

production units. Some members questioned whether authority for partial units should be added back into the order's regulations, and some questioned whether a partial unit should be required to have two permanent, contiguous boundaries. There was also concern that a producer could spur prune a corner of his/her vineyard, redesign his/her trellising system to provide for significantly increased yields, and contribute to future oversupplies. After much discussion, the majority of RAC members concurred with allowing partial production units in a RDP, and limiting such a unit to one that has two permanent, contiguous boundaries.

This rule does not add measurably to the current burden on reporting or recordkeeping requirements for either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (*i.e.*, the RDP application) has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581-0178. 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. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, this action was reviewed by the RAC's Administrative Issues Subcommittee October 7 and 15, and December 10 and 12, 2002, by the RAC's Executive Committee on October 24, and November 4 and 26, 2002, and by the RAC on October 7 and 15, and December 12, 2002. All of these meetings where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal Register** on January 28, 2003 (68 FR 4079). Copies of the rule were mailed by the RAC staff to all RAC 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 March 31, 2003. One comment was received. The commenter supported the changes, but suggested some minor modifications.

The commenter suggested adding language to § 989.156(a)(1) to clarify the authority of the RAC to make program modifications should the RAC announce an increase in eligible tonnage in a RDP on or before May 1. The commenter added that additional clarification may not be necessary because of existing language in § 989.156(r). That section contemplates that modifications can be made to the terms and conditions of a RDP after a producer's application has been approved, and requires producers to be notified of the changes and given the opportunity to agree with them or withdraw from the program. USDA concurs that authority for program modifications already exists in § 989.156(r) and no further clarification is necessary.

The second suggested language change by the commenter was to add "raisin-variety" prior to the word "vines" in § 989.156(a)(2)(iv) that refers to producers who replant vines. USDA believes that this clarification is not needed because all references to vines in § 989.56 are within the context of a raisin diversion program and are intended to refer to raisin-variety vines.

The third suggested change by the commenter was to add language as to how to handle damages that may be collected should a producer replant raisin-variety vines on the approved production unit within the announced period of up to 5 years. A 5-year period was announced for the 2003 RDP. The 2003 RDP requirements require approved applicants to remove their vines by June 1, 2003. Producers may not replant raisin variety vines on approved production units until June 1, 2008. The interim final rule stated, in § 989.156(a)(2)(iv), that any damages collected for a vine replanting violation must be deposited to the reserve pool fund of the reserve pool applicable to the particular RDP. In the case of the 2003 RDP, the 2002 reserve pool could not be closed until June 1, 2008, to ensure that no vine removal violations had occurred. Moreover, any collection process for a late occurring violation could cause a pool to remain open even longer.

Normally, reserve pools are closed and equity is distributed within 2 years of the crop year in which the reserve was established. The commenter suggested that damages collected be deposited in the "reserve pool for the crop year in which the monies are received, or if there is no reserve pool for the current year, then to the next prior year for which there was a reserve pool."

USDA concurs that a reserve pool need not remain open just because a

potential vine replanting violation might occur. However, based on discussions with RAC staff, USDA has concluded that, if the applicable pool has been closed, damages collected should be deposited in the next open reserve pool for the crop year closest to the RDP pool. This distribution is more orderly. For example, under the 2003 RDP, producers who removed vines cannot replant until 2008. Raisins from the 2002 reserve pool have been allocated to the 2003 RDP. If damages are collected in 2008, and the 2002 pool is closed, but the 2006 and 2007 reserve pools are open, such damages would be deposited in the 2006 pool. Accordingly, language is added to § 989.156(a)(2)(iv) to state that if the applicable RDP reserve pool has been closed and equity distributed, then any damages collected for that RDP shall be deposited in the next open reserve pool of the crop year closest to the applicable diversion pool.

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.

After consideration of all relevant material presented, including the RAC's recommendation, comment received, and other information, it is found that finalizing the interim final rule, as published in the **Federal Register** (68 FR 4079; January 28, 2003), with changes, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2003 RDP is well underway and this action should be made effective as soon as possible.

#### 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 68 FR 4079 on January 28, 2003, is adopted as a final rule, with the following changes:

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

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