This final rule also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, and Executive Orders 12372 and 12988.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0122.

Accordingly, the interim rule amending 7 CFR part 301 that was published at 62 FR 10412–10419 on March 7, 1997, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.51–2, paragraph (a) is revised to read as follows:

§ 301.51–2 Regulated articles.

* * * * *

(a) Firewood (all hardwood species), and green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, stumps, roots, branches, and debris of half an inch or more in diameter of the following genera: *Acer* (maple), *Aesculus* (horse chestnut), *Betula* (birch), *Hibiscus syriacus L.* (Rose of Sharon), *Malus* (apple), *Melia* (chinaberry), *Morus* (mulberry), *Populus* (poplar), *Prunus* (cherry), *Pyrus* (pear), *Robinia* (locust), *Salix* (willow), *Ulmus* (elm), and *Citrus.*

* * * * *

Done in Washington, DC, this 6th day of November 1997.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–29869 Filed 11–12–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV97–989–3 IFR]

Raisins Produced From Grapes Grown In California; Modifications to the Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule modifies the raisin diversion program (RDP) currently authorized under the Federal marketing order for California raisins. The marketing order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). Under the raisin diversion program, producers are issued certificates representing reserve raisins for voluntarily reducing their raisin production in order to bring raisin supplies more closely in line with market needs. Producers may then sell these certificates to handlers, who, in turn, can redeem the certificates for reserve raisins. This rule makes various modifications to the diversion program to improve compliance and bring the program in line with current industry practices. Improving compliance with the RDP will help ensure equity among all producers who participate in the program, and help maintain the integrity of the RDP.

DATES: Effective November 14, 1997; comments received by January 12, 1998 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 in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. 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.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 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, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, 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, Fax: (202) 205–6632.

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

This rule modifies the raisin diversion program currently authorized under the Federal marketing order for California raisins. Under the RDP, producers are issued certificates representing reserve raisins for voluntarily reducing their raisin production in order to bring raisin supplies more closely in line with

market needs. Producers may then sell these certificates to handlers, who, in turn, can redeem the certificates for reserve raisins. This rule makes various modifications to the RDP to improve compliance and bring the RDP in line with current industry practices. Improving compliance with the RDP will help ensure equity among all producers who participate in the program, and help maintain the integrity of the RDP.

The Federal marketing order for California raisins provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage of the crop must be held by handlers in a reserve pool (or reserve) for the account of the Committee. Reserve pool raisins are disposed through certain programs authorized under the order. For example, reserve raisins may be sold by the Committee to handlers for sale to any market; exported to authorized countries; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. The RDP is another program concerning reserve pool raisins authorized under the order, and may be used as a means for controlling overproduction. The RDP is described in the following paragraphs.

Pursuant to § 989.56 of the order, the Committee meets by November 30 of each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the Committee determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the Committee. Such producers then curtail their production by vine removal or some other means established by the Committee and receive a certificate from the Committee which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the Committee and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The Committee then gives the handler raisins from the reserve pool in an amount equal to the tonnage represented by the diversion certificate.

Section 989.156 of the order's administrative rules and regulations prescribes additional procedures for the RDP. At a meeting on August 14, 1997, the Committee unanimously recommended that various changes be made to these additional RDP procedures to improve compliance and bring the RDP in line with current industry practices.

The first change to the RDP recommended by the Committee concerns references throughout § 989.156 to partial production units. Such references are contained in paragraphs (d), (h)(2), (h)(3), (i), (s)(1), and (s)(3) of § 989.156. As defined in § 989.156(o), a production unit is a clearly defined geographic area with permanent boundaries (either natural or man-made). For example, a production unit could be 30 acres of raisins surrounded by a permanent road on two sides and permanent fencing on the other two sides.

Partial production units have been allowed under the RDP in past years. For instance, in the 30-acre production unit example, three rows of vines from that unit could qualify as a partial production unit under the RDP. Under § 989.156(s)(3) of the order's administrative rules and regulations, the determination of the tonnage allowed for acreage removed for such a partial unit would be computed by multiplying the previous year's tonnage produced and verified on the entire unit by the ratio of the acreage removed divided by the acreage contained in the total production unit. However, the Committee is concerned that some producers may be removing weak vines in a production unit and getting credit under the RDP for an inflated amount of tonnage. In the 30-acre example, a producer could have an average past production of 2.2 tons of raisins on the entire unit, remove three rows of low-producing vines that averaged only 1.5 tons of raisins per acre, and get credit in the RDP for 2.2 tons of raisins per acre. Although § 989.56(a) of the order specifies a cap of 2.75 tons of raisins per acre for an approved production unit (which can be changed through informal rulemaking), the Committee is still concerned that actual production on a partial unit could be inflated.

Thus, the Committee recommended that partial production units no longer be accepted as part of the RDP. This change will help ensure that producers who participate in an RDP do not receive credit for an inflated amount of tonnage and gain a financial advantage over other producers. This change will help ensure equity among all producers who participate in the program, and help maintain the integrity of the RDP.

In addition, the Committee believes that this change will improve the accuracy of the amount of tonnage accepted into the RDP. When an RDP is established, a quantity of raisins equivalent to the amount diverted would be made available in the subsequent crop year from the prior year's reserve. This RDP diverted tonnage from the reserve is included in the Committee's marketing policy computations for that year and subject to free and reserve percentages. Thus, it is important for the Committee to have as accurate a figure as possible for RDP tonnage. The Committee believes that not allowing partial production units into the RDP will improve the accuracy of this figure. Appropriate changes have been made to the applicable paragraphs to implement this recommended change.

According to Committee staff, most of the RDP applications over the years have been for full production units. The partial unit authority has typically been used by a producer desiring to receive credit under the RDP for a few weak rows of vines, which usually amounts to less than an acre. Thus, this change is not expected to adversely impact RDP participants.

The second change recommended by the Committee concerns paragraph (g) of § 989.156 regarding procedures to verify whether producers under the RDP are curtailing their production. This section currently specifies that committees of industry persons may be established to serve as agents of the Committee in assuring producer compliance with the RDP. These groups of industry persons may be furnished approved RDP applications and are to advise the Committee on the progress of the diversion within a particular district.

Such industry committees have been utilized during only one season since the inception of the RDP in 1985. Committee staff has assumed the functions of monitoring producer diversion and assuring program compliance. Thus, the Committee recommended that reference to these RDP industry committees be removed from § 989.156(g) of the order's administrative rules and regulations.

This change will bring RDP procedures in line with current industry practices.

A third change to the RDP recommended by the Committee concerns paragraph (h) of § 989.156 regarding compliance. Paragraph (h)(1) of § 989.156 currently specifies that an approved applicant must remove or spur-prune vines to preclude grapes from being produced and harvested on the production unit involved in the program: *Provided,* That vine removal may be the only acceptable means of diversion in some seasons as determined by the Committee. If the Committee representatives or agents determine that there is an average of more than four bunches per vine remaining on a properly spur-pruned production unit, the producer must be notified in writing and given 2 weeks to remove such bunches.

The Committee recommended that this section be modified to remove the impression that spur-pruning is the only acceptable method of diverting the crop, other than removing the vines altogether. Other methods such as spraying with certain substances should also be allowed. Producers should be allowed to remove and destroy the bunches of grapes by whatever method they choose in order to receive a diversion certificate. The Committee also recommended that the word ''acceptable'' in the first sentence in § 989.156(h)(1) be removed because it is not necessary. In addition, the Committee recommended that the section be modified to strengthen the requirement regarding producer notification of noncompliance with the RDP. Specifically, Committee staff must notify producers ''immediately by certified mail,'' in writing, and give producers 2 weeks to remove extra bunches. The Committee believes that this added language will strengthen producer compliance with the RDP.

The Committee also recommended that paragraph (h)(3) of § 989.156 concerning failure to divert be revised to specify that any producer who has more than one production unit and fails to divert on an approved production unit may be denied the opportunity to participate in the next RDP on all of that producer's production units. The current provisions specify that the producer should be denied participation, and not the specific production unit. However, the provisions have been interpreted so that producers only have been denied the opportunity to participate in the next RDP on the unit that was not properly diverted, not all of that producer's units. The clarification will eliminate the confusion and is expected to provide producers more incentive to remain in compliance with the RDP because the clarified provisions specify that the failure to comply could mean denial to participate on any of that producer's production units in the next RDP. Thus, this provision is expected to strengthen producer compliance with the RDP which will help ensure that the integrity of the program is maintained.

The fourth change to the RDP recommended by the Committee concerns paragraph (o) of § 989.156. This section defines a production unit. As previously mentioned, a production unit is a clearly defined geographic area with permanent boundaries (either natural or man-made). Under the RDP, producers must be able to document to the Committee the previous year's production data for that specific area by means of sales receipts or other delivery or transfer documents which indicate the creditable fruit weight delivered to handlers from that specific area. Additional criteria are specified for new production units and existing units that may have been transferred to another producer.

The Committee believes that additional information may be necessary in some cases to verify the appropriate production figure to apply to a production unit. There have been concerns that some producers have inflated their production units under past RDP's by reporting statistics showing higher than actual raisin production. For example, since diversion certificate tonnage is based on the tons of raisins delivered per acre during the prior year, producers could inflate their tonnage by acquiring raisins from another source and adding them to deliveries from their production units, thereby receiving credit for a greater amount of raisins than actually produced on the acreage. By inflating yield figures, producers could receive diversion certificates equal to more raisins from the reserve pool than they actually would have produced from those production units.

Thus, the Committee recommended that authority be added to paragraph (o) of § 989.156 authorizing Committee staff to request additional documentation to substantiate the tonnage of raisins produced on any known production unit. This documentation may include information such as tray count, employee payroll records, prior years' production for all production units, and insurance records. This information is maintained by producers in the normal course of business. Such information for approved production units, in addition to producers' other known production units, will give Committee staff another tool to ensure producer compliance with the RDP so that the integrity of the program is maintained.

This rule also makes minor changes to remove obsolete language in paragraph (s)(1) in § 989.156. That paragraph makes two references to provisions particular to the 1985 calendar year which marked the inception of the RDP. Certain parameters regarding dates particular to 1985 were incorporated into the order's administrative rules and regulations that are no longer necessary. Thus, this rule removes those two references.

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 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 8 handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 8 handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule modifies the RDP currently authorized under § 989.56 of the Federal marketing order for California raisins. Under the RDP, the Committee issues diversion certificates to producers who have removed grapes in accordance with § 989.156 to reduce raisin production and bring raisin supplies more closely in line with market needs. Such certificates represent an amount of reserve tonnage raisins equal to the amount of raisins diverted. Diversion certificates may be submitted by producers only to handlers. Any handler holding diversion certificates

may redeem such certificates for reserve pool raisins from the Committee. This rule makes various modifications to § 989.156 of the order's administrative rules and regulations concerning the RDP. The changes include: Removing authority for the diversion of partial production units in an RDP; removing authority for committees of industry persons to assist the Committee in compliance efforts; clarifying that spur-pruning is not the only acceptable method of aborting a crop; and making other changes to strengthen compliance with the RDP. These changes will help improve compliance with the RDP and bring the program in line with current industry practices.

Regarding the impact of this rule on affected entities, the changes are designed to either improve compliance with the RDP, or are administrative in nature to bring the RDP in line with current industry practices. None of the changes concerning compliance are expected to increase the cost of administering the RDP. Also, because most of the producer applications over the years have been for full production units, rather than for partial production units, discontinuance of partial production units as part of the RDP is not expected to increase appreciably costs to producers. Moreover, the addition of other methods of diversion, like chemical application, should have a positive affect. The changes are intended to ensure equity among all those participating in the RDP and to maintain the integrity of the program. Thus, the changes are expected to be equally beneficial to all affected entities who are adhering to the requirements of the program, regardless of size.

Other alternatives to the RDP procedures were considered by the raisin industry prior to the Committee's recommendation. The Committee has an appointed Amendment Subcommittee and Working Group which have held several public meetings throughout the year to consider changes to the RDP and other order provisions. One alternative considered was to leave the RDP procedures unchanged. However, the Committee concluded that the changes established by this rule were necessary to improve the RDP and better accomplish program objectives. The Working Group also considered adding to the rules and regulations a scale that would correlate production ranges with an appropriate production cap for each range, to help ensure that participating producers did not receive credit for an inflated amount of tonnage and gain a financial advantage over other participants. Another related option concerned modifying the rules and regulations to specify that the production cap should be based on a 5-year rolling average of production per acre with a maximum of 2.75 tons per acre. However, Committee staff indicated that data concerning total industry production on a per acre basis was not available, and the Working Group decided not to recommend these changes.

The Working Group also considered adding guidelines to the RDP procedures for hardship cases where producers have been denied participation in an RDP. For example, there have been cases in past seasons where producers have submitted an application to participate in an RDP, curtailed production, and then been denied a certificate from Committee staff because such producers did not satisfy the terms of the RDP (*i.e.,* could not document their previous year's production). Under the current rules and regulations, such producers have the option of appealing such a decision to the Committee and ultimately the Department. After some deliberation, the Working Group decided not to change this appeal process by trying to specify various ''what if'' scenarios in the rules and regulations. The group believed it was best to address each such situation on a case-by-case basis. Ultimately, the full Committee concluded that the changes to the RDP previously discussed were appropriate at this time.

Regarding any additional reporting or recordkeeping requirements, this rule allows Committee staff to request additional information from producers participating in an RDP to verify production. However, such information will only be requested on a case-by-case basis for use as a compliance tool when the information submitted on a producer's application concerning a unit's production is significantly greater than past production on the unit, production on neighboring units, or the industry norm, or when Committee staff is unable to verify production based on submitted documentation. For instance, if a producer had multiple production units of similar size, and the production on the unit to be diverted was significantly different than the others, the Committee wants its staff to be authorized to request additional information such as that mentioned to verify the accuracy of the producer application. Additional information may be needed in cases where the production on a unit to be diverted is significantly different from that of neighboring production units. As a third example, if information obtained from weigh tags and other delivery documents provided to the Committee did not correspond to the production figure indicated on the producer's application, Committee staff may request additional information.

This rule will not require new forms and the number of producers for which additional information may be requested is expected to be small. According to the Committee staff, only about 5–10 percent of producer applications raise questions for which additional information may be needed. During the industry's last diversion program in 1996 which provided for only vine removal (as opposed to allowing spur pruning), 66 producers participated. In 1995's program, which provided for spur pruning and vine removal, 778 producers participated. The Department plans to monitor producer reporting under this rule during the first season an RDP is implemented.

Using the 778 participation figure and the 10 percent figure for questionable applications, a total of 78 producer applicants might need to provide additional information. The Committee staff estimated that it will take each of these participants about 10 minutes to compile, package, and submit this information. Thus, the time taken by the 78 participants as a group will total about 13 hours, and this time is currently approved under OMB No. 0581–0178 by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

This rule does not impose a reporting burden above that currently approved for small and large raisin producers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the raisin industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 14, 1997, meeting was a public meeting 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. As previously mentioned, the Committee's Amendment Working Group met throughout the year at public meetings

to discuss various changes to the raisin order, including the recommended changes to the RDP. The Working Group made its recommendations concerning revisions to the RDP to the Amendment Subcommittee on August 7, 1997. The Amendment Subcommittee in turn made its recommendations to the full Committee on August 14, 1997. All of these meetings were public meetings and both large and small entities were able to participate and express their views. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

As stated earlier and in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0178.

After consideration of all relevant material presented, including the Committee'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.

This rule also invites comments on modifications to the diversion program authorized under the California raisin order. Any comments received will be considered prior to finalization of this rule.

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 Committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; (2) the order specifies that the Committee must meet by November 30 of each crop year to review pertinent data and decide whether a diversion program should be implemented; the Committee plans to meet on November 13 to review this issue and this rule should be in place prior to implementation of any diversion program; and (3) this rule provides a 60-day comment period and any comments 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 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 § 989.156, paragraph (s)(3) is removed, and the first sentence of paragraph (d), and paragraphs (g),(h), (i), (o), and (s)(1) are revised to read as follows:

§ 989.156 Raisin diversion program.

* * * * *

(d) *Priority of applications and allocations of tonnage.* Those producer applications indicating that the vines of the producing units will be removed shall receive first priority over other applicants when reserve tonnage under the program is to be allocated. * * *

* * * * *

(g) *Verification.* Any applicant whose application has been approved, authorizes Committee representatives and agents to have access to the production unit in the diversion program during reasonable business hours during the crop year to confirm compliance with the program. Notice will be provided to the applicant of such visits.

(h) *Compliance.* (1) *Methods of diversion.* An approved applicant shall be required to remove the vines, spur-prune the vines, remove the bunches or take other means to preclude grapes from being produced and harvested on the production unit: *Provided,* That vine removal may be the only means of diversion in some seasons as determined and announced by the Committee. Bunches which occur on vines in an approved production unit shall be removed and destroyed by the applicant before maturity. If the Committee representatives or agents determine that there is an average of more than four bunches per vine remaining on an approved production unit, the producer shall be notified immediately by certified mail, in writing, and given 2 weeks to remove such bunches. Grafting vines of one varietal type to another varietal type does not constitute removal of vines under the program.

(2) *Period of diversion.* An approved applicant must remove the grapes, or vines, indicated on the application within the production unit designated in the application not later than June 1 of the crop year in which a raisin diversion program is implemented. Producers who remove the vines on a production unit after August 15 may qualify for a diversion program for that crop year if a diversion program is announced and if diversion on that unit and vine removal after August 15 can be documented and verified.

(3) *Failure to divert.* Any raisin producer who does not take the necessary measures to remove the grapes on an approved production unit by June 1, or any raisin producer who has indicated the removal of vines or the intent to remove the vines and who does not remove such vines on an approved production unit by June 1, shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of this section, may be subject to an injunctive action under the Act, and may be denied the opportunity to participate in the next diversion program, when implemented: *Provided,* That any producer who has more than one production unit and fails to divert on an approved production unit may be denied the opportunity to participate on all of that producer's production units, in the next diversion program. For spur-pruned vines, this date may be extended 2 weeks from the date of the inspection of a producer's vineyard if more than four bunches on spur-pruned vines are present at the time of inspection.

(i) *Issuance of certificates.* When preliminary percentages are announced, the Committee shall issue diversion certificates to those approved applicants who have removed grapes in accordance with this section. Such certificates shall represent an amount of reserve tonnage raisins equal to the amount of raisins diverted from the production unit(s) specified in the producer application, or additional quantity granted by the Committee when vines are diverted through vine removal or any other means established by the Committee, as the case may be. If, prior to issuance of a certificate, the Committee is notified by an approved applicant that such applicant's interest in the production unit(s) involved in the program has been transferred to another person, the Committee may substitute the transferee for the applicant provided the transferee agrees to comply with the provisions of this section.

* * * * *

(o) *Production unit.* For the purposes of the raisin diversion program, a

production unit is a clearly defined geographic area with permanent boundaries (either natural or man-made). A producer must be able to document to the Committee the previous year's production data for that specific area by means of sales receipts or other delivery or transfer documents which indicate the creditable fruit weight delivered to handlers from that specific area. If the information submitted by producers on the application concerning a unit's production is significantly greater than past production on the unit, production on neighboring units, or the industry norm, or the production is unable to be verified based on submitted documentation, the Committee may request additional documentation such as tray count, payroll records, prior years' production, and insurance records to substantiate the tonnage of raisins produced on all production units that such applicant controls or owns. Producers' would not be precluded from submitting other information substantiating production if those producers' desired. A new production unit will not be eligible for the raisin diversion program until at least 1 year's production has been grown and is documented. An existing production unit, transferred to a new or expanding producer, is eligible for the raisin diversion program as soon as the previous year's production can be properly documented.

* * * * *

(s) *Additional opportunity for vine removal.* (1) The Committee may announce a date later than that provided in § 989.156(b), by which producers, who agree to remove the vines on a production unit may file an application to participate in a raisin diversion program. The announced date shall be not later than May 1. The diversion certificates will be issued only for the production units from which vines are removed. The total tonnage available to such applicants shall not exceed the tonnage determined by deducting the tonnage approved for applications received on or before December 20 from the total tonnage announced as eligible by the Committee for diversion. Applications shall be considered and approved on a first-come, first-served, basis and shall not be given preference over the tonnage approved for applications received on or before December 20. The vines shall be removed from the production units for which such applications are approved not later than June 1.

* * * * *

Dated: November 7, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–29971 Filed 11–12–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1845–97]

RIN 1115–AE77

Prima Facie Review of Form I–360 When Filed by Self-Petitioning Battered Spouse/Child

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interm rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations to enable the Service to review Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant, filed by a battered spouse or child, to determine whether a prima facie case has been established. Recent legislation broadened the definition of aliens who qualify for public assistance to include battered aliens, and specifically those aliens whose self-petitions have been approved and those who file a self-petition which establishes a prima facie case for immigrant classification under the Violence Against Women Act.

DATES: *Effective Date:* This interim rule is effective November 13, 1997.

Comment Date: Written comments must be submitted on or before January 12, 1998.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference the INS number 1845–97 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3291 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Karen FitzGerald, Staff Officer, Residence and Status Branch, Immigration and Naturalization Service, 425 I Street, Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

The Immigration and Nationality Act (the Act) allows a citizen or lawful permanent resident (LPR) of the United States to seek immigrant status for certain alien relatives from the Service. In order to receive this benefit, a visa petition must be filed on behalf of the alien relative and approved by the Service. The alien must then qualify for immigrant visa issuance abroad or adjustment of status in the United States.

Historically, the initiation of the visa petition process was solely at the discretion of the U.S. citizen or LPR relative. For that reason, the citizen or LPR effectively controlled the ability of an alien spouse or child to regularize his or her immigration status. Congress, in the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill), Public Law 103–322, dated September 13, 1994, recognized the potential for misuse of this discretion within households where domestic violence occurs. Title IV of the Crime Bill, the Violence Against Women Act (VAWA), contains provisions which enable these battered spouses and children to self-petition for immigrant classification, thus limiting the ability of an abusive citizen or LPR to use the immigration laws to perpetuate further violence against a spouse or child residing in the United States.

Interim Rule

On March 26, 1996, the Service published an interim rule at 61 FR 13061, establishing the eligibility requirements for battered spouses and children using the self-petitioning process. The Service received numerous comments which are under consideration as the final rule is prepared for publication. This rule does not in any way alter the eligibility or evidentiary requirements set forth in that interim rule.

Impact of New Legislation

Since the Service published its interim rule, Congress has enacted new legislation that affects the ability of most aliens to receive public assistance. In the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Congress mandated that only ''qualified aliens,'' as defined by statute, were eligible for public assistance. Section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), amended the definition of ''qualified alien'' to include battered aliens, including certain aliens who file or have