

continues to pursue export opportunities.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581-0178, Vegetable and Specialty Crops. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. 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. This rule does not change those requirements.

The 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.

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

Further, the Board's meetings were widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meetings and participate in Board deliberations. Like all Board meetings, those held on August 23, 2007, and November 15, 2007, were public meetings and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on 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/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.

This rule invites comments on the establishment of interim final and final free and restricted percentages for the 2007-2008 marketing year under the hazelnut marketing order. 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 2007-2008 marketing year began July 1, 2007, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) the percentages make the full trade demand available so handlers can take advantage of inshell marketing opportunities; (3) 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 (4) 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. A new section 982.255 is added to read as follows:

#### **§ 982.255 Free and restricted percentages—2007-2008 marketing year.**

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2007-2008 marketing year shall be 8.1863 and 91.8137 percent, respectively.

(b) On May 1, 2008, the final free and restricted percentages for merchantable hazelnuts for the 2007-2008 marketing year shall be 9.2671 and 90.7329 percent, respectively.

Dated: February 12, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 08-739 Filed 2-15-08; 8:45 am]

**BILLING CODE 3410-02-P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 989**

[Docket No. AMS-FV-07-0130; FV08-989-1 IFR]

#### **Raisins Produced from Grapes Grown in California; Final Free and Reserve Percentages for 2007-08 Crop Natural (sun-dried) Seedless Raisins**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule establishes final volume regulation percentages for 2007-08 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 locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 85 percent free and 15 percent reserve. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

**DATES:** Effective February 20, 2008. The volume regulation percentages apply to acquisitions of NS raisins from the 2007-08 crop until the reserve raisins from that crop are disposed of under the marketing order. Comments received by April 21, 2008, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or 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](mailto:Rose.Aguayo@usda.gov) or [Kurt.Kimmel@usda.gov](mailto: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](mailto:Jay.Guerber@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.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for NS raisins for the 2007-08 crop year, which began August 1, 2007, and ends July 31, 2008. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. 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 rule establishes final volume regulation percentages for 2007-08 crop NS raisins covered under the order. 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 various programs authorized under the order. For example, 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; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. The Committee unanimously recommended final percentages for NS raisins on October 4, 2007, and October 11, 2007.

**Computation of Trade Demands**

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate free and reserve percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 14, 2007, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is equal to 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets, adjusted by subtracting the carryin on August 1 of the current crop year, and adding the desirable carryout at the end of that crop year. As specified in § 989.154(a), the desirable carryout for NS raisins shall equal the total shipments of free tonnage during August and September for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three, or 60,000 natural condition tons, whichever is higher. For all other varietal types, the desirable carryout shall equal the total shipments of free tonnage during August, September and one-half of October for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three. In accordance with these provisions, the Committee computed and announced the 2007-08 trade demand for NS raisins at 232,822 tons as shown below.

**COMPUTED TRADE DEMAND**  
[Natural condition tons]

	NS raisins
Prior year's shipments .....	309,169
Multiplied by 90 percent .....	0.90
Equals adjusted base .....	278,252
Minus carryin inventory .....	105,430
Plus desirable carryout .....	60,000
Equals computed NS trade demand .....	232,822

**Computation of Volume Regulation Percentages**

Section 989.54(b) of the order requires that the Committee announce crop estimates and determine whether volume regulation is warranted for the varietal types for which it computed a trade demand. If the Committee determines that volume regulation is warranted, it must also compute and announce preliminary free and reserve percentages. Section 989.54(c) provides that the Committee may modify the preliminary free and reserve percentages prior to February 15 by announcing interim percentages which release less than the trade demand. Section 989.54(d) requires the Committee to recommend final percentages no later than February 15 which will tend to release the full trade demand. Final percentages are established by USDA through informal rulemaking.

The Committee met on October 4 and October 11, 2007, and announced a 2007-08 crop estimate of 273,908 tons for NS raisins pursuant to § 989.54(b). NS raisins are the major varietal type of California raisin. The crop estimate of 273,908 tons is significantly higher than the computed trade demand of 232,822 tons. Thus, the Committee determined that volume regulation for NS raisins was warranted. The Committee therefore announced preliminary volume regulation percentages of 72 percent free and 28 percent reserve for NS raisins. As required by the order, these percentages would release 85 percent of the computed trade demand. The Committee also announced interim volume regulation percentages of 84.75 percent free and 15.25 percent reserve, and recommended final volume regulation percentages of 85 percent free and 15 percent reserve pursuant to § 989.54(d).

The Committee has historically recommended interim and final volume regulation percentages later in the season. However, the Committee determined it was in the best interest of producers and handlers to establish interim and final percentages as soon as possible for the 2007-08 crop year. Rains during the harvest period this

season while grapes were lying on the ground to dry caused a problem with embedded sand particles on a portion of the crop. To remedy this situation, growers must subject the raisins to a process known as reconditioning to remove the sand in order for the raisins to be acceptable for acquisition by handlers. This process results in additional costs to growers. Establishing interim and final percentages early in the season will allow growers to be paid on a higher percentage of their crop earlier in the season. This will help growers meet the costs of reconditioning, and the reconditioned product will then be suitable for acquisition and processing by handlers.

Pursuant to § 989.54(d), the Committee's calculations and determinations to arrive at final percentages for NS raisins are shown in the table below:

**FINAL VOLUME REGULATION PERCENTAGES**  
[Natural condition tons]

	NS raisins
Trade demand .....	232,822
Divided by crop estimate .....	273,908
Equals the free percentage ....	85.00
100 minus free percentage equals the reserve percentage .....	15.00

USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) specify that 110 percent of recent years' sales should be made available to primary markets each season for marketing orders utilizing reserve pool authority. This goal is expected to be met for NS raisins for the 2007-08 crop year. Application of the final percentages will make 232,822 tons of raisins available to handlers if the crop estimate is realized. In addition, handlers will be offered additional reserve raisins for sale under the "10 plus 10 offers." As specified in § 989.54(g), the 10 plus 10 offers are two offers of reserve pool raisins which are made available to handlers during each season. For each such offer, a quantity of reserve raisins equal to 10 percent of the prior year's shipments is made available to handlers for free use. Handlers may sell their 10 plus 10 raisins to any market.

Based on 2006-07 NS shipments of 309,169 natural condition tons, 61,833.8 tons should be made available in the 10 plus 10 offers. However, based on the 273,908-ton crop estimate and the 232,822-ton trade demand, only 41,086 tons of 2007-08 reserve raisins would be available. This tonnage combined

with the 6,064 tons of remaining 2006-07 reserve raisins should be available for the 10 plus 10 offers (a total of 47,150 tons). Thus, all available reserve pool raisins should be offered to handlers for free use through the 10 plus 10 offers.

In addition to these anticipated 10 plus 10 purchases, 14,793 tons of 2006-07 reserve raisins were sold to handlers through 10 plus 10 offers in July 2007 and released to handlers in the 2007-08 crop year (August 2007). Finally, 105,430 tons of free tonnage raisins were carried in to the 2007-08 crop year in handler's inventories. Combining all the raisins available to handlers for use as free tonnage for the 2007-08 crop year (including the 232,822-ton trade demand) results in a total supply of 400,195 tons of natural condition raisins, or 376,195 packed tons. This equates to 129 percent of the 2006-07 shipments of 309,169 natural condition tons or 290,628 packed tons.

In addition to the 10 plus 10 offers, § 989.67(j) of the order provides authority for sales of reserve raisins to handlers under certain conditions such as a national emergency, crop failure, change in economic or marketing conditions, or if free tonnage shipments in the current crop year exceed shipments during a comparable period of the prior crop year. Such reserve raisins may be sold by handlers to any market. When implemented, the additional offers of reserve raisins make even more raisins available to primary markets, which is consistent with USDA's Guidelines.

**Initial Regulatory Flexibility Analysis**

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers of California raisins who are subject to regulation under the order and approximately 4,000 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (SBA)(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 10 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, among other things, 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 strengthen market conditions. If the primary market (the normal domestic market) is oversupplied with raisins, grower prices decline substantially.

Pursuant to § 989.54(d) of the order, this rule establishes final volume regulation percentages for 2007-08 crop 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 273,908 tons is significantly higher than the 232,822 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 64 percent of 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 1970's, over 50 percent of the raisin grapes were sold 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. Although the size of the crop for raisin-variety grapes may be known, the amount dried for raisins depends on the demand for crushing. This makes the marketing of raisins a more difficult task. These supply 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 through the 1997–98 seasons, 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 seasons 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, producer prices were higher for the 2004–05, 2005–06, and 2006–07 crop years, as noted below:

NATURAL SEEDLESS PRODUCER PRICES

Crop year	Deliveries (natural condition tons)	Producer prices (per ton)
2006–07 .....	282,999	<sup>1</sup> \$1,089.00
2005–06 .....	319,126	<sup>1</sup> 998.25
2004–05 .....	265,262	<sup>2</sup> 1,210.00
2003–04 .....	296,864	567.00
2002–03 .....	388,010	491.20
2001–02 .....	377,328	650.94
2000–01 .....	432,616	603.36
1999–2000 .....	299,910	1,211.25
1998–99 .....	240,469	<sup>2</sup> 1,290.00
1997–98 .....	382,448	946.52

NATURAL SEEDLESS PRODUCER PRICES—Continued

Crop year	Deliveries (natural condition tons)	Producer prices (per ton)
1996–97 .....	272,063	1,049.20
1995–96 .....	325,911	1,007.19
1994–95 .....	378,427	928.27
1993–94 .....	387,007	904.60

<sup>1</sup> Return-to-date, reserve pool still open.  
<sup>2</sup> No volume regulation.

There are essentially two broad markets for raisins—domestic and export. Domestic shipments have been generally increasing in recent 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 188,944 tons during the 2006–07 crop year. Export shipments ranged from a high of 107,931 packed tons in 1991–92 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, but fell to 101,684 tons in 2006–07.

The per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.44 pounds in 2005. This decrease is consistent with the decrease in the per capita consumption of dried fruits in general, which is due to the increasing availability of most types of fresh fruit throughout the year.

While the overall demand for raisins has increased in three of the last four 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 1998–99 and 299,910 tons in 1999–2000. 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 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 carryin 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 to 319,126 tons, this may have been because fewer growers opted to contract with wineries, as raisin variety grapes crushed in 2005–06 decreased by 161,000 green tons, the equivalent of over 40,000 tons of raisins. In 2006–07, raisin deliveries were again less than 300,000 tons, at 282,999 tons.

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 equilibrate 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 what handlers can market as free tonnage. Based on the 2007–08 crop estimate of 273,908 tons, the 15 percent reserve would limit the total free tonnage to 232,822 natural condition tons (.85 × the 273,908 ton crop). Adding the 232,822 ton figure to the carryin of 105,430 tons, plus 41,086 tons of 2007–08 of reserve raisins anticipated for sale to handlers during the 2006–07 crop year under the 10 plus 10 offers, and 20,857 tons of 2006–07 reserve raisins available to handlers in the 2007–08 crop year results in a total free supply of 400,195 natural condition tons.

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 usually 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, it was determined that volume regulation is warranted this season for only one of

the nine raisin varietal types defined under the order.

The free and reserve percentages established by this 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 1983–84. 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.

There are some reporting, recordkeeping and other compliance requirements under the order. The reporting and recordkeeping requirements are necessary for compliance purposes and for developing statistical data for maintenance of the program. The requirements are the same as those applied in past seasons. Thus, this action imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information collection and recordkeeping requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178, Vegetable and Specialty Crops. 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.

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

Further, the Committee’s meetings were widely publicized throughout the raisin industry and all interested persons were invited to attend the meetings and participate in the Committee’s deliberations. Like all Committee meetings, the August 14, 2007, October 4, 2007, and October 11, 2007, meetings were public meetings and all entities, both large and small, were able to express their views on this issue.

Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Committee’s Reserve Sales and Marketing Subcommittee met on August 14, 2007, and October 4, 2007, and discussed these issues in detail. Those meetings were also public meetings and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit comments on this interim final 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/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.

This rule invites comments on the establishment of final volume regulation percentages for 2007–08 crop NS raisins covered under the order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the

information and recommendation submitted by the Committee and other available information, it is hereby found that this 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 rule until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 2007–08 crop year apply to all NS raisins acquired during the crop year; (2) handlers are aware of this action, which was unanimously recommended at a public meeting, and need no additional time to comply with these percentages; and (3) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 989**

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

■ For the reasons set forth in the preamble, 7 CFR part 989 is amended to read as followed:

**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. Section 989.257 is revised to read as follows:

**§ 989.257 Final free and reserve percentages.**

(a) The final percentages for the respective varietal type(s) of raisins acquired by handlers during the crop year beginning August 1, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

Crop year	Varietal type	Free percentage	Reserve percentage
2003–04 .....	Natural (sun-dried) Seedless .....	70	30
2005–06 .....	Natural (sun-dried) Seedless .....	82.50	17.50
2006–07 .....	Natural (sun-dried) Seedless .....	90	10
2007–08 .....	Natural (sun-dried) Seedless .....	85	15

(b) The volume regulation percentages apply to acquisitions of the varietal type of raisins for the applicable crop year until the reserve raisins for that crop are disposed of under the marketing order.

Dated: February 12, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8-2960 Filed 2-15-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

#### 8 CFR Part 274

#### 19 CFR Part 162

[USCBP-2006-0122]

RIN 1651-AA58

### Administrative Process for Seizures and Forfeitures Under the Immigration and Nationality Act and Other Authorities

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule amends Department of Homeland Security regulations, to consolidate the procedures for administrative seizure and forfeiture process. The interim rule also permits earlier consideration of petitions for the remission of seized assets in cases that would otherwise be brought under the procedures in title 8 of the Code of Federal Regulations. The interim rule also makes technical and conforming changes to update the regulations.

**DATES:** This interim rule is effective February 19, 2008. Written comments must be submitted on or before April 21, 2008.

**ADDRESSES:** You may submit comments, identified by *docket number*, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2006-0122.
- Mail: Border Security Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and document number for this rulemaking. All comments received will be posted

without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark, U.S. Customs and Border Protection, at (202) 572-8768.

#### FOR FURTHER INFORMATION CONTACT:

Jeremy Baskin, Office of Regulations and Rulings, U.S. Customs and Border Protection (202) 572-8700.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to the Department of Homeland Security (DHS) in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, and authority that support such recommended change.

#### Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (HSA). Accordingly, as of March 1, 2003, the former Immigration and Nationalization Service (INS) of the Department of Justice and the former U.S. Customs Service of the Department of the Treasury were transferred to DHS and reorganized to become U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS).

After passage of the HSA, both CBP and ICE retained authority to perform asset seizures and forfeitures under the provisions of 8 CFR part 274 and 19 CFR parts 162 and 171. DHS, for the purpose of improved efficiency, has consolidated the processing of asset forfeitures into CBP's operations. The regulations in Titles 8 and 19, however, currently provide two different procedures. This interim rule

consolidates the procedures for administrative seizure and forfeiture process by altering the text of 8 CFR 274.1 to refer to 19 CFR parts 162 and 171. This rule also makes technical conforming changes to update references from INS and U.S. Customs Service to CBP and ICE where applicable.

#### Interim Rule Changes

Pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), petitions for remission of forfeitures were accepted by the former U.S. Customs Service, and now accepted by CBP, prior to initiation of any administrative or judicial forfeiture process. Under the regulations adopted under section 274(b) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324(b) (INA)), the remission or mitigation of such forfeitures could occur only after completion of the forfeiture process. No statute, however, requires this restriction. Under this interim rule, the procedures previously used for immigration-related forfeitures will be eliminated and all asset forfeiture proceedings will be conducted under a consolidated procedure. This interim rule revises 8 CFR part 274 in its entirety to bring seizures and forfeitures effected under section 274(b) of the INA, as amended, and other forfeiture authorities, into conformity with procedures under 19 CFR parts 162 and 171. This change permits CBP to entertain petitions for remission and return of seized property prior to completing the forfeiture process, whether the seizure was effected under the customs laws or the immigration laws, and whether the seizure was made by CBP or ICE.

Accordingly, 8 CFR part 274 is amended to reference Title 19 administrative seizure and forfeiture processes. This is the only significant difference between the provisions and DHS through this interim rule adopts the procedure that provides greater flexibility and is more favorable to petitioners for remission.

#### Other Changes

The provisions of current 19 CFR 162.21 reference the former U.S. Customs Service and U.S. Customs Officers. The interim rule updates these references to reflect U.S. Customs and Border Protection and CBP Officers as applicable.

Currently, 19 CFR 162.22(d) references retention of vessels or vehicles pending penalty payment and specifically references section 460 of the Tariff Act of 1930, as amended (19