

holders from the late season RDP for new participants would be \$155 per ton, and \$395 per ton for early season RDP participants, and early season spur pruners who decided to remove vines during the late season RDP. Handlers will redeem certificates for 2001 NS raisins and pay RAC the applicable harvest cost (\$100 per ton for new participants, and \$340 per ton for early season spur pruners and vine removers) plus payment for receiving, storing, fumigating, handling (\$46 per ton), and inspecting (\$9 per ton).

The difference between the two amounts for 2001 reserve pool equity holders is \$240 per ton. This reduction in returns to the 2001 reserve pool equity holders from the new participant late season RDP versus the early season RDP participants and early season spur pruners who decided to remove vines during the late season RDP was considered by RAC and determined to be reasonable under the circumstances. Under the late season RDP, RAC received applications from producers accounting for an estimated 2,265 acres and 5,920 tons of raisins that would be removed from production by removing vines. The RAC had approved 25,000 tons for this program.

Moreover, some in the industry believe that vine removals are needed now, rather than later, to start bringing production more closely in line with market needs. As the two producer/handlers stated, the industry needs to remove permanently 100,000 acres over time to align production with current market needs.

The two producer/handlers also mentioned that the reserve is supposed to fulfill the "orderly marketing" objective of the Act and marketing order by being available in case the new crop is substantially reduced by drought or post-harvest rain. They state that the 2001 crop reserve raisins could be worth much more in the event California were to experience a disastrous heat wave prior to or disastrous rain during harvest. Because of this, these two commenters ask USDA not to allow the RAC to implement a program (under the guise of reducing long-run supply) that risks market chaos and unreasonable fluctuations in supplies and prices. They state that it is improper to use the marketing order tools to protect a massive over-production situation from normal corrective market forces, especially when all of the cost of this waste falls on the existing equity holders in the 2001 reserve pool. However, the late season RDP was intended to assist in bringing supplies into closer balance with demand, and as

such, was a proper use of this marketing order tool.

These commenters also allege that the late season RDP is intended to support a handler's plan to finance improved trellis systems and per acre yields, and would encourage marginal producers to stay in the raisin business by helping to finance their transition to upgraded trellis systems that will nearly double existing per-acre yields. They contend that this program will even be more devastating to traditional raisin producers if producers who intended to sell fresh grapes into the winery or as table grapes participate in the late season RDP.

The two producer/handlers further contend that the industry's productive capacity will naturally decline overtime without the RDP program. The RAC's primary goal in recommending the late season vine removal RDP was to speedup and facilitate needed production capacity reductions. Given the industry's poor economic condition, and difficulties many in the industry are experiencing in obtaining operating funds from lending institutions, wholesale replanting on land from which grape vines have been removed under the RDP by current raisin producers, non-traditional raisin producers such as winery and table grape producers, and other investors outside the raisin industry would appear unlikely.

The two producer/handlers also believe that vine removal without at least a 5-year moratorium on replanting grape vines on that acreage will not be successful. The current supply and marketing problems, and financial difficulties facing the industry, may lessen interest in replanting the acreage from which vines have been removed with new grape varieties. Further, there is no authority for a replanting moratorium in the 2002 Raisin Diversion Program.

These commenters also suggested that USDA convene an industry summit to explore the various economic issues facing the California raisin industry. USDA stands ready to assist the industry in improving the marketing order and marketing order operations, and helping the industry overcome its current oversupply and financial problems.

Taking into account the forgoing, USDA continues to be of the view that the late season RDP as reflected in this action is consistent with the provisions of the marketing order and the Act.

A final comment was received from an official of a lending institution that has an extensive portfolio of agricultural loans for various commodities,

including raisins, in California. The commenter urged the RAC and USDA to make changes to the RDP vine removal application to adequately protect lenders in any vine removal or diversion program. According to the commenter, the current terms and conditions do not go far enough in ensuring that the producer applicant informs the lender of the producers planned participation. The commenter requested that such changes be made as soon as possible, but recognized that it was too late to implement such changes for the 2002 RDP.

Section 989.156(b) describes the application that producers must complete and submit to the RAC to participate in a RDP. The current application procedures, among other things, indicate that the producer's application must state that all persons with an equity interest in the raisins produced from the grapes grown on the production unit identified on the application must consent to the filing of the application. As mentioned before, the representative of an association of lending institutions believed that the current requirement of obtaining consent from all persons having an equity interest in the raisins produced from grapes grown on the production unit identified did not go far enough in protecting the interests of lending institutions. The commenter mentioned that the lending institution might not have an equity interest in the raisins produced, but might have an equity interest in the vines on the production unit on which the grapes were produced, or the land, as security for the loan.

To address the commenter's concern and further clarify the application process, the certification has been broadened to assure that all such persons are given an opportunity to consent to the producer's participation in the RDP. Section 989.156(b) is modified accordingly.

The modification to the RDP application has no additional impact on producers and handlers. It simply requires producers to certify that all persons with an equity interest in the raisins, vines, or land on which the grapes were produced have been given the opportunity to consent to the producer's participation in the RDP.

After consideration of all relevant material presented, including the information and recommendations submitted by the RAC, the comments received, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.