| Old section | New section |
| --- | --- |
| 983.61 | 983.83 |
| 983.62 | 983.84 |
| 983.63 | 983.85 |
| 983.64 | 983.86 |
| 983.66 | 983.88 |
| 983.67 | 983.89 |
| 983.68 | 983.90 |
| 983.69 | 983.91 |

**Proposal Number 8**

Make such changes as may be necessary to the order to conform with any amendment that may result from the hearing.

Dated: July 15, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 08–1445 Filed 7–15–08; 4:25 pm]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 989

**[Docket No. AMS–FV–08–0042; FV08–989–2 PR]**

## Raisins Produced From Grapes Grown in California; Use of Estimated Trade Demand To Compute Volume Regulation Percentages

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on using an estimated trade demand figure to compute volume regulation percentages for 2008–09 crop Natural (sun-dried) Seedless (NS) raisins covered 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 (Committee). This rule would provide parameters for implementing volume regulation for 2008–09 crop NS raisins, if supplies are short, for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market.

**DATES:** Comments must be received by August 4, 2008.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. 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 Internet: *http://www.regulations.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.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rose M. Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or e-mail: *Rose.Aguayo@usda.gov* or *Kurt.Kimmel@usda.gov.*

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 proposal 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 proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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.

This proposal invites comments on using an estimated trade demand figure to compute volume regulation percentages for 2008–09 crop NS raisins covered under the order. This rule would provide parameters for implementing volume regulation for 2008–09 crop NS raisins, if supplies are short, for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market. This action was unanimously recommended by the Committee at a meeting on April 3, 2008.

**Volume Regulation Authority**

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 Committee. Reserve raisins are disposed of through certain programs authorized under the order. For instance, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop the following year; or 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 distributed to the reserve pool's equity holders, primarily producers.

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation for each crop year, which runs from August 1 through July 31. The Committee must meet by August 15 to review data regarding raisin supplies. At that time, the Committee computes a trade demand for each varietal type of raisins for which a free tonnage percentage might be recommended. Trade demand is equal to 90 percent of the prior year's domestic and export shipments, adjusted by subtracting carryin inventory from the prior year and adding a desirable carryout inventory for the end of the current year.

Paragraph (e) of § 989.54 contains a list of factors that the Committee must consider when computing volume regulation percentages. Factor (4) states that the Committee must consider, if different than the computed trade demand, the estimated trade demand for raisins in free tonnage outlets. Section 989.154(b) provides parameters for use of an estimated trade demand for the 2007–08 crop year.

By October 5, the Committee must announce preliminary crop estimates and determine whether volume regulation is warranted for the varietal types for which it computed trade demands. Preliminary volume regulation percentages are then computed to release 85 percent of the computed trade demand if a free tonnage price for raisins has been established or 65 percent of the trade demand if no free tonnage price for raisins has been established. Free tonnage price for raisins is the price that handlers pay producers for the free tonnage portion of their crop. By February 15, the Committee must recommend final free and reserve percentages that will tend to release the full trade demand.

The order also requires that, when volume regulation is in effect, two offers of reserve raisins must be made available to handlers for free use. These offers are known as the ''10 plus 10'' offers. Each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. The order also specifies that ''10 plus 10'' raisins must be sold to handlers at the current field price plus a 3 percent surcharge and Committee costs.

**Development of Export Markets**

With the exception of 11 crop years, volume regulation has been utilized for NS raisins since the order's inception in 1949. The procedures for determining volume regulation percentages have been modified over the years to address the industry's needs. In the past, volume regulation has been utilized primarily to help the industry manage an oversupply of raisins. Through the use of various marketing programs operated through reserve pools and other industry promotional activities, the industry has also developed its export markets.

Between 1980 and 1985, exports of California NS raisins averaged about 26 percent (53,700 packed tons, or raisins which have been processed) of the industry's total NS raisin shipments (207,600 packed tons) per year. During the last ten years (1997–2006) these exports averaged about 37 percent (103,833 packed tons) of the industry's total NS raisin shipments (281,416 packed tons) per year. The total shipment figures exclude government purchases.

**Export Replacement Offer**

One market development program operated through reserve pools, the Export Replacement Offer (ERO), has helped U.S. raisins to be price competitive in export markets. Prices in export markets are generally lower than the domestic market. The ERO began in the early 1980's as a ''raisin-back'' program whereby handlers who exported California raisins could purchase, at a reduced price, reserve raisins for free use. This effectively blended down the cost of the raisins that were exported. The NS raisin ERO was changed to a ''cash-back'' program in 1996 whereby handlers could receive cash from the reserve pool for export shipments.

The ERO has been operated as a ''cash back'' program in all years since then, except for 2000, 2001, and a portion of 2002. Financing for the cash-back ERO program has been primarily from the Committee's ''10 plus 10'' sales of reserve raisins. Since 2002, an average of $42.7 million of reserve pool funds were utilized to support the export of about 103,000 packed tons of NS raisins annually.

**Current Industry Situation**

The Committee is concerned that the 2008–09 crop may be short because of grape vine removals over the last several years and an April frost. About 53,000 acres of grape vines have been removed in favor of other crops, which have recently been providing higher returns. Additionally, this year's raisin crop in Turkey was small due to inclement weather. This led to an increase in exports of California raisins which will likely inflate next year's computed trade demand. Thus, with a smaller crop and a higher trade demand, volume regulation may not be warranted for 2008–09 NS raisins based on the order's trade demand formula.

If no 2008–09 reserve were established, the industry would not be able to continue the ERO program and support its export sales. The Committee is concerned that the industry could lose a significant portion, perhaps 50 percent, of its export markets. Further, handlers who could not sell their raisins in export may sell their raisins domestically. Annual domestic shipments of NS raisins for the past ten years have averaged about 178,000 packed tons. The Committee is concerned that additional raisins sold into the domestic market could create instability.

**Implementing Volume Regulation if Supplies Are Short To Maintain the ERO**

Thus, the Committee unanimously recommended using an estimated trade demand to establish no more than a 10 percent reserve if the 2008–09 NS raisin crop is small. This would allow the industry to maintain the ERO. No volume regulation would be implemented if the crop estimate is below 215,000 tons. At that level, the needs of the domestic market would be met and about half of the industry's export markets. Section 989.154(b) of the order's administrative rules and regulations is proposed to be revised accordingly. Similar rulemaking actions were completed in 1999 (64 FR 43897) and 2007 (72 FR 54343).

To illustrate how this would work, the Committee would compute a trade demand for NS raisins by August 15 (as an example, 267,000 natural condition tons). At that time, the Committee would also announce its intention to use an estimated trade demand to compute volume regulation percentages if the 2008–09 NS raisin crop is at least 215,000 tons but no more than 10 percent above the computed trade demand (293,700 tons in the example).

**Crop Estimate Below 215,000 Tons—No Regulation**

The Committee would meet by October 5 to announce a NS crop estimate and determine whether volume regulation was warranted. Under the Committee's proposal, if the 2008–09 crop estimate is under 215,000 natural condition tons, volume regulation would not be recommended. With a crop of 215,000 natural condition tons, and about 109,000 natural condition tons of NS raisins projected to be carried forward from the 2007–08 crop year, a supply of about 324,000 natural condition tons of raisins would be available for the 2008–09 crop year. As previously mentioned, annual NS raisin shipments average about 282,000 packed tons (almost 300,000 natural condition tons), excluding government purchases.

With an available supply of only 324,000 natural condition tons of NS raisins, the Committee believes that the industry's first priority would be to satisfy the needs of the domestic market, which absorbs annually an average of about 178,000 packed tons (189,000 natural condition tons). Assuming that 189,000 natural condition tons were shipped domestically, the Committee estimates that, with no ERO program to help U.S. raisins be price competitive in export markets, the industry would export about half of its usual tonnage, or about 55,000 natural condition tons. The remaining 80,000 natural condition tons would likely be held in inventory for the following 2009–10 crop year. Annual carryout inventory for NS raisins for the past 5 years has averaged about 109,000 natural condition tons.

**Crop Estimate Equal to 215,000 Tons But No More Than 10 Percent Above the Computed Trade Demand—Volume Regulation**

If the October 2008–09 crop estimate for NS raisins is at least 215,000 natural condition tons but no more than 10 percent above the computed trade demand, the Committee would use an estimated trade demand figure to compute preliminary free and reserve percentages for the 2008–09 crop. Thus, using the 267,000 natural condition ton computed trade demand figure, an estimated trade demand would be used to compute volume regulation percentages if the crop estimate is 215,000 but no more than 293,700 natural condition tons.

The Committee would meet by February 15 to compute final free and reserve percentages. The Committee recommended that if an estimated trade demand figure is used to compute percentages, the final reserve percentage be computed to equal no more than 10 percent of the estimated crop. Producers would ultimately be paid the free tonnage price for raisins for 90 percent of their crop, or their free tonnage.

The remaining 10 percent of the crop would be held in reserve and offered for sale to handlers in the ''10 plus 10'' offers. As previously described, the ''10 plus 10'' offers are two offers of reserve raisins that are made available to handlers for free use. The order specifies that each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. This requirement would not be met if volume regulation were implemented when raisin supplies were short. However, all of the raisins held in reserve would be made available to handlers for free use. Handlers would pay the Committee for the ''10 plus 10'' raisins and that money would be utilized to fund a 2008–09 ERO program. Any unused 2008–09 reserve pool funds could be used to initiate a 2009–10 ERO program or be paid to 2008–09 reserve pool equity holders.

**Crop Estimate More Than 10 Percent Above the Computed Trade Demand**

Finally, the Committee recommended that, if the 2008–09 crop estimate is more than 10 percent greater than the computed trade demand (or above 293,700 natural condition tons in the earlier example), the computed trade demand (as an example, 267,000 natural condition tons) would be utilized to compute volume regulation percentages. Under this scenario, enough raisins (over 29,000 natural condition tons) would be available in reserve to continue the ERO program.

**Summary of Alternatives**

It is anticipated that allowing the use of an estimated trade demand figure to compute volume regulation percentages for 2008–09 crop NS raisins if supplies are short would assist the industry in maintaining a portion of its export markets and stabilize the domestic market. If the crop estimate is below 215,000 natural condition tons, no volume regulation would be implemented. If this occurs, it is likely that domestic market needs would be met, while export markets would not be satisfied.

However, if the crop is at least 215,000 natural condition tons but no more than 10 percent above the computed trade demand, establishing a small reserve pool would allow the industry to not only satisfy the needs of the domestic market, but also maintain a portion of its export sales. By maintaining an ERO program, even at a reduced level, exporters could continue to be price competitive and sell their raisins abroad. The domestic market would remain stable because it would not have to absorb any additional raisins that handlers could not afford to sell in export markets.

**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.

There are approximately 21 handlers of California raisins who are subject to regulation under the order and approximately 3,000 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. No more than 8 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule would revise § 989.154(b) of the order's administrative rules and regulations regarding use of an estimated trade demand figure to establish no more than a 10 percent reserve if the 2008–09 NS raisin crop is small. This would allow the industry to maintain the ERO. Volume regulation would not be implemented if the crop falls below 215,000 tons. At that level, the needs of the domestic market and about half of the industry's export markets would be met. Authority for this action is provided in § 989.54(e)(4) of the order.

Regarding the impact of the action on producers and handlers, under the Committee's proposal, if an estimated trade demand figure was used to compute volume regulation percentages, the final reserve percentage would compute to no more than 10 percent. Producers would thus be paid the free tonnage price for raisins for at least 90 percent of their crop. About 10 percent of their crop would go into a reserve pool. The free tonnage price for raisins for NS raisins for the past 5 years has averaged $1,130 per ton. Handlers in turn would purchase 90 percent of their raisins directly from producers at the free tonnage price for raisins, but would have to buy remaining raisins out of the reserve pool at a higher price (field price plus 3 percent and Committee costs). The ''10 plus 10'' price of NS reserve raisins has averaged about $100 higher than the free tonnage price for raisins for the past 5 years, or $1,233 per ton. Proceeds from the ''10 plus 10'' sales would be used to support export sales.

While there may be some initial costs for both producers and handlers, the long term benefits of this action far outweigh the costs. The Committee believes that with no reserve pool, and hence, no ERO program, export sales would decline dramatically, perhaps up to 50 percent. Handlers would likely sell into the domestic market raisins that they were unable to sell into lower priced export markets. Additional NS raisins sold into the domestic market, which typically absorbs about 178,000 packed tons, could create instability. The industry would likely lose a substantial portion of its export markets, which now account for about 37 percent (103,833 packed tons) of the industry's annual shipments (281,416 packed tons), excluding government purchases. Committee members have also commented that, once export markets were lost, it would be difficult and costly for the industry to recover those sales. Raisins are mostly used as an ingredient in baked goods, cereals, and snacks. Typically, buyers want reliable suppliers from year to year and are generally reluctant to find alternative ingredients or sources. In turn, once buyers change sources, they may not switch back.

Export markets for raisins are highly competitive. The U.S. and Turkey are the world's leading producers of raisins. Turkey exports approximately 76 percent of its total production, and represents an alternative product source for raisin buyers. Turkey's 2007–08 raisin crop was small due to a drought and high temperatures. Consequently, exports of Turkish raisins decreased while exports of California raisins increased significantly (up about 30 percent).

Maintaining the industry's export markets would help the industry maximize its 2008–09 total shipments of NS raisins and prevent handlers from carrying forward large quantities of inventory into the 2009–10 crop year. If the industry is unable to maximize its 2008–09 shipments of NS raisins, carryin inventory could be high. This would result in a lower computed trade demand figure for the 2009–10 crop year and ultimately a lower free tonnage percentage. Since NS raisin producers are paid significantly more for their free tonnage raisins than for reserve tonnage raisins, this would mean reduced returns to producers. Projected reduced 2009–10 returns to producers, coupled with the risks of rain and labor shortages during harvest, may influence producers to ''go green,'' or sell their raisin-variety grapes to the fresh-grape, wine, or juice concentrate markets. Additional supplies to those outlets could potentially reduce ''green'' returns as well.

The Committee discussed alternatives to this change. One option considered was using one of the three prior year's shipments to compute trade demand, pursuant to § 989.54(a) of the order. However, the order only allows this if prior year's shipments were limited due to crop conditions. Since 2007–08 shipments have increased, the Committee concluded this option was not viable. Another alternative considered was utilizing the computed trade demand formula in the order and using all available funds to support the ERO (about $21.7 million from the 2007–08 reserve pool). However, these funds would only support the ERO through December 2008. Thus, the Committee ultimately recommended using an estimated trade demand to compute volume regulation percentages next year if 2008–09 crop NS raisin supplies are short.

This proposed rule would provide parameters for implementing volume regulation for 2008–09 crop NS raisins, if supplies are short, for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large raisin handlers. 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.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's Administrative Issues Subcommittee deliberated this issue prior to the Committee's meeting on April 3, 2008. Both meetings were widely publicized throughout the raisin industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the April 3, 2008, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*. 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 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this action, if adopted, should be in place by the beginning of the 2008–09 crop year, August 1. All written comments timely received will be considered before a final determination is made on this matter.

**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 proposed to be 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.

**§ 989.154 [Amended]**

2. In the second sentence of § 989.154(b), the words ''2007–08'' are removed in both locations and the words ''2008–09'' are added in their place.

Dated: July 16, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 08–1447 Filed 7–16–08; 12:23 pm]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2008–0790; Directorate Identifier 2008–CE–042–AD]**

**RIN 2120–AA64**

### Airworthiness Directives; Cessna Aircraft Company 150 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company 150 series airplanes with the BRS–150 Parachute System installed via Supplemental Type Certificate (STC) SA64CH. This proposed AD would require the replacement of the pick-up collar support and nylon screws for the BRS–150 Parachute System. This proposed AD results from notification by Ballistic Recovery Systems, Inc. (BRS) that the pick-up collar assembly may prematurely move off the launch tube and adversely affect rocket trajectory during deployment. We are proposing this AD to prevent premature separation