

Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Board's recommendation and other information, it is found that this interim final rule, as hereinafter set forth, will 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 action until 30 days after publication in the **Federal Register** because: (1) The 1998-99 marketing year began July 1, 1998, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 60-day comment period in which to respond, and all comments timely received will be considered prior to finalization of this action.

#### List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

#### PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

2. Section 982.246 is added to read as follows:

**Note:** This section will not be published in the annual Code of Federal Regulations.

#### § 982.246 Free and restricted percentages—1998-99 marketing year.

The final free and restricted percentages for merchantable hazelnuts for the 1998-99 marketing year shall be 30 and 70 percent, respectively.

Dated: January 7, 1999.

**Larry B. Lace,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-841 Filed 1-13-99; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[FV99-989-1 FIR]

#### Raisins Produced From Grapes Grown In California; Relaxations to Substandard and Maturity Dockage Systems

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule relaxing the substandard and maturity dockage systems for 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). Relaxing the limits for the 1998 crop reduces the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense. This minimizes producers' reconditioning costs and facilitates 1998 crop deliveries.

**EFFECTIVE DATE:** February 16, 1999.

#### FOR FURTHER INFORMATION CONTACT:

Maureen T. Pello, Marketing Specialist, California Marketing Field Office, 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, or Fax: (202) 205-6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 205-6632, or E-mail: Jay\_N\_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

**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 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 the Secretary 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, the Secretary 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 in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Under the order, handlers may acquire raisins from producers under a weight dockage system and adjust the creditable fruit weight acquired according to the percentage of substandard raisins in a lot, or percentage of raisins that fall below certain levels of maturity. Certain marketing order obligations and producer payments are based on the creditable weight of raisins acquired by handlers. Because of unusual crop conditions this year created by the weather phenomenon known as El Nino, the industry predicted that a relatively high percentage of the 1998-99 crop will fall outside the limits of the substandard and maturity dockage systems.

This rule continues to relax the substandard and maturity dockage systems for raisins covered under the order. Under the order, handlers may acquire raisins from producers under a weight dockage system and adjust the creditable fruit weight acquired

according to the percentage of substandard raisins in a lot, or percentage of raisins that fall below certain levels of maturity. Some marketing order obligations (assessments and volume control) and producer payments are based on the creditable weight of raisins acquired by handlers. Because of unusual crop conditions this year created by the weather phenomenon known as El Nino, the industry predicted that a relatively high percentage of the 1998–99 crop will fall outside the limits of the substandard and maturity dockage systems. Relaxing the limits for the 1998 crop reduces the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense. This minimizes producers' reconditioning costs and facilitates 1998 crop deliveries. This rule was unanimously recommended by the Committee at a meeting on October 8, 1998.

Section 989.58(a) of the order provides authority for quality control regulations whereby natural condition raisins that are delivered by producers to handlers must meet certain incoming quality requirements. This section also contains authority for handlers to acquire natural condition raisins which fall outside the tolerance established for maturity, which includes substandard raisins, under a weight dockage system. Handler acquisitions of raisins and payments to producers are adjusted according to the percentage of substandard raisins in a lot, or percentage of raisins that fall below certain levels of maturity.

#### **Tolerances for Substandard Raisins**

Section 989.701 of the order's regulations specifies incoming quality requirements for natural condition raisins. Lots of raisins may contain a maximum percentage, depending on varietal type, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes). Specifically, lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisin may contain no more than 5 percent, by weight, of substandard raisins. Lots of Muscat, Sultana, and Zante Currant raisins may contain no more than 12 percent, by weight, of substandard raisins.

#### **Dockage System for Substandard Raisins**

Section 989.212 provides that handlers may acquire, under an agreement with a producer, raisins that

fall outside the tolerance for substandard raisins specified in § 989.701. Prior to implementation of an interim final rule on October 24, 1998 (63 FR 56781), handlers could acquire any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins containing from 5.1 through 17.0 percent, by weight, substandard raisins under a weight dockage system. Handlers could also acquire, subject to prior agreement, any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing from 12.1 through 20.0 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of each lot of raisins acquired by handlers under the substandard dockage system is obtained by multiplying the applicable net weight of the lot of raisins by the applicable dockage factor in the tables in § 989.212. The dockage factor reduces the weight of the raisin lot by an amount approximating the weight of the raisins needed to be removed in order for the remainder of the lot to meet minimum grade requirements after processing and packing. The weight determined in this manner represents the creditable weight of the raisins which is used as a basis for applicable marketing order obligations and handler payments to producers. Those raisins failing to meet established substandard tolerance levels are returned to the producer or reconditioned by the handler (at the producer's expense) to bring the lot up to acceptable quality standards.

Adverse crop conditions this year created by the weather phenomenon known as El Nino affected the quality of the grapes used to make raisins by not allowing the grapes to properly mature. Temperatures in the production area stayed below average until about mid-June. In addition, due to the lateness of the 1998 crop (at least 3 to 4 weeks), producers had difficulty finding sufficient labor to harvest the crop. Raisin deliveries from producers to handlers were about 3–4 weeks later than in most crop years. The Committee predicted that a relatively high percentage of the 1998–99 crop would not meet the upper limit (17.0 or 20.0 percent, depending on varietal type) for the amount of substandard raisins permitted in incoming lots of raisins.

Thus, the Committee recommended that the allowable amount of substandard fruit in producer deliveries that can be acquired under the dockage system be increased, for the 1998–99 crop year only, from 17.0 to 25.0 percent for Natural (sun-dried) Seedless, Golden

Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins. Likewise, the Committee recommended increasing the substandard dockage limit, for the 1998–99 crop year only, from 20.0 to 35.0 percent for Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins. Lots containing more than 25.0 or 35.0 percent, depending on varietal type, of substandard raisins are considered off-grade and require reconditioning before they can be acquired by handlers. Appropriate changes incorporating these recommendations were made to § 989.212 and apply for the 1998–99 crop year only.

Increasing the upper limit allowed for substandard raisins reduces the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense. Handlers may acquire more lots of raisins upon first inspection without experiencing further delay while waiting for failing lots to be reconditioned. The ability to acquire more raisins upon first inspection helped handlers better meet early season market needs.

#### **Tolerance for Maturity**

Section 989.701 of the order's regulations specifies that lots of certain varietal types of natural condition raisins must contain a minimum percentage of raisins that are well-matured or reasonably well-matured. Specifically, lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins must contain at least 50 percent, by weight, of raisins that are well-matured or reasonably well-matured, or what is commonly referred to by the industry as the "B or better" maturity standard.

#### **Dockage System for Maturity**

Section 989.213 provides that handlers may acquire, under an agreement with a producer, raisins falling outside the tolerance for maturity specified in § 989.701. Prior to implementation of the previously referenced interim final rule on October 24, 1998, handlers could acquire any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins which contained from 35.0 to 49.9 percent, by weight, of well-matured or reasonably well-matured raisins under a weight dockage system. The dockage system is applied similarly to the substandard dockage system previously described. The creditable weight of each lot of raisins acquired by handlers under the maturity dockage

system is obtained by multiplying the applicable net weight of the lot of raisins by the applicable dockage factor in the tables in § 989.213. The dockage factor reduces the weight of the raisins needed to be removed in order for the remainder of the lot to meet minimum maturity requirements after processing and packing. The weight determined in this manner represents the creditable weight of the raisins which is used as a basis for applicable marketing order obligations and handler payments to producers. Those raisins failing to meet the established maturity tolerance level are returned to the producer or reconditioned by the handler (at the producer's expense) to bring the lot up to acceptable quality standards. If a lot of raisins is subject to both a maturity and substandard dockage factor, only the highest of the two dockage factors is applied.

In addition, prior to implementation of the interim final rule, the maturity dockage system was divided into three categories depending on the percentage of well-matured or reasonably well-matured raisins in a lot. The creditable fruit weight of raisins delivered by producers to handlers in the first category, which included lots containing between 45.0 to 49.9 percent well-matured or reasonably well-matured raisins, was reduced .05 percent for each 0.1 percent the lot was below 50.0 percent down to 45.0 percent. The creditable fruit weight of raisins delivered by producers to handlers in the second category, which included lots containing between 40.0 to 44.9 percent well-matured or reasonably well-matured raisins, was reduced 0.1 percent for each 0.1 percent the lot was below 44.9 percent down to 40.0 percent. The creditable fruit weight of raisins delivered by producers to handlers in the third category, which included lots containing between 35.0 to 39.9 percent well-matured or reasonably well-matured raisins, was reduced 0.15 percent for each 0.1 percent the lot was below 39.9 percent down to 35.0 percent. Applicable marketing order obligations and producer payments were reduced accordingly.

Because of the unusual crop conditions this year created by El Niño, the Committee predicted that a relatively high percentage of the 1998–99 crop will fall below the 35.0 percent tolerance level for maturity. Thus, the Committee recommended that the minimum allowable level for maturity in lots of raisins delivered by producers that can be acquired under the dockage system be reduced, for the 1998–99 crop year only, from 35.0 to 30.0 percent.

The Committee also recommended that the creditable fruit weight of raisin deliveries in this fourth category created for the 1998–99 crop year, or lots containing between 30.0 to 34.9 percent well-matured or reasonably well-matured raisins, be reduced 0.2 percent for each 0.1 percent the lot is below 34.9 percent down to 30.0 percent. Applicable marketing order obligations and producer payments are reduced accordingly. Lots containing 29.9 percent or less raisins which are well-matured or reasonably well-matured raisins are considered off-grade and require reconditioning before they can be acquired by handlers. A new paragraph (e) has been added to § 989.213 for this fourth category and applies only to the 1998–99 crop year.

Similar to relaxing the substandard dockage system, reducing the minimum allowable level for maturity for the 1998–99 crop year reduces the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense. Handlers may acquire more lots of raisins upon first inspection without experiencing further delay while waiting for failing lots to be reconditioned and reinspected. The ability to acquire more raisins upon first inspection helped handlers better meet early season market needs.

#### **Final 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 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 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 service firms have been defined by the Small Business Administration (13 CFR 121.601) 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 \$500,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small

entities. 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, excluding receipts from any other sources.

This rule continues to relax the substandard and maturity dockage systems specified in §§ 989.212 and 989.213, respectively, of the order's regulations. These sections allow handlers to acquire raisins from producers under a weight dockage system and adjust their payments and marketing order obligations according to the percentage of substandard raisins in a lot, or percentage of raisins falling below certain levels of maturity. Because of unusual crop conditions this year created by El Niño, the industry predicted that a relatively high percentage of the 1998 crop will fall outside the limits of the dockage systems. Relaxing the limits reduces the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense.

Relaxing the dockage limits for the 1998–99 crop year allows handlers to acquire more lots of raisins that fall outside specified tolerances for substandard raisins and maturity. Thus, fewer lots are returned to producers for reconditioning. Transportation costs for hauling raisins to and from the handler's premises (estimated at \$5.00 per ton one way) for reconditioning and re-inspection are eliminated. Producers also save on reconditioning costs. Producer costs for reconditioning substandard raisins (a "dry" vacuuming process) are estimated at \$20.00 per ton. Producer costs for reconditioning raisins falling below certain maturity levels (usually a "wash and dry" process) are estimated at \$140.00 per ton. Producers also save on re-inspection costs at \$8.50 per ton because more of their raisins meet the relaxed incoming substandard and maturity requirements upon first inspection. In summary, producers whose lots of raisins fall into the extended dockage limits for substandard raisins do not have to incur \$38.50 per ton in costs for hauling, "dry" reconditioning, and re-inspection. Producers whose lots fall into the revised dockage limits for maturity do not have to incur \$158.00 per ton in costs for hauling, "wet" reconditioning, and re-inspection.

Relaxing the dockage limits may cause handlers to incur some additional costs because, while the incoming quality requirements are relaxed, outgoing quality requirements remain unchanged. Thus, the burden of removing substandard raisins or raisins falling below certain levels of maturity

is shifted from producers to handlers. Although handlers have this additional burden, handlers can more efficiently and economically manage the situation because they already have the processing equipment designed to remove the undesirable fruit.

The Committee considered some alternatives to the recommended action. The Committee has an appointed subcommittee which periodically holds public meetings to discuss changes to the order and other issues. The subcommittee met on October 6, 1998. There was some deliberation at the subcommittee meeting about revising the order's tolerances for mold for the 1998-99 crop year. However, the majority of subcommittee members did not support any change to the mold tolerances at this time.

Another alternative discussed at the subcommittee and Committee meetings was to reduce the maturity dockage limit from 35.0 to 30.0 percent, as recommended, but revise the dockage factor by 0.15 percent rather than the higher increment of 0.20 percent as recommended by the Committee. However, some handlers believe that the higher incremental dockage is necessary to accommodate a handler's ability to meet the minimum outgoing quality requirements for maturity. Thus, the Committee unanimously recommended that the higher increment of 0.20 percent was appropriate.

This rule imposes no 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, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's subcommittee meeting on October 6, 1998, and the Committee meeting on October 8, 1998, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal Register** on October 23, 1998, and, as previously noted, effective on October 24, 1998. Copies of the rule were mailed

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. That rule provided for a 60-day comment period which ended December 22, 1998. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (63 FR 56781), 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.

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 63 FR 56781 on October 23, 1998, is adopted as a final rule without change.

Dated: January 8, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-842 Filed 1-13-99; 8:45 am]

BILLING CODE 3410-02-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98-NM-108-AD; Amendment 39-10802; AD 98-20-35]

RIN 2120-AA64

#### **Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a typographical error that appeared in airworthiness directive (AD) 98-20-35, that was published in the **Federal Register** on September 29, 1998 (63 FR 51803). The typographical error resulted in referencing a service bulletin that does not pertain to this AD. This AD is applicable to all IAI, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A

series airplanes. This AD requires repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. This AD also requires accomplishment of the previously optional terminating action.

**EFFECTIVE DATE:** November 3, 1998.

**FOR FURTHER INFORMATION CONTACT:** Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

Airworthiness Directive (AD) 98-20-35, amendment 39-10802, applicable to all IAI, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes, was published in the **Federal Register** on September 29, 1998 (63 FR 51803). That AD requires repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. That AD also requires accomplishment of the previously optional terminating action.

As published, AD 98-20-35 contained an erroneous reference to a service bulletin that was approved previously by the Director of the Federal Register as of April 10, 1998 (63 FR 11106, March 6, 1998), for incorporation by reference in AD 98-05-09, amendment 39-10370. Paragraph (f) of AD 98-20-35 and paragraph (g) of AD 98-05-09 incorrectly reference Westwind Service Bulletin SB 1124-27-046, Revision 1, dated May 28, 1997. The correct service bulletin is Westwind Service Bulletin SB 1123-27-046, Revision 1, dated May 28, 1997.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of this AD remains November 3, 1998.

#### **§ 39.13 [Corrected]**

On page 51804, in the third column, paragraph (f) of AD 98-20-35 is corrected to read as follows:

\* \* \* \* \*

(f) The actions shall be done in accordance with the following Westwind and Commodore Jet service bulletins, as applicable, which contain the specified effective pages: