DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV03–989–2 IFR]

Raisins Produced From Grapes Grown in California; Temporary Suspension of a Provision, and Extension of Certain Deadlines Under the Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule temporarily suspends the deadline for announcing a 2003 raisin diversion program (RDP) as specified under the Federal marketing order for California raisins (order). This rule also extends certain deadlines within the 2002–2003 crop year concerning the RDP specified in the order's regulations. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). Changes beginning with a possible 2003 RDP have been recommended by the RAC. Currently, there is a November 30 deadline for the RAC to announce a 2003 RDP. This action is needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of proposed provisions for such a program. The December 15 deadline for redemption of diversion certificates for the 2002 RDP also is extended, given the lack of sales of those certificates.

DATES: Effective: December 2, 2002. Comments received by January 28, 2003, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

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."

The Department of Agriculture (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. Such 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.

This rule temporarily suspends an order provision concerning the November 30 deadline by which the RAC must announce a RDP, and extends related deadlines specified under the order's regulations concerning the 2003 diversion program. Changes beginning with a possible 2003 RDP recently have been recommended by the RAC. This action is needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of proposed provisions for such a program. This rule also extends the December 15 redemption deadline for diversion certificates for the 2002 Natural (sun-dried) Seedless (NS) RDP, given the lack of sales of those certificates.

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 and deadlines are specified in § 989.156.

These sections currently require the RAC to meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the

RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC. The RAC conducts a lottery if the tonnage applied for exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC, and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

Extension of Deadlines for 2003 Diversion Program

The California raisin and grape industries continue to be plagued by burdensome supplies and severe economic conditions. Industry members have been reviewing various options to help address some of these concerns. The RAC has also been reviewing options to help the industry address these issues through the marketing order.

At its October 15, 2002, meeting, the RAC recommended modifications to the RDP that are intended to significantly reduce the industry's oversupply and improve producer returns. Some revisions were proposed by the RAC's Executive Committee at follow-up meetings on October 24 and November 4, 2002. The RAC would like its recommended changes in effect for the 2003 diversion program. Given the November 30 deadline in the order for the RAC to announce a 2003 RDP and other deadlines in the regulations, this action is needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of provisions for such a program.

Specifically, the words ''On or before November 30 of'' in § 989.56(a) must be suspended until July 31, 2003, which is the end of the 2002–03 crop year. The November 30 date also is specified in § 989.156(a) of the order's regulations. A proviso should be added to § 989.156(a) to allow the RAC to extend this date for the 2003 diversion program to a later date during the 2002–03 crop year. Similar provisos are added to allow the RAC to extend the following dates in § 989.156 for the 2003 diversion program: the December 20 date specified in paragraph (b) whereby producers must submit applications to the RAC to participate in a RDP; the January 12 date specified in paragraph (c) whereby producers must submit corrected applications to the RAC; and the January 15 date specified in paragraph (a) whereby the RAC can allocate additional tonnage to a RDP. Section 989.56(a) and § 989.156 are modified accordingly.

Extension of Redemption Deadline for 2002 Diversion Program

Section 989.156(k) of the order's regulations specifies that handlers must redeem diversion certificates by December 15 of the crop year for which they were issued. The value of the free tonnage represented on NS raisin diversion certificates has historically been based on a free tonnage field price negotiated by the Raisin Bargaining Association (RBA) and industry handlers. A RBA field price has not yet been established, and most certificates have not been sold by producers. Therefore, § 989.156(k) is modified to specify that, for the 2002 NS RDP, the December 15 redemption deadline may be extended by the RAC to a later date within the 2002–03 crop year.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. 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.

This rule temporarily suspends a provision specified in § 989.56(a) of the order regarding the November 30 deadline by which the RAC must announce a 2003 RDP, and extends related deadlines in § 989.156 applicable to the 2003 diversion program. This rule also extends the December 15 redemption deadline for 2002 RDP certificates. 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. Authority for these changes to the regulations is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, the suspension of the November 30 meeting date and related extensions applicable to the 2003 diversion program are needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action also will allow necessary review and evaluation of proposed provisions for such a program. Changes beginning with a possible 2003 RDP recently have been recommended by the RAC.

Extending the December 15 deadline for the redemption of 2002 NS RDP certificates is necessary, given the lack of sale of such certificates. Producers will have more time to sell their certificates to handlers, and for handlers to redeem the certificates with the RAC. Equity holders in the 2002 NS reserve pool would all benefit from the extension. Once a field price is established, more transactions regarding the RDP certificates can be completed. Producers can earn income when they sell the certificates to handlers. Handlers can redeem the certificates for reserve raisins. Finally, equity holders in the 2002 NS reserve pool would earn some return for the raisins allotted to the RDP.

This rule imposes no additional reporting or recordkeeping requirements on 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.

USDA is initiating this action to facilitate administration of the order and help the raisin industry through this difficult time. All interested persons are invited to submit information on the regulatory and informational impact of this action on small businesses. Additionally, 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.

A 60-day comment period is provided to allow interested persons to respond to this rule. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, and other available information, it is hereby found that the order provision temporarily suspended does not tend to effectuate the declared policy of the Act. It is further found that the extension of the deadlines specified in this interim final rule tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule needs to be in place as soon as possible because the order currently requires the RAC to meet on or before November 30, 2002, and this action would suspend this date for the remainder of the 2002–03 crop year; (2) this rule relaxes certain deadlines currently specified in the order and implementing regulations; and (3) a 60-day comment period is provided and all comments received will be considered in finalizing this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 989.56 [Suspended in part]

2. In § 989.56, paragraph (a) the words, ''On or before November 30 of,'' are suspended effective December 2, 2002 through July 31, 2003.

3. In § 989.156, paragraph (a)(1), the first sentence in paragraph (b), the last sentence in paragraph (c), paragraph (k), and paragraph (s) are revised to read as follows:

§ 989.156 Raisin diversion program.

(a)(1) *Quantity to be diverted.* On or before November 30 of each crop year, the Committee shall announce the quantity of raisins eligible for a raisin diversion program: *Provided,* That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. On or before January 15 of each crop year, the Committee may announce an increase in the tonnage eligible for a raisin diversion program: *Provided,* That, for the 2002 Natural (sun-dried) Seedless raisin diversion program, the Committee may announce an increase in the quantity of tonnage eligible for the program later than January 15: *And provided further,* That, for the 2003 raisin diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. The quantity eligible for diversion may be announced for any of the following varietal types of raisins: Natural (sun-dried) Seedless, Muscat (including other raisins with seeds), Sultana, Zante Currant, Monukka, and Other Seedless raisins. At the same time the Committee 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.

* * * * *

(b) *Application for diversion certificates.* Any producer desiring to participate in a raisin diversion program shall file with the Committee, by certified mail, prior to December 20 of the crop year, an application on Form RAC–1000, ''Application for a Raisin Diversion Program'' together with a copy of any two of the following four documents: Plot Map from the County Hall of Records; irrigation tax bill; county property tax bill; or any other document containing an Assessors Parcel Number: *Provided,* That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. * * *

(c) * * * However, such correction must be received by the Committee on or before January 12: *Provided,* That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year.

* * * * *

(k) *Redemption of certificates.* Any handler holding certificates may redeem such certificates for reserve pool raisins from the Committee. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting raisins as specified in § 989.401 for the entire tonnage shown on the certificate. Handlers who acquire diversion certificates from producers shall report acquisitions of such certificates and submit them for redemption in a manner and for the reporting periods provided in § 989.173(b) for the acquisition of raisins acquired from producers. The Committee shall issue a reserve release entitling the handler to an amount of reserve pool raisins equal to the entire amount of tonnage shown on the certificate. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored if presented to the Committee for redemption on or before December 15 of the crop year for which they were issued: *Provided,* That, for the 2002 diversion program for Natural (sun-dried) Seedless raisins, this date may be extended by the Committee to a later date within the 2002–03 crop year.

* * * * *

(s) *Additional opportunity for vine removal.*

The Committee may announce a date later than that provided in § 989.156(b), by which producers, who agree to remove the vines on a production unit may file an application to participate in a raisin diversion program.

(1) For the 2002 Natural (sun-dried) Seedless raisin diversion program, additional opportunity for vine removal shall be provided in accordance with paragraph (u) of this section.

(2) For raisin diversion programs applicable to the 2003 and subsequent crop years, the following provisions apply.

(i) The announced date shall be not later than May 1. The diversion certificates will be issued only for the production units from which vines are removed. The total tonnage available to such applicants shall not exceed the tonnage determined by deducting the tonnage approved for applications received on or before December 20 from the total tonnage announced as eligible by the Committee for diversion: *Provided,* That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. Applications shall be considered and approved on a first-come, first-served, basis and shall not be given preference over the tonnage approved for applications received on or before December 20: *Provided,* That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. The vines shall be removed from the production units for which such applications are approved not later than June 1.

(ii) Producers who agree to remove the vines pursuant to this paragraph shall notify the Committee in advance of the date when such vines will be removed in order to allow a representative of the Committee to observe and verify such vine removal.

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Dated: November 25, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–30355 Filed 11–26–02; 11:02 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 104, 106, and 300

[NOTICE 2002–24]

FEC Policy Statement: Interim Reporting Procedures

AGENCY: Federal Election Commission.

ACTION: Statement of policy.

SUMMARY: During the transition period following the effective date of the Bipartisan Campaign Reform Act of 2002 (''BCRA''), the Commission intends to exercise its discretion by not pursuing the political committees and other persons and entities addressed below for possible violations of the reporting statutes and regulations covered by the instructions set out in this policy statement if they fully adhere to those instructions and timely file the described reports. The limitations on the scope and duration of the policy are discussed in detail below.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Vergelli, Acting Assistant General Counsel, Mr. Jonathan M. Levin, Senior Attorney, Mr. Gregory Scott, Assistant Staff Director for Information, and Ms. Debbie Chacona, Reports Analysis Division Chief of Party/Non-Party Branch, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Congress established a 90-day period during which the Commission was required to promulgate regulations implementing Title I of BCRA regarding certain national, state, and local party committee activities, including reporting of Federal election activity and certain allocable expenses. This period ended on June 25, 2002. Congress also required the Commission to complete the remaining BCRA rulemakings, including those regarding other reporting requirements, in 270 days, which is December 22, 2002. The Commission adopted final rules implementing Title I on June 25, 2002. *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 FR 49,064 (July 29, 2002) (''Soft Money Final Rules''). The Commission has also completed four other rulemakings to implement BCRA: (1) Final Rules on Electioneering Communications, 67 FR 65190 (October 23, 2002); (2) Interim Final Rules Regarding FCC Database on Electioneering Communications, 67 FR 65212 (October 23, 2002); (3) Final Rules on Reorganization of Regulations on Contributions and Expenditures, 67 FR 50582 (August 5, 2002); and (4) Final Rules on Contribution Limitations and Prohibitions, 67 FR 69928 (November 19, 2002). The Commission notes that other BCRA-related reporting rules (*e.g.*, electioneering communications, independent expenditures) are not yet finalized, but are expected to be before December 22, 2002, including the Consolidated Reporting Rulemaking, which the Commission is scheduled to complete on December 12, 2002. Issuance of new and revised reporting forms, software and instructions is dependent upon the finalization of all the reporting rules. However, BCRA's reporting requirements became effective on November 6, 2002. The Commission is in the process of updating its reporting forms, software, and instructions to incorporate all the new regulations, and will need a period of time after December 22, 2002, to complete this process. In the interim, filers will continue to use existing disclosure forms and software for their December 5th Post General Election Report, January 31st Year End Report and, for monthly filers only, the February Monthly Report, which covers January 2003.

BCRA introduced new reporting responsibilities for political party committees and other reporting entities and significantly changed certain existing requirements. Among the significant changes introduced by BCRA are the reporting by State, district, and local party committees of Federal election activities (''FEA''), including the allocation of some of those activities between Federal funds and ''Levin'' funds, and revisions in those committees' allocations of payments between Federal and non-Federal funds. *See* 11 CFR 300.2(i), 300.36, 106.7, and 104.17. In addition, BCRA introduced provisions for Federal candidates and their committees with respect to candidate funding of his or her own campaign in the form of the ''millionaires provision'' and provisions for reporting by individuals and entities making electioneering communications. *See* 2 U.S.C. 434(a)(6)(B), 434(f), and 441a–1(b).

As new forms are now being developed to meet the new requirements, the Commission concludes that a period of transition and adjustment with respect to reporting is needed, including allowance for the continued use of the ballot composition formula in the Post-General and Year End Reports. To assist filers during this transition period, the Commission has developed the interim disclosure