

notify the Board at least 72 hours prior to delivery: *Provided*, That the Board or its employees may lessen this notification time whenever it determines that the 72 hour requirement is impracticable. The Board may supervise deliveries at its option. In the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which case the Board would certify the disposition lot and report the results to the USDA. For dispositions by handlers with mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The edible and inedible almond meat content of each delivery shall be determined by the inspection agency and reported by the inspection agency to the Board and the handler. The handler's disposition obligation will be credited upon satisfactory completion of ABC Form 8. ABC Form 8, Part A, is filled out by the handler, and Part B by the accepted user. Deliveries containing less than 50 percent almond meat content shall not be credited against the disposition obligation. At least 25 percent of a handler's total crop year inedible disposition obligation shall be satisfied with dispositions consisting of inedible kernels as defined in § 981.408: *Provided*, That this 25 percent requirement shall not apply to handlers with total annual obligations of less than 1,000 pounds. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than August 31 succeeding the crop year in which the obligation was incurred.

\* \* \* \* \*

Dated: July 25, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[Docket No. FV01-989-2 FR]

#### Raisins Produced From Grapes Grown in California; Reporting on Organic Raisins

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

**ACTION:** Final rule.

**SUMMARY:** This rule adds additional reporting requirements for handlers 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 (RAC). This rule requires handlers to report to the RAC information on acquisitions, shipments, and inventories of organic raisins. This rule will provide the RAC with accurate data on organic raisins. The RAC will evaluate this data to determine whether organic raisins should be subject to the order's volume regulation requirements.

**EFFECTIVE DATE:** July 31, 2001.

**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, room 2525-S, PO Box 96456, Washington, DC 20090-6456; 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, PO Box 96456, room 2525-S, Washington DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final 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 marketing agreement and order are 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This final 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. Such 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 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.

This final rule adds additional reporting requirements for handlers covered under the order. This rule requires handlers to report to the RAC information on acquisitions, shipments, and inventories of organic raisins. This rule will provide the RAC with accurate data on organic raisins. The RAC will evaluate this data to determine whether organic raisins should be subject to the order's volume regulation requirements. This action was unanimously recommended by the RAC at a meeting on November 29, 2000.

Section 989.73 of the order provides authority for the RAC to collect reports from handlers. Paragraph (d) of that section provides that, upon request of the RAC, with approval by the Secretary, handlers shall furnish to the RAC other information as may be necessary to enable it to exercise its powers and perform its duties. The RAC meets routinely to make decisions on various programs authorized under the order such as volume regulation and quality control. The RAC utilizes information collected under the order in its decision-making. Section 989.173 of the order's administrative rules and regulations specifies certain reports that

handlers are currently required to submit to the RAC.

The RAC would like to collect information on organic raisins. Some organic raisin growers have expressed concern to the RAC and the Department with the application of the order's volume regulation provisions to organic raisins. In response, the RAC formed a working-group to review this issue and possible avenues of relief for such organic growers. One option considered by the RAC was to establish separate varietal types for organic raisins covered under the order. This would permit the RAC to consider the application of volume regulation for organic raisins separate from traditionally grown raisins. However, during this process, it was determined that reliable data on the production, shipment, and marketing of organic raisins does not exist. Thus, the RAC does not have sufficient information at this time to make an informed decision.

Therefore, the RAC recommended requiring handlers to report information to the RAC on organic raisins. Such information would include reports on acquisitions, shipments (dispositions), and inventories of organic raisins. Information regarding transfers between handlers of organic raisins would also be needed to provide the RAC with accurate shipment data. The RAC recommended that this final rule become effective on July 31, 2001, the last day of the 2000–01 crop year, so that the RAC could collect year-end inventory information on 2000–01 crop organic raisins. During the following weeks, handlers would begin reporting weekly acquisitions and monthly shipments of 2001–02 crop organic raisins.

Finally, for purposes of this final rule, organically produced raisins would mean California raisins that have been certified as organic by an organic certification organization currently registered with the California Department of Food and Agriculture (CDFA), or such certifying organization accredited under the National Organic Program (NOP). Section 989.173 of the order's administrative rules and regulation is revised accordingly. Paragraph (d) of that section regarding an interhandler transfer report is revised, and a new paragraph (g) is added to require handlers of organic raisins to report information regarding inventories, acquisitions, and dispositions of organic raisins. This information will enable the RAC to make an informed decision on whether organic raisins should be subject to the order's volume regulation requirements.

### 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 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 \$500,000. 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, excluding receipts from any other sources. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities, excluding receipts from other sources.

This final rule revises paragraph (d) in § 989.173 and adds a new paragraph (g) to that section to require handlers of organic raisins to submit reports to the RAC regarding acquisitions, shipments, and inventories of such raisins. This rule is needed so that the RAC can collect accurate data on organic raisins and evaluate this information to determine whether organic raisins should be categorized as separate varietal types under the order. This will permit the RAC to consider application of the order's volume regulation provisions to organic raisins separate from traditionally grown raisins. Authority for this action is provided in § 989.73 of the order.

Regarding the impact of this rule on affected entities, this rule will impose some additional burden on handlers who handle organic raisins. Such handlers will be required to submit a weekly acquisition report for organic raisins, a monthly shipment (disposition) report, a monthly report of exports by country of destination, and

an annual inventory report. Handlers will also be required to report transfers of organic raisins between handlers; however, those transfers would be captured on the same interhandler transfer report as handlers are currently using.

It is estimated that it will take each handler of organic raisins about 5 minutes to complete each weekly acquisition report (4 hours and 20 minutes annually per handler), 5 minutes to complete each monthly shipment report (1 hour annually per handler), 5 minutes to complete each report of exports by country of destination (1 hour annually per handler), and 5 minutes to complete an annual inventory report (5 minutes annually per handler). If all handlers handle organic raisins, it is estimated that the total additional annual burden would be 6 hours and 25 minutes for each handler, or a total of 128 hours for the industry. In addition, handlers will be required to provide copies of organic certificates at the request of the RAC. The reporting burden for this activity is accounted for in the new weekly organic acquisition report. The four new reports, the organic inspection certificate requests, and underlying recordkeeping burden for organic acquisitions, shipments, and inventories have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0196. At a later time, the new collection will be added to the currently approved collection for use under OMB No. 0581–0178. The burden for the interhandler transfer report (RAC–6) has already been approved by the OMB.

The Department has identified four comparable reports required to be submitted by handlers to the RAC under § 989.173. That section requires handlers to report to the RAC for all California raisins weekly acquisitions, monthly dispositions, monthly exports by country of destination, and annual inventories. This final rule requires handlers continue to report such information for all California raisins, but that similar information regarding organically produced raisins be captured separately. Although this will be an additional reporting burden on handlers, the RAC determined that this action is necessary to collect accurate information on organic raisins. In addition, several handlers are represented on the RAC and voted for this action.

Several alternatives were considered by RAC's work-group to address concerns of organic raisin growers. The group considered recommending informal rulemaking to establish separate varietal types for organic

raisins. However, as discussed in this rule, the RAC determined that sufficient data does not exist on production and shipments of organic raisins to warrant such action at this time.

Another option considered was to recommend informal rulemaking under authority provided in § 989.60(c). Under that authority, the RAC may designate such raisins as it deems appropriate for production, processing, and marketing and development projects. For each project, the volume of tonnage that can be acquired by all handlers cannot exceed 500 tons annually. Such raisins can be exempt from certain order regulations such as volume control. The 500-ton limit can be increased through informal rulemaking. The working-group considered increasing the 500-ton limit and recommending a marketing develop project for all organic Natural (sun-dried) Seedless raisins. Such raisins would be exempt from volume regulation.

Also, there was some discussion about exempting organic raisins from the order's volume control requirements through a formal rulemaking proceeding. However, the working-group and ultimately the RAC decided that, at this time, the most appropriate action would be to collect the necessary production and shipment data on organic raisins. The RAC would evaluate this information and determine whether additional action on organic raisins would be warranted, including establishing separate varietal types for organic raisins.

Further, the RAC's meetings of its organic working-group on August 29 and October 17, 2000, and Administrative Issues Subcommittee and RAC meetings held on November 29, 2000, 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.

A proposed rule concerning this action was published in the **Federal Register** on March 27, 2001 (66 FR 16621). The proposal also announced AMS's intent to request a revision to the currently approved information collection requirements issued under the order. Copies of the rule were mailed by the RAC staff to all RAC members and alternates, the Raisin Bargaining Association, handlers and dehydrators. Finally, the rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period ending May 29, 2001, was provided to allow interested

persons to respond to the proposal. Three comments were received.

The first commenter requested that organic raisins not be subject to the Federal marketing order. The commenter stated that there is a shortage of organic raisins, and that withholding them from the market creates a hardship for organic growers.

By definition, the current Federal raisin marketing order covers all raisins produced from grapes grown in California. This includes organic and traditionally grown raisins. Exempting organic raisins from the marketing order would require an amendment to the order, which is outside the scope of this rule.

Prior to taking other action on this issue, the RAC wants to appropriately assess the applicability of the order's volume regulation provisions to organic raisins. The RAC determined that accurate data regarding acquisitions, shipments, and inventories of organic raisins is needed to make this assessment. This rule allows the RAC to collect this information. The RAC will then evaluate this data and determine whether further action on organic raisins is warranted.

A second commenter requested that organic certifying agencies, rather than handlers, be required to submit copies of organic certificates directly to the RAC at its request. However, certifying agencies are not subject to marketing order requirements. Accordingly, no changes will be made to the rule as proposed, based on the two comments discussed above.

A third commenter indicated strong support for the RAC to collect data on organic raisins, but also suggested a change to the proposed rule. Specifically, the commenter suggested that the proposed definition of organically produced raisins be modified to include not only raisins certified by organic certification organizations currently registered with CDFA, but also raisins certified by certifying organizations that will be accredited under the NOP on or about April 22, 2002.

The commenter raises a valid point. The Organic Foods Production Act (OFPA) of 1990 required the Department to develop national standards for organically produced agricultural products. The NOP was established under the OFPA. NOP requires that agricultural products labeled as organic originate from farms or handling operations certified by a state or private agency that has been accredited by the Department. The Department issued national organic standards in December 2000, and expects to announce the first

round of USDA-accredited certification agents on or about April 21, 2002.

Accordingly, the final rule has been changed based on this comment. Thus, for purposes of this rule, organically produced raisins shall mean raisins that have been certified by an organic certification organization currently registered with CDFA, or such certifying organization accredited under the NOP.

This same commenter went on to question whether a further policy change would be useful which would allow organic commodities to be recognized by their production standard, rather than relying on the flexibility in existing language. While this suggestion is beyond the scope of this rulemaking, AMS does review its programs to improve their organization and application, as appropriate.

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.

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this rule needs to be in effect by July 31, 2001, the last day of the 2000–01 crop year, so that the RAC can collect year-end inventory data on 2000–01 organic raisins. Further, handlers are aware of this action which was unanimously recommended by the RAC at a public meeting. Finally, a 60-day comment period was provided for in the proposed 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.

2. In § 989.173, paragraph (d)(1)(iii) is revised, paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j), and a new paragraph (g) is added to read as follows:

**§ 989.173 Reports.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iii) The varietal type of raisin, with organically produced raisins as specified in paragraph (g) of this section separated out, net weight, and condition of the raisins transferred; and

\* \* \* \* \*

(g) *Organically produced raisins.* For purposes of this section, organically produced raisins means raisins that have been certified by an organic certification organization currently registered with the California Department of Food and Agriculture, or such certifying organization accredited under the National Organic Program. Handlers of such raisins shall submit the following reports to the Committee.

(1) *Inventory report of organically produced raisins.* Each handler shall submit to the Committee by the close of business on July 31 of each crop year, and not later than the following August 6, on an appropriate form provided by the Committee, a report showing, with respect to the organically produced raisins held by such handler:

(i) The quantity of free tonnage raisins, segregated as to locations where they are stored and whether they are natural condition or packed;

(ii) The quantity of reserve tonnage raisins held for the account of the Committee;

(iii) The quantity of off-grade raisins segregated as to those for reconditioning and those for disposition as such.

(2) *Acquisition report of organically produced standard raisins.* Each handler shall submit to the Committee for each week (Sunday through Saturday or such other 7-day period for which the handler has submitted a proposal to and received approval from the Committee) and not later than the following Wednesday, on an appropriate form provided by the Committee, a report showing the following:

(i) The total net weight of the standard raisins acquired during the reporting period, segregated when appropriate, as to free tonnage and reserve tonnage;

(ii) The location of the reserve tonnage; and

(iii) The cumulative totals of such acquisitions (as so segregated) from the beginning of the current crop year.

(iv) Upon request of the Committee, each handler shall provide copies of the

organic certificate(s) applicable to the quantity of raisins reported as acquired.

(3) *Disposition report of organically produced raisins.* No later than the seventh day of each month, handlers who are not processors shall submit to the Committee, on an appropriate form provided by the Committee, a report showing the aggregate quantity of free tonnage packed raisins and standard natural condition raisins which were shipped or otherwise disposed of by such handler during the preceding month (exclusive of transfer within the State of California between the plants of any such handler and from such handler to other handlers). Such information shall include:

(i) Domestic outlets (exclusive of Federal government purchases) according to the quantity shipped in consumer cartons, the quantity of bags having a net weight content of 4 pounds or less, and the quantity shipped in bulk packs (including, but not limited to those in bags having a net weight content of more than 4 pounds);

(ii) Federal government purchases;

(iii) Export outlets according to quantity shipped in consumer cartons, the quantity shipped in bags having a net weight of 4 pounds or less, and the quantity shipped in bulk packs (including, but not limited to, those in bags having a net weight content of more than 4 pounds);

(iv) Export outlets, by countries of destination; and

(v) Each of any other outlets in which the handler disposed of such raisins other than by any transfer which is excluded by the preceding sentence.

\* \* \* \* \*

Dated: July 25, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01-18945 Filed 7-26-01; 11:11 am]

**BILLING CODE 3410-02-P**

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 51**

**RIN 3150-AD63**

### **Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Correction**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule: Correcting amendment.

**SUMMARY:** This document contains a correction to the final regulations that

were published in the **Federal Register** on June 5, 1996 (61 FR 28467), subsequently amended on December 18, 1996 (61 FR 66537), and reflected in the January 1, 2001, revision of the Code of Federal Regulations. This action corrects the regulations by adding an inadvertently omitted word. This correction is necessary to provide clarity and consistency in the regulations.

**DATES:** Effective July 30, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Barry Zalzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2419 (e-mail: [BXZ@nrc.gov](mailto:BXZ@nrc.gov)).

**SUPPLEMENTARY INFORMATION:**

### **Background**

On June 5, 1996 (61 FR 28467), a final rule "Environmental Review for Renewal of Nuclear Power Plant Operating Licenses" was published in the **Federal Register**. The purpose of the rule was to amend the regulations regarding environmental protection for domestic licensing and related regulatory functions in 10 CFR part 51 to establish new requirements for the environmental review of applications to renew the operating licenses of nuclear power reactors. The rule was based on the analyses conducted and conclusions reported in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (GEIS). The GEIS examines the environmental impacts that could occur as a result of renewing licenses of individual nuclear power plants under 10 CFR part 54, assessing a total of 92 issues. The findings regarding each of the 92 issues are summarized in 10 CFR part 51, Appendix B to Subpart A, Table B-1 "Summary Of Findings on NEPA Issues For License Renewal Of Nuclear Power Plants."

After the final rule was published, an error was discovered in Table B-1 in the findings for the issue entitled "Offsite radiological impacts (collective effects)" under the heading of "Uranium Fuel Cycle and Waste Management." The findings for "Offsite radiological impacts (collective effects)" correctly state that the 100 year environmental dose commitment to the U.S. population from the fuel cycle is calculated to be 14,800 person rem for each additional 20-year power reactor operating term. The findings, however, appear to include high level waste and spent fuel disposal in the calculation. It was the intent of the NRC to specify that high level waste and spent fuel disposal were excluded from this calculation, but the word "excepted" was inadvertently