

There was some discussion at the meeting about the impact of adding an additional 25,000 tons of 2001 crop NS reserve raisins to the 2002 supply. Through the order's mathematical formula for volume regulation, additional 2002 supply will reduce the 2002 free tonnage percentage. This could reduce returns for producers since producers are paid a field price for the free tonnage percentage of their crop. There was some consideration of allowing handlers to redeem a portion of their certificates for 2001 reserve raisins and a portion for 2002 crop reserve raisins. However, the current order only provides authority for handlers to redeem certificates for reserve raisins from the prior crop year.

There was also discussion at the meeting about giving smaller producers some priority in the program. For example, the program could have allowed 2 days for producers with production units of 80 acres to apply, and then the program could have been opened up to other applicants.

However, this was not recommended over a program providing the same opportunity to all eligible producers.

This rule does not measurably add 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 previously 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, the RAC's meeting on May 30, 2002, where this action was deliberated was a public meeting widely publicized throughout the raisin industry. All interested persons were invited to attend the meeting and participate in the industry's deliberations.

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.

Additionally, the interim final rule published in the **Federal Register** on

June 24, 2002 (67 FR 42471) inadvertently omitted the last three sentences in the regulatory text in paragraph (a)(1) of § 989.156. Those sentences were included in another interim final rule published on November 29, 2002 (67 FR 71072). The November 2002 interim final rule made additional revisions to paragraphs (a) and (s) of § 989.156 as they originally appeared in the June 2002 interim final rule.

Committee staff mailed copies of the interim final rule to all Committee 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 15-day comment period that ended on July 9, 2002. Five comments were received.

A raisin producer who had participated in the early season RDP and curtailed production by removing vines wanted to be compensated at the same rate as producers under the late season RDP, and another wanted to receive the 1.5 ton bonus for each ton of creditable fruit weight removed. Under the early season RDP, harvest costs were announced by the RAC at \$340 per ton, a production cap of 2.0 tons per acre was established for the program, and producers received a diversion certificate from the RAC equal to the creditable fruit weight removed (up to a maximum of 2 tons per acre). Under the late season RDP, for vine removal only, producers received a diversion certificate from the RAC equal to 1.5 times the creditable fruit weight of the raisins produced on the production unit removed (up to a maximum of 3 tons per acre). This bonus was included as a condition of the late season RDP to encourage more vine removals. This was a reasonable addition given the industry's excess production capacity, and the oversupply situation currently burdening the industry.

In addition, harvest costs for the late season program were \$100 per ton where new participants were involved and \$340 in the case of "early season spur pruners" who decided to remove vines under the late season program. Because harvest costs are deducted from the payment producers receive from handlers for their diversion certificates, a reduction in harvest costs results in a larger payment to producers for the certificates. As already mentioned, the reduction in harvest costs for new participants and resulting increased payment was intended to take into account the cultural and some harvest costs incurred by such producers in

producing a 2002 crop up to the time of removal.

Two letters each signed by two raisin producers, who also handle raisins, were submitted by their attorney. These commenters opposed the late season RDP.

They contend that this program will harm the industry, that it lacks economic merit, and that it conflicts with both the letter and spirit of the raisin marketing order.

They stated that their equity in the 2001 reserve pool (the pool from which handlers purchasing RDP certificates will obtain raisins) will be reduced severely because of USDA's agreement to sell 2001 reserve pool raisins to farmers for \$100 per ton at the rate of 3 tons per acre (the conditions of the late season RDP) versus \$340 per ton at the rate of 2 tons per acre under the early season RDP. The commenters point out that § 989.67(d)(1) of raisin marketing order requires reserve tonnage raisins to be sold to handlers at prices and in a manner intended to maximize producer returns and achieve maximum disposition of such raisins by the time reserve tonnage raisins from the subsequent crop year are available.

Under the early season RDP, producers curtailing production through vine removal or other approved means received a diversion certificate equal to the quantity of raisins diverted up to a maximum of 2 tons per acre. Handlers purchasing certificates will pay the producer for the free tonnage applicable to the diversion certificate minus a \$340 per ton harvest cost for the diverted tonnage. New participants in the late season RDP received a diversion certificate equal to 1.5 times the tonnage diverted (up to a maximum of 3 tons per acre). Authority to issue diversion certificates in an amount greater than the creditable fruit weight produced on the production unit is specified in paragraph (c) of § 989.56. In this case, handlers will pay the producer for the free tonnage applicable to the diversion certificate for the diverted tonnage minus the \$100 per ton harvest cost fixed for late season RDP harvest costs. This means that producers selling diversion certificates with the \$100 per ton harvest cost will receive more money per ton than those selling certificates with the \$340 per ton cost. The reduced harvest costs for late season RDP participants were intended to recognize the cultural and some harvest costs such producers incurred in producing a 2002 crop up to the time of removal. This difference in payments is reasonable for this program.

The amount of money per ton generated for 2001 reserve pool equity