

RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of a RDP. Accordingly, additional procedures and deadlines are specified in § 989.156.

Prior to implementation of the interim final rule (67 FR 71072; November 29, 2002), these sections required the RAC to meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC. Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC, and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

#### **Extension of Deadlines for 2003 Diversion Program**

The California raisin and grape industries continue to be plagued by burdensome supplies and severe economic conditions. Industry members have been reviewing various options to help address some of these concerns. The RAC has also been reviewing options to help the industry address these issues through the marketing order.

At its October 15, 2002, meeting, the RAC recommended modifications to the RDP that were intended to significantly reduce the industry's oversupply and improve producer returns. Some revisions were proposed by the RAC's Executive Committee at follow-up

meetings on October 24 and November 4, 2002. The RAC hoped to have its recommended changes in effect for the 2003 diversion program, if recommended by the RAC and approved by USDA. Thus, temporarily suspending the November 30 deadline in the order for the RAC to announce a 2003 RDP, and extending other deadlines in the regulations were needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action also allowed for necessary review and evaluation of provisions for such a program.

The RAC met on December 12, 2002, to review the Executive Committee's changes and proposed program. The RAC ultimately recommended specific changes to the order's regulations that could apply to any future RDP. These changes were published in an interim final rule on January 28, 2003 (68 FR 4079).

Specifically, the words "On or before November 30 of" in § 989.56(a) were suspended until July 31, 2003, which is the end of the 2002–03 crop year. The November 30 date was also specified in § 989.156(a) of the order's regulations. The interim final rule added a proviso to § 989.156(a) that allowed the RAC to extend this date for the 2003 diversion program to a later date during the 2002–03 crop year. Similar provisos were added that allowed the RAC to extend the following dates in § 989.156 for the 2003 diversion program: the December 20 date specified in paragraph (b) whereby producers must submit applications to the RAC to participate in a RDP; the January 12 date specified in paragraph (c) whereby producers must submit corrected applications to the RAC; and the January 15 date specified in paragraph (a) whereby the RAC can allocate additional tonnage to a RDP. Section 989.56(a) and § 989.156 were modified accordingly.

Ultimately, the RAC recommended a 2003 RDP on January 29, 2003, and USDA approved the program on February 7, 2003. Producer applications were due to the RAC office on March 3, 2003, and corrected applications were due March 17, 2003. Additional tonnage may be allotted to the RDP through May 1, 2003.

#### **Extension of Redemption Deadline for 2002 Diversion Program**

Prior to implementation of the interim final rule, § 989.156(k) of the order's regulations specified that handlers must redeem diversion certificates by December 15 of the crop year for which they were issued. The value of the free tonnage represented on NS raisin diversion certificates has historically

been based on a free tonnage field price negotiated by the Raisin Bargaining Association (RBA) and industry handlers. As of December 15, 2002, a 2002 RBA field price had not yet been established, and most certificates had not been sold by producers. Therefore, § 989.156(k) was modified to specify that, for the 2002 NS RDP, the December 15 redemption deadline may be extended by the RAC to a later date within the 2002–03 crop year. As previously stated, at a meeting on November 26, 2002, the RAC extended that deadline until February 3, 2003.

#### **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 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.

This rule continues in effect an interim final rule that temporarily suspended a provision specified in § 989.56(a) of the order regarding the November 30 deadline by which the RAC must announce a 2003 RDP, and extended related deadlines in § 989.156 applicable to the 2003 diversion program. This rule also continues in effect the interim final rule's extension of the December 15 redemption deadline for 2002 RDP certificates. Under a RDP, producers receive certificates from the RAC for curtailing