

Currant, Monukka, and Other Seedless raisins. At the same time, the Committee, with the approval of the Secretary, shall determine and announce to producers, handlers, and the cooperative bargaining association(s) the allowable harvest cost to be applicable to such diversion tonnage. The factors to be reviewed by the Committee in determining allowable harvest costs shall include but not be limited to: Costs for picking, turning, rolling, boxing, paper trays, vineyard terracing, hauling to the handler, and crop insurance.

(2) *Additional provisions.*

For any crop year's diversion program, the Committee, with the approval of the Secretary, may:

(i) Limit the entire program to production units on which producers agree to remove vines;

(ii) Limit a portion of the program to production units on which producers agree to remove vines;

(iii) Limit the production cap to a percentage (less than or equal to 100 percent) of the yield per acre of the specific production unit for production units on which producers agree to divert production by methods other than vine removal;

(iv) Limit participation in a vine removal program to producer's who agree not to replant vines for a period not to exceed 5 years and who agree to compensate the Committee for appropriate damages if vines are replanted. Damages collected by the Committee pursuant to this subparagraph shall be deposited in the reserve pool fund of the reserve pool applicable to the particular diversion program and be distributed to the equity holders in that pool. If a determination is made by the Committee that a producer violated the agreement not to replant and is subject to damages, the producer may appeal the Committee's decision in accordance with paragraph (m) of this section;

(v) Specify how tonnage available to producers who agree to divert production by means other than through vine removal will be allotted, either pro-rata to remaining applicants, or by lottery to remaining applicants for complete production units if a minimal amount of tonnage remains; and/or

(vi) Limit a program that is applicable to partial production units by specifying the portion of the production units that can be diverted, or like provisions to maintain the integrity of the program.

Additional provisions provided pursuant to this paragraph shall be announced at the time the tonnage

available for that season's diversion program is announced.

* * * * *

(d) *Priority of applications and allocation of tonnage.*

(1) Those producer applications indicating that the vines on the producing units will be removed shall receive first priority over other applications when reserve tonnage under the program is to be allocated.

(2) Pursuant to paragraphs (a)(2)(i) and (a)(2)(ii) of this section, if the entire program, or a portion of the program, is limited to production units on which producers agree to remove vines, and the production volume in such vine removal applications exceeds the amount of diversion tonnage available for vine removal, a lottery will be held to allocate such vine removal tonnage among the respective applicants.

(3) Remaining tonnage available under a diversion program, after that allocated to producer applications indicating that the vines of the producing units will be removed, shall be allocated by the Committee either:

(i) pro-rata to remaining applicants; or
(ii) to remaining applicants by a lottery for complete production units, if a minimal amount of tonnage remains.

In conducting any lottery under this section, the Committee may group producer applications on a handler-by-handler basis, and separate lotteries will be held for each group. The diversion tonnage of raisins available for each such group in each lottery may not exceed the percentage of total handler acquisitions acquired by the group's handler during the previous crop year. If diversion tonnage exists after such group lotteries, such remaining diversion tonnage may be allocated by one lottery of all remaining producer applications.

* * * * *

(h) * * *

(2) *Period of diversion.* An approved applicant must remove the grapes, or vines, indicated on the application within the production unit, or portion thereof, designated within the application not later than June 1 of the crop year in which a diversion program is implemented. Producers who remove the vines on a production unit after August 15 may qualify for a diversion program for that crop year if a diversion program is announced and if diversion on that unit and vine removal after August 15 can be documented and verified.

(3) *Failure to divert.* Any raisin producer who does not take the necessary measures to remove the grapes on an approved production unit,

or portion thereof, by June 1, or any raisin producer who has indicated the removal of vines or the intent to remove the vines and who does not remove such vines on an approved production unit by June 1, shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of this section, may be subject to an injunctive action under the Act, and may be denied the opportunity to participate in the next diversion program, when implemented: *Provided:* That any producer who has more than one production unit and fails to divert on an approved production unit or portion thereof may be denied the opportunity to participate on all of that producer's production units, in the next diversion program. For spur-pruned vines, this date may be extended 2 weeks from the date of the inspection of a producer's vineyard if more than 4 bunches on spur-pruned vines are present at the time of inspection.

(i) *Issuance of certificates.* When preliminary percentages are announced, the Committee shall issue diversion certificates to those approved applicants who have removed grapes in accordance with this section. Such certificates shall represent an amount of reserve tonnage raisins equal to the amount of raisins diverted from the production unit(s), or portion(s) thereof, specified in the producer application, or additional quantity granted by the Committee when vines are diverted through vine removal or any other means established by the Committee, with the approval of the Secretary. If, prior to issuance of a certificate, the Committee is notified by an approved applicant that such applicant's interest in the production unit(s), or portion(s) thereof, involved in the program has been transferred to another person, the Committee may substitute the transferee for the applicant provided the transferee agrees to comply with the provisions of this section.

* * * * *

(o) *Production units.*

(1) For the purpose of the raisin diversion program, a production unit is a clearly defined geographic area with permanent boundaries (either natural or man-made). A producer must be able to document to the Committee the previous year's production data for that specific area by means of sales receipts or other deliveries or transfer documents which indicate the creditable fruit weight delivered to handlers from that specific area. If the information submitted by producers on the application concerning a unit's