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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Doc. No. AMS-FV-09-0075; FV10-989-1 FIR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2009-10 Crop Natural (Sun-Dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that established final volume regulation percentages of 85 percent free and 15 percent reserve for the 2009-10 crop of Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

DATES: Effective June 25, 2010. The volume regulation percentages apply to acquisitions of NS raisins from the 2009-10 crop until the reserve raisins from that crop are disposed of under the marketing order.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior 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: [Terry.Vawter@ams.usda.gov](mailto:Terry.Vawter@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>; or by contacting Antoinette Carter, 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: [Antoinette.Carter@ams.usda.gov](mailto:Antoinette.Carter@ams.usda.gov).

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989, both as amended (7 CFR part 989), 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.

The handling of California raisins is regulated by 7 CFR part 989. The order authorizes the establishment of volume regulations, when warranted, for each crop. Volume regulations: (1) Help the industry address its marketing problems by keeping supplies in balance with demand; (2) strengthen market conditions; (3) fully supply both the domestic and export markets without overburdening them; and (4) provide for market expansion.

Volume regulation is warranted for the 2009-10 crop of NS raisins because the crop estimate (supply) exceeded the trade demand (demand). In an interim rule published in the Federal Register on April 22, 2010, and effective on April 23, 2010 (75 FR 20897; Doc No. AMS-FV-09-0075, FV10-989-1 IFR), Sec. 989.257 was amended by incorporating the 2009-10 crop year final free and reserve percentages. This rule continues in effect the rule that established a final free percentage of 85 percent, and a final reserve percentage of 15 percent, of NS raisins acquired by handlers during the crop year, which began August 1, 2009, and ends July 31, 2010.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural

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Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final 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 26 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 are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers as those having annual receipts of less than \$750,000. Approximately 18 handlers and a majority of producers of California raisins may be classified as small entities.

Since 1949, the California raisin industry has operated under a Federal marketing order. The order contains authority to limit the portion of a given year's crop that can be marketed freely in any outlet by raisin handlers. This volume regulation mechanism is used to stabilize supplies and prices, and to strengthen market conditions. If the primary market (the normal domestic market) is over-supplied with raisins, grower prices decline substantially.

Pursuant to Sec. 989.54(d) of the order, this rule establishes final volume regulation percentages for the 2009-10 crop year for NS raisins. The volume regulation percentages are 85 percent free and 15 percent reserve. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the committee and are disposed of through certain programs authorized under the order. Volume regulation is warranted this season because the crop estimate of 275,000 tons is significantly higher than the 234,769 ton trade demand.

The volume regulation procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The volume regulation procedures fully supply the domestic and export markets, provide for market expansion, and help reduce the burden of oversupplies in the domestic market.

Raisin grapes are a perennial crop, so production in any year is dependent upon plantings made in earlier years. The sun-drying method of producing raisins involves considerable risk because of variable weather patterns.

Even though the product and the industry are viewed as mature, the industry has experienced considerable change over the last several decades. Before the 1975-76 crop year, more than 50 percent of the raisins were packed and sold directly to consumers. Now, about 63 percent of the raisins are sold in bulk. This means that raisins are now sold to consumers mostly as an ingredient in another product such as cereal and baked goods. In addition, for a few years in the early 1970s, over 50 percent of the raisin grapes were sold fresh to the wine market for crushing. Since then, the percent of raisin-variety grapes sold to the wine industry has decreased.

California's grapes are classified into three groups--table grapes, wine grapes, and raisin-variety grapes. Raisin-variety grapes are the most versatile of the three types. They can be marketed as fresh grapes, crushed for juice in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets, as well as weather-related factors, cause fluctuations in raisin supply. This type of situation introduces a certain amount of variability into the raisin market. These fluctuations can result in producer price instability and disorderly market conditions.

Volume regulation is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. For example, producer prices for NS raisins remained fairly steady between the 1993-94 and 1997-98 crop years, although production varied. As shown in the table below, during those years, production varied from a low of 272,063 tons in 1996-97 to a high of 387,007 tons in 1993-94.

According to committee data, the total producer return per ton during those years, which includes proceeds from both free tonnage plus reserve pool raisins, has varied from a low of \$904.60 in 1993-94 to a high of \$1,049.20 in 1996-97. Producer prices for the 1998-99 and 1999-2000 crop years increased significantly due to back-to-back short crops during those years. Record large crops followed, and producer prices dropped dramatically for the 2000-01 through 2003-04 crop years, as inventories grew while demand stagnated. However, as noted below, producer prices were higher for the 2004-05 through 2008-09 crop years:

Natural Seedless (Natural Condition) Deliveries, Field Prices and Producer Prices

Crop year	Deliveries (tons)	Field prices (per ton)\1\	Producer prices (per ton)
2008-09.....	364,268	\$1,310.00	\2\ \$1,139.70
2007-08.....	329,288	1,210.00	\2\ 1,028.50
2006-07.....	282,999	1,210.00	\1\ 1,089.00

2005-06.....	319,126	1,210.00	\1\ 998.25
2004-05.....	265,262	1,210.00	\3\ 1,210.00
2003-04.....	296,864	810.00	567.00
2002-03.....	388,010	745.00	491.20
2001-02.....	377,328	880.00	650.94
2000-01.....	432,616	877.50	603.36
1999-2000.....	299,910	1,425.00	1,211.25
1998-99.....	240,469	1,290.00	\3\ 1,290.00
1997-98.....	382,448	1,250.00	946.52
1996-97.....	272,063	1,220.00	1,049.20
1995-96.....	325,911	1,160.00	1,007.19
1994-95.....	378,427	1,160.00	928.27
1993-94.....	387,007	1,155.00	904.60

\1\ Field prices for NS raisins are established by the Raisin Bargaining Association, and are also referred to in the industry as the "free tonnage price" for raisins.

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\2\ Return-to-date, reserve pool still open.  
 \3\ No volume regulation.

There are essentially two broad markets for raisins--domestic and export. Domestic shipments generally increased over the years. Although domestic shipments decreased from a high of 204,805 packed tons during the 1990-91 crop year to a low of 156,325 packed tons in 1999-2000, they increased from 174,117 packed tons during the 2000-01 crop year to 193,609 packed tons during the 2007-08 crop year and decreased to 191,929 packed tons during the 2008-09 crop year. Export shipments ranged from a high of 107,931 packed tons in the 1991-92 crop year to a low of 91,599 packed tons in the 1999-2000 crop year. Since that time, export shipments increased to 106,755 tons of raisins during the 2004-05 crop year, fell to 101,684 tons in the 2006-07 crop year, and again increased to 142,541 tons in the 2007-08 crop year. This significant increase was due to a short crop in Turkey. Export shipments remained relatively high in 2008-09 at 125,789 tons.

The per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.46 pounds in 2007. This decrease is consistent with the decrease in the per capita consumption of dried fruits in general, which may be due to the increasing year-round availability of most types of fresh fruit.

While the overall demand for raisins has increased in four of the last five years (as reflected in increased commercial shipments), production has been decreasing. Deliveries of NS dried raisins from producers to handlers reached an all-time high of 432,616 tons in the 2000-01 crop year. This large crop was preceded by two short crop years; deliveries were 240,469 tons in the 1998-99 crop year and 299,910 tons in the 1999-2000 crop year. Deliveries for the 2000-01 crop year soared to a record level because of increased bearing acreage and yields. Deliveries for the 2001-02 crop year were at 377,328 tons, 388,010 tons for the 2002-03 crop year, 296,864 tons for the 2003-04 crop year, and 265,262 tons for the 2004-05 crop year.

After three crop years of high production and a large 2001-02 carry-in inventory, the industry diverted raisin production to other uses or removed bearing vines. Diversions/removals totaled 38,000 acres in 2001; 27,000 acres in 2002; and 8,000 acres of vines in 2003. These actions resulted in declining deliveries of 296,864 tons for the 2003-04 crop year and 265,262 tons for the 2004-05 crop year. Although deliveries increased in 2005-06 crop year to 319,126 tons, this may have been because fewer growers opted to contract with wineries, as raisin variety grapes crushed in 2005-06 crop year decreased by 161,000 green tons, the equivalent of over 40,000 tons of raisins. In the 2006-07 crop year, raisin deliveries were again less than 300,000 tons at 282,999 tons and increased to 329,288 tons in 2007-08 crop year. The 2008-09 crop year was considered to be a good crop and the quality of the crop has a direct bearing on the overall production with 364,268 tons of NS raisins delivered.

The order permits the industry to exercise volume regulation provisions, which allow for the establishment of free and reserve percentages, and establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to balance supply and demand. If raisin markets are over-supplied with product, producer prices will decline.

Raisins are generally marketed at relatively lower price levels in the more elastic export market than in the more inelastic domestic market. This results in a larger volume of raisins being marketed and enhances producer returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

The reserve percentage limits provides for raisins that handlers can market as free tonnage. Based on the 2009-10 crop year estimate of 275,000 tons, the 15 percent reserve would limit the total free tonnage to 233,750 natural condition tons (0.85 x the 275,000 ton crop). Adding the estimated figure of 41,250 tons of raisins offered to handlers through the 10 + 10 program to the 233,750 tons of free tonnage, plus 126,824 tons of carry-in inventory, plus 12,137 tons of 2008-09 NS reserve pool raisins released during the 2009-10 crop year, results in a total supply of 413,961 tons of natural condition raisins.

With volume regulation, producer prices are expected to be higher

than without volume regulation. This price increase is beneficial to all producers regardless of size, and enhances producers' total revenues in comparison to no volume regulation. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Free and reserve percentages are established by varietal type; and are generally established in years when the supply exceeds the trade demand by a large enough margin that the committee believes volume regulation is necessary to maintain market stability. Accordingly, in assessing whether to apply volume regulation or, as an alternative, not to apply such regulation, the committee determined that volume regulation was warranted for the 2009-10 crop for only one of the nine raisin varietal types defined under the order.

The free and reserve percentages established in the interim rule release the full trade demand and apply uniformly to all handlers in the industry, regardless of size. For NS raisins, with the exception of the 1998-99 and 2004-05 crop years, small and large raisin producers and handlers have been operating under volume regulation percentages every year since the 1983-84 crop year. There are no known additional costs incurred by small handlers that are not incurred by large handlers. While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact small and large handlers positively by helping them maintain and expand markets even though raisin supplies fluctuate widely from season to season. Likewise, price stability positively impacts small and large producers by allowing them to better anticipate the revenues their raisins will generate.

This rule continues in effect the action that established final volume regulation percentages for the 2009-10 crop year for NS raisins at 85 percent free and 15 percent reserve. The volume regulation percentages are intended to help stabilize raisin supplies and prices, meet the needs of the domestic and export markets, strengthen market conditions, and expand marketing opportunities.

This rule will 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committee meeting on October 6, 2009, at which this recommendation was made, was widely publicized throughout the raisin industry, and all interested persons were invited to attend the meeting and encouraged to participate in the

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committee's deliberations. Like all committee meetings, the meeting was a public meeting; and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received by May 24, 2010. One comment supporting the rule was received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480add0ad>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule without change, as published in the Federal Register (75 FR 20897, April 22, 2010), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

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

PART 989--[AMENDED]

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Accordingly, the interim rule that amended 7 CFR part 989 and that was published at 75 FR 20897 on April 22, 2010, is adopted as a final rule, without change.

Dated: June 18, 2010.

Robert C. Keeney,  
Acting Administrator, Agricultural Marketing Service.  
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