

production is significantly greater than past production on the unit, production on neighboring units, or the industry norm, or the production is unable to be verified based on submitted documentation, the Committee may request additional documentation such as tray count, payroll records, prior years' production, and insurance records to substantiate the tonnage of raisins produced on all production units that such applicant controls or owns. Producers would not be precluded from submitting other information substantiating production if those producers desired. A new production unit will not be eligible for the raisin diversion program until at least 1 year's production has been grown and is documented. An existing production unit, transferred to a new or expanding producer, is eligible for the raisin diversion program as soon as the previous year's production can be properly documented.

(2) For purposes of the raisin diversion program, a partial production unit must have two permanent, contiguous boundaries (either natural or man-made).

* * * * *

Dated: January 23, 2003.

A.J. Yates,
Administrator, Agricultural Marketing Service.

[FR Doc. 03-1965 Filed 1-23-03; 5:09 pm]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02-989-5 FIR]

Raisins Produced From Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, with change, an interim final rule that allowed producers an additional opportunity to participate in the 2002 raisin diversion program (RDP). The RDP is authorized under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This

action was intended to help reduce the burdensome oversupply affecting the California raisin industry.

EFFECTIVE DATE: January 29, 2003.

FOR FURTHER INFORMATION CONTACT:

Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his

or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

A 2002 RDP for Natural (sun-dried) Seedless (NS) raisins was established in November 2001. A total of 54,086 tons of 2001 crop reserve raisins was allocated to the program. This rule continues in effect a rule that allowed producers an additional opportunity to participate in the 2002 RDP. An additional 25,000 tons of 2001 crop reserve raisins was allocated to the RDP. The additional program applied to producers who agreed to remove vines from production, and was intended to help the industry reduce its burdensome oversupply. The action was recommended by the RAC at a meeting on May 30, 2002, by a vote of 45 in favor, 1 opposed (member opposed because the program did not provide for a moratorium on replanting), and 1 abstained.

Volume Regulation Provisions

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

Raisin Diversion Program

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction. Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the 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 are specified in § 989.156.