

Accordingly, AMS has prepared this initial 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.

The California Agriculture Statistics Service (CASS) has forecast the 2002 production of raisin variety grapes at 2,550,000 tons (green). This is a relatively high level of production. The record high production occurred in 2000, at 2,921,000 tons (green).

Producers market raisin variety grapes in the fresh market (table), wine or juice market (crush), or dry them into raisins. Typically, 67 percent of the crop is dried for raisins, 20 percent crushed for wine and juice, and the remaining 13 percent of the crop is utilized in fresh and canned sales. These outlets provide a hedge for producers attempting to minimize risk from bad weather (rain) or a depressed market (concentrate, wine, or raisins).

The industry's estimate for all variety raisin production, as of October 4, 2002, is 446,449 dried tons (407,996 tons for NS). This will be the third consecutive year that raisin production has been above 400,000 tons. Combined domestic and export demand (shipments) is estimated at approximately 300,000 tons. These levels of production, combined with stable demand have resulted in a large build-up of free and reserve carryin inventories.

The RAC reports that 48,749 tons of NS raisins are currently being held in the reserve pool from the 2001 crop. In addition, 153,152 free tons are held by handlers in inventories. With current

total dried production estimated at 446,449 tons, and combined free and reserve inventories at 201,901 tons, the industry has over 600,000 tons of raisins.

This type of surplus situation leads to serious marketing problems. Handlers compete against each other in an attempt to sell more raisins to reduce inventories and to market their crop. This situation puts downward pressure on producers' prices and incomes.

In addition, it has been reported that the wineries offered \$65 a ton for green NS raisins for crushing. In recent years, wineries have typically offered prices ranging from \$164 to \$200 per ton. The wine price for NS grapes was lowered to \$125 per ton in 2000 and fell to \$85.70 per ton in 2001. This has resulted in more raisin variety grapes being dried for raisins, which has added to the surplus situation in the raisin market.

Typically, 500,000 tons of raisin variety grapes are delivered to the wineries for crushing. In 2001, this volume decreased to 261,000 tons. The 2002 crop year deliveries for crushing are expected to remain low.

Surplus situations are often the result of increased bearing acres, which are encouraged by high prices. However, bearing acres for raisin variety grapes have fallen from 280,000 acres in 2000 to 273,000 acres in 2002. In addition, 27,000 acres were idle due to the raisin diversion program. The increased raisin production is largely the result of producers deciding to dry more grapes for raisins due to the low crush prices and increased yields. The RAC hopes to utilize the RDP to help alleviate the industry's oversupply. The RAC's recommended changes are designed to add flexibilities to the RDP, and provide the opportunity for all producers to participate in a program. The overall impact of a RDP with the recommended flexibility is expected to impact small and large entities positively by reducing the industry's production capacity, and by bringing supplies in closer balance with market needs.

This rule revises § 989.156 of the order's rules and regulations regarding the RDP. Under a RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. Specifically, this rule revises the requirements of a RDP to: Add an additional date by which the RAC can increase the tonnage allotted to a RDP; add authority for the RAC to

limit the amount of tonnage allocated for vine removal; modify application of the production cap for spur pruners under a RDP; adding authority for the RAC to condition a vine removal program with a producer's agreement not to replant and to compensate the RAC for damages if replanting occurs; revise the requirements for prioritizing and allocating tonnage for spur pruners under a RDP; allow partial production units to be included in a RDP and add authority for the RAC to specify provisions to maintain the integrity of the program; and specifying in the regulations the approval of a RDP's provisions by USDA. Authority for these changes is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, these changes are designed to provide the RAC with additional flexibility when implementing a RDP. Adding the May 1 date whereby the RAC may increase the tonnage allotted to a RDP would give more producers an opportunity to participate in the program. The changes regarding the way tonnages are allocated under a program (cap on vine removal that would allow a specified amount of tonnage available for spur pruners, and allocating spur prune tonnage pro rata to all applicants) are intended to provide the opportunity for all producers to participate at some level in a RDP. Thus, all producers could potentially have the opportunity to earn some income for curtailing their production.

With regard to cost, based on past RDP's, the RAC estimates that compliance and verification costs associated with a RDP average about \$150 per production unit. Using an estimate of 1.25 production units per RDP producer application, if all 4,500 producers participated in a RDP, there could potentially be about 5,625 production units in a program. Thus, using the \$150 per unit figure, compliance and verification costs for the program could average about \$843,750. The overall impact of the changes is difficult to quantify. However, if a RDP implemented using the increased flexibility helps bring supplies into balance with market needs over time, the benefits for both small and large entities would be positive. When supplies and market needs are in balance, experience has shown that producers and handlers both benefit, regardless of size.

Regarding alternatives to the RAC's recommendation, the industry has been considering various options and programs to help alleviate the severe economic conditions adversely