207,638 tons of free tonnage raisins acquired by handlers from producers through the week ending June 19, 2004, plus 129,345 tons of 2002-03 carryin NS and Oleate inventory, equates to 398,009 tons of natural condition raisins, or 373,117 tons of packed raisins, that are available to handlers for free use or primary markets. This is almost 130 percent of the quantity of NS raisins shipped during the 2002-03 crop year (305,133 natural condition tons or 286,260 packed tons). (Oleates were included in this computation because, as previously stated, Oleates were combined with the NS varietal type beginning with the 2003–04 crop year.)

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, inadequate carryover, or if free tonnage shipments in the current crop year exceed shipments of 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.

The Committee plans to offer 5,714 tons of 2002-03 NS reserve raisins for sale to handlers for free use pursuant to § 989.67(j). Free tonnage deliveries as of June 19, 2004, were 207,638 tons, which is 3,855 tons below the 211,493-ton trade demand. Offering 3,855 tons of reserve raisins for sale to handlers for free use would allow the industry to make available the full 211,493-ton trade demand. Free tonnage shipments from August 2003 through May 2004 are 1,859 tons greater than free tonnage shipments during the same period last year. Adding the 1,859 tons to the 3,855 tons equates to a total of 5,714 tons of reserve being offered to handlers for free use under § 989.67(j) of the order.

Final Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms 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 \$750,000. 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. No more than 7 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 control mechanism is used to stabilize supplies and prices and strengthen market conditions.

Pursuant to § 989.54(d) of the order, this rule continues in effect final volume regulation percentages for 2003–04 crop NS raisins. The volume regulation percentages are 70 percent free and 30 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 for NS raisins because acquisitions of 296,625 tons through the week ending June 19, 2004, combined with the carryin inventory of 129,345 tons, results in a total available supply of 425,970 tons, which is about 200 percent higher than the 211,493-ton trade demand. (Oleate inventory was included in this computation because, as previously stated, Oleates were combined with the NS varietal type beginning with the 2003–04 crop year.)

The current 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 current 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, over 60 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 raisinvariety 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 from 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, or about 42 percent. 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 in 1996-97, or 16 percent. Total producer prices for the 1998-99 and 1999-2000 seasons increased significantly due to back-toback short crops during those years. Producer prices dropped dramatically for the last three seasons due to record-