addition, 10 of the 50 producers had annual sales of at least \$750,000. Therefore, a majority of handlers and producers may be classified as small entities.

This rule would increase the assessment rate established for the committee and collected from handlers for the 2005 and subsequent fiscal periods from \$0.015 to \$0.0175 per 18-pound lug of grapes. The committee unanimously recommended expenditures of \$210,691 and an assessment rate of \$0.0175 per 18-pound lug of grapes for the 2005 fiscal period. The proposed assessment rate of \$0.0175 is \$0.0025 higher than the 2005 rate. The number of assessable grapes is estimated at 8.5 million 18-pound lugs. Thus, the \$0.0175 rate should provide \$148,750 in assessment income. Income derived from handler assessments, along with interest income and funds from the committee's authorized carry-in reserves should be adequate to cover budgeted expenses in 2005.

The expenditures recommended by the committee for the 2005 fiscal period include \$125,000 for research, \$5,000 for compliance activities, \$45,500 for salaries and payroll expenses, and \$32,191 for other expenses. Budgeted expenses for these items in 2004 were \$100,000 for research, \$10,000 for compliance activities, \$43,500 for salaries, and \$34,591 for other expenses.

The committee reviewed and unanimously recommended 2005 expenditures of \$210,691 which included increases in salaries and research programs. Prior to arriving at this budget, the committee considered alternative expenditure and assessment rate levels, but ultimately decided that the recommended levels were reasonable to properly administer the order.

The assessment rate recommended by the committee was derived by the following formula: Total shipments (8.5 million 18-pound lugs) times the recommended assessment rate (\$0.0175 per 18-pound lug), plus the anticipated interest income (\$300) and the 2005 beginning reserve (\$78,000), minus the anticipated expenses (\$210,691), results in a 2005 ending reserve (\$16,359).

This rule would provide sufficient funds in combination with interest and reserve funds to meet the anticipated

expenses of \$210,691 and result in a December 2005 ending reserve of \$16,359, which is acceptable to the committee. The December 2005 ending reserve would be within the maximum permitted by the order. As required under § 925.41 of the order, the ending reserve must be kept within approximately one fiscal period's expenses.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the on-vine grower price for the 2005 season could range between \$5.00 and \$9.00 per 18-pound lug of grapes. Therefore, the estimated assessment revenue for the 2005 fiscal period as a percentage of total grower revenue could range between 0.2 and 0.4 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order.

In addition, the committee's meeting was widely publicized throughout the grape production area and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the November 9, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area grape handlers. 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.

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

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.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is

deemed appropriate because: (1) The 2005 fiscal period begins on January 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such fiscal period; (2) the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

#### **PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA**

1. The authority citation for 7 CFR part 925 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 925.215 is revised to read as follows:

##### **§ 925.215 Assessment rate.**

On and after January 1, 2005, an assessment rate of \$0.0175 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: January 5, 2005.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

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## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 982**

**[Docket No. FV05–982–2]**

#### **Hazelnuts Grown in Oregon and Washington; Continuance Referendum**

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

**ACTION:** Referendum order.

**SUMMARY:** This document directs that a referendum be conducted among eligible growers of hazelnuts in Oregon and Washington, to determine whether they favor continuance of the marketing order regulating the handling of hazelnuts grown in the production area.

**DATES:** The referendum will be conducted from February 7 through February 25, 2005. To vote in this referendum, growers must have been producing hazelnuts within the designated production area in Oregon and Washington, during the period July 1, 2003, through June 30, 2004.

**ADDRESSES:** Copies of the marketing order may be obtained from the office of the referendum agents at 1220 SW. Third Avenue, suite 385, Portland, Oregon 97204-2807, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, suite 385; telephone (503) 326-2724; fax (503) 326-7440; or Kathy Finn, Acting Rulemaking Team Leader, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; telephone (202) 720-2491; fax (202) 720-8938.

**SUPPLEMENTARY INFORMATION:** Pursuant to Marketing Order No. 982 (7 CFR part 982), hereinafter referred to as the "order," and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act," it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the growers. The referendum shall be conducted during the period February 7 through February 25, 2005, among hazelnut growers in the production area. Only growers that were engaged in the production of hazelnuts in Oregon and Washington during the period of July 1, 2003, through June 30, 2004, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The Department would consider termination of the order if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of hazelnuts represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the

USDA will not only consider the results of the continuance referendum. The USDA will also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0178. It has been estimated that it will take an average of 20 minutes for each of the approximately 750 growers of hazelnuts grown in Oregon and Washington, to cast a ballot. Participation is voluntary. Ballots postmarked after February 25, 2005, will not be included in the vote tabulation.

Gary D. Olson and Barry Broadbent of the Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Department to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 *et seq.*)

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents, or from their appointees.

#### List of Subjects in 7 CFR Part 982

Hazelnuts, Marketing agreements, Reporting and recordkeeping requirements.

**Authority:** 7 U.S.C. 601-674.

Dated: January 5, 2005.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

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## NATIONAL INDIAN GAMING COMMISSION

### 25 CFR Part 542

**RIN 3141-AA27**

#### Minimum Internal Control Standards

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Proposed rule revisions; extension of comment period.

**SUMMARY:** On December 1, 2004, the National Indian Gaming Commission (Commission) issued Proposed rule revisions (69 FR 69847, December 1, 2004) (November 27, 2000) containing corrections and revisions to the Commission's existing regulations establishing minimum internal control standards (MICS) for gaming operations on Indian land and requesting comments prior to publication of a final rule. The date for filing comments is being extended.

**DATES:** Comments must be received by February 18, 2005.

**ADDRESSES:** Mail comments to "Comments to First Proposed MICS Rule Revisions, National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005, Attn: Vice-Chairman Nelson Westrin. Comments may be submitted by facsimile to Vice-Chairman Westrin at (202) 632-0045, but the original also must be submitted to the above address.

**FOR FURTHER INFORMATION CONTACT:** Vice-Chairman Nelson Westrin, (202) 632-7003 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In response to the inherent risks of gaming enterprises and the resulting need for effective internal controls in Tribal gaming operations, the National Indian Gaming Commission (Commission or NIGC) first developed Minimum Internal Control Standards (MICS) for Indian gaming in 1999, and revised them in 2002. The Commission recognized from the outset that periodic technical adjustments and revisions would be necessary to keep the MICS effective in protecting Tribal gaming assets and the interests of Tribal stakeholders and the gaming public. To that end, the following proposed rule revisions contain certain proposed corrections and revisions to the Commission's existing MICS, which are necessary to correct erroneous citations or references in the MICS and to clarify, improve, and update other existing MICS provisions. The purpose of these proposed MICS revisions is to address apparent shortcomings in the MICS and various changes in Tribal gaming technology and methods. Public comment to these proposed MICS revisions will be received by the Commission until February 18, 2005. After consideration of all received comments, the Commission will make whatever changes to the proposed revisions that it deems appropriate and then promulgate and publish the final