

any free tonnage raisins without having had such raisins inspected as provided in paragraph (d) of this section. The transferring handler shall transmit promptly to the committee a report of such transfer, except that transfers between plants owned or operated by the same handler need not be reported. Before shipping or otherwise making final disposition of such raisins, the receiving handler shall comply with the requirements of this section.

(f) *Disposition of offgrade raisins, other failing raisins, and raisin residual material in eligible nonnormal outlets.* Any offgrade raisins, except those returned unstemmed to the tenderer or successfully reconditioned, and any raisin residual material which may be received or acquired by a handler or accumulated by a handler from reconditioning raisins or from processing standard raisins and other failing raisins, shall be disposed of or marketed by the handler, without further inspection, in eligible nonnormal outlets: *Provided*, That no packer shall be precluded from recovering raisins from such accumulations or acquisitions: *Provided further*, That whenever the Secretary concludes, on the basis of a recommendation of the committee, that to specify one or more nonnormal outlets as ineligible for any class of such receipts, acquisitions, or accumulations will tend to effectuate the declared policy of the act, he shall specify such ineligible outlets and prohibit the shipment thereto or final disposition therein of such class by handlers as well as the receipt and use thereof by processors: *And provided further*, That no processor who is a distiller shall be precluded from receiving or using for distillation (1) the standard raisins which subsequently fail to meet the said applicable standards, (2) the raisin residual material accumulated from processing standard raisins, or (3) the raisin residual material referable to the standard raisin equivalent recovered in reconditioning; and any handler may ship such raisins and raisin residual material to such processor. The Committee shall establish, with the approval of the Secretary, such rules and procedures as may be necessary to insure adequate control over the off-grade raisins, other failing

raisins, and raisin residual material subject to this paragraph. Such rules may include a requirement that the disposition and use of all or any class of off-grade raisins, other failing raisins, or raisin residual material be confined to the area. The provisions of this paragraph are not intended to excuse any failure to comply with all applicable food and sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction.

(g) *Exemption of experimental and specialty packs.* The committee may establish, with the approval of the Secretary, rules and procedures providing for the exemption of raisins in experimental and specialty packs from one or more of the requirements of the minimum grade standards of this section, together with the inspection and certification requirements if applicable.

[25 FR 12813, Dec. 14, 1960, as amended at 32 FR 12161, Aug. 24, 1967; 37 FR 19622, Sept. 21, 1972; 42 FR 37202, July 20, 1977]

§ 989.60 Exemption.

(a) Notwithstanding any other provisions of this amended subpart, the committee may establish, with the approval of the Secretary, such rules and procedures as may be necessary to permit the acquisition and disposition of any off-grade or reserve pool raisins, free from any or all regulations, for uses in non-normal outlets.

(b) The committee may establish, with the approval of the Secretary, such rules and procedures as may be necessary to exempt from any or all regulations raisins produced in southern California (i.e., the counties of Riverside, Imperial, San Bernardino, Ventura, Orange, Los Angeles, and San Diego) and disposed of for distillation, livestock feed, or by export in natural condition to Mexico.

(c) The committee may designate such raisins as it deems appropriate for production, processing, and marketing research and development. The period of such designation shall be for not more than five years unless extended by the committee. The volume which may be acquired by all handlers shall not exceed 500 natural condition tons annually for each designated project, unless increased by the Secretary upon a recommendation of the committee.

Agricultural Marketing Service, USDA

§ 989.66

Such designated raisins may be acquired and disposed of free from those regulations specified by the committee. In any crop year, when the total industry acquisitions of the designated raisins exceed 500 natural condition tons or a larger quantity approved by the Secretary upon a recommendation of the committee, the exemption shall not apply.

[29 FR 9484, July 11, 1964, as amended at 32 FR 18086, Dec. 19, 1967; 37 FR 19623, Sept. 21, 1972; 42 FR 37202, July 20, 1977]

§ 989.61 Above parity situations.

The provisions of this part relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions pertaining to the administration and enforcement of the order, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2(1) of the act.

[42 FR 37202, July 20, 1977]

TRADE PRACTICES

§ 989.62 Authorization for prohibition of trade practices.

Whenever the Secretary finds, upon recommendation of the committee or other information, that continuance of certain practices in trade channels would tend to interfere with the achieving of the objectives of this part, he may prohibit handlers from using such practices, for any crop year or portion thereof, in selling raisins in containers exceeding four pounds net weight. The prohibited practices may include:

(a) Any provision within or added to a sales contract, or action or agreement outside such contract, whereby the handler is obligated to reflect declines in market prices of raisins by charging the buyer a subsequent market price in lieu of the sales price specified in the contract.

(b) Any agreement in an undertaking to hold raisins in reserve for possible future delivery to a buyer, or action or agreement outside such undertaking, whereby the handler is obligated to not reflect increases in market prices by

charging the buyer a price specified in the agreement.

Prior to any such practices being prohibited in any crop year, the committee shall recommend, for the approval of the Secretary, such rules and procedures and such record keeping requirements as are necessary to administer these prohibitions and obtain compliance therewith.

VOLUME REGULATION

§ 989.65 Free and reserve tonnage.

The standard raisins acquired by handlers which are free tonnage, and any reserve tonnage purchased for free use, may be disposed of by him in any marketing channel, subject to the applicable provisions of this part. A handler's free tonnage of a varietal type of raisin shall be either the free percentage of the standard raisins of the varietal type acquired by him or all of the standard raisins of the varietal type acquired by him if no free percentage is established by the Committee or designated by the Secretary for that varietal type. A handler's reserve tonnage of a varietal type shall be the reserve percentage of the standard raisins of that varietal type acquired by him.

[48 FR 32977, July 20, 1983]

§ 989.66 Reserve tonnage generally.

(a) The standard raisins acquired by a handler which are designated as reserve tonnage and reserve tonnage transferred to a handler by the committee shall be held by him for the account of the committee and subject to the applicable restrictions of this part.

(b)(1) Each handler shall hold in storage all reserve tonnage acquired by him and all reserve tonnage transferred to him by the committee until he has been relieved of such responsibility by the committee either by delivery to the committee or otherwise. Such handler shall store such reserve tonnage raisins in natural condition without addition of moisture and in such manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for loss through fire, acts of God or other conditions beyond the handler's control.