

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 989

[Docket No. FV02-989-5 IFR]

#### Raisins Produced From Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program

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

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

**SUMMARY:** This rule allows producers an additional opportunity to participate in the 2002 raisin diversion program (RDP). The RDP is authorized under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action is intended to help reduce the burdensome oversupply affecting the California raisin industry.

**DATES:** Effective June 25, 2002. Comments received by July 9, 2002, 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 E-mail:

*moab.docketclerk@usda.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.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 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*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The 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. 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 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.

A 2002 RDP for Natural (sun-dried) Seedless (NS) raisins was established in November 2001. A total of 54,086 tons of 2001 crop reserve raisins was allocated to the program. This rule allows producers an additional opportunity to participate in the 2002 RDP. An additional 25,000 tons of 2001 crop reserve raisins has been allocated to the RDP. The additional program is applicable to producers who agree to remove vines from production, and is intended to help the industry reduce its burdensome oversupply. The action was recommended by the RAC at a meeting on May 30, 2002, by a vote of 45 in favor, 1 opposed (member opposed because the program did not provide for a moratorium on replanting), and 1 abstained.

#### Volume Regulation Provisions

The order 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 California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; 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. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

#### Raisin Diversion Program

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction.

Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of a RDP. Accordingly, additional procedures are specified in § 989.156.

Pursuant to these sections, the RAC must meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the RAC 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 RAC. The RAC conducts a lottery if the tonnage applied for exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC 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 RAC by December 15 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 RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

**Initial 2002 NS Diversion Program**

On November 28, 2001, the RAC met and reviewed data relating to the quantity of reserve raisins and anticipated market needs. With a 2001-02 NS crop estimated at 359,341 tons, and a computed trade demand (comparable to market needs) of 235,850 tons, the RAC projected a reserve pool of 123,491 tons of NS raisins. With such a large anticipated reserve, the RAC announced that 45,182 tons of NS raisins would be eligible for diversion under the initial 2002 RDP. The RAC increased this amount to 54,086 tons at a meeting on January 11, 2002.

Of the 54,086 tons, 49,086 tons were made available to approved producers who submitted applications to the RAC by December 20, 2001, with producers who planned to remove vines receiving priority over those who planned to

curtail (abort) production through spur pruning or other means. Section 989.156(d) requires the RAC to give priority to applicants who agree to remove vines. Another 5,000 tons were made available to approved producers who submitted applications to the RAC from December 21, 2001, through May 1, 2002, and planned to remove vines. Authority for this additional opportunity for vine removal is provided in § 989.156(s).

Harvest costs for the initial RDP were announced by the RAC at \$340 per ton, and a production cap of 2.0 tons per acre was established for the program. The production cap limits the yield per acre that a producer can claim. The 2.0-ton per acre production cap was established in an interim final rule that was published in the **Federal Register** on March 15, 2002 (67 FR 11555). A final rule was published on May 14, 2002 (67 FR 34383).

Under the initial RDP, the RAC received applications from producers accounting for 40,788 tons of raisins that would be removed from production by spur pruning vines, and 7,704 tons of raisins that would be removed from production by removing vines. Using the production cap of 2.0 tons per acre, about 3,850 acres should be removed from production through vine removal (7,704 tons divided by 2.0 acres per ton.) The following is a summary of the tonnage allocated and participation in the initial 2002 RDP:

INITIAL 2002 RDP

	Allotted tonnage	Applications from producers
Dec. 20 deadline .....	49,086 tons (vine removal and spur prune, with priority for vine removal).	40,788 tons (spur prune), 6,896 tons (vine removal)
May 1 deadline .....	5,000 tons (vine removal only) .....	808 tons (vine removal)
Total .....	54,086 tons .....	40,788 tons (spur prune), 7,704 tons (vine removal)

**RAC Recommendation**

The RAC met on May 30, 2002, and recommended adding an additional opportunity for producers to participate in the 2002 NS RDP in view of the oversupply situation affecting the California raisin industry. Specifically, the RAC allocated an additional 25,000 tons of 2001 NS reserve raisins to the program. The additional program applies to producers who agree to remove vines, and includes a bonus for participating producers. Producers will receive a diversion certificate from the RAC equal to 1.5 times the creditable fruit weight of the raisins produced on the production unit (up to a maximum of 3 tons per acre). For example, if an

applicant's verified production is 1.7 tons per acre, the applicant will receive credit for 2.55 tons per acre (1.7 tons times 1.5). If an applicant's verified production is 2.5 tons per acre, the applicant will receive credit for 3.0 tons per acre (2.0 tons times 1.5). Authority for the RAC to issue diversion certificates in an amount greater than the creditable fruit weight produced on the production unit is provided in § 989.56(c) of the order. The bonus is intended to encourage participation in the program.

The additional opportunity to participate in the 2002 RDP is available to producers who did not participate in the initial 2002 program ("new

participants"), and to approved participants in the initial 2002 RDP who curtailed their production by spur pruning their vines ("early season spur pruners"). Producers who wish to participate in the program must file an application with the RAC by July 8, 2002. Priority will be given to new participants. If the production applied for exceeds the 25,000 tons added to the program, a lottery will be held to allocate the tonnage among the applicants, pursuant to applicable procedures specified in § 989.156(d).

Harvest costs for the additional opportunity program for "early season spur pruners" will remain at \$340 per ton, while harvest costs for new

participants will be \$100 per ton. Because harvest costs are deducted from the payment producers receive from handlers for their diversion certificates, a reduction in harvest costs results in a larger payment to producers for the certificates. The reduction in harvest costs for new participants and resulting increased payment is intended to take into account the cultural costs incurred by such producers thus far in producing a 2002 crop.

Under the additional opportunity program, vines must either be removed, or chain sawed at the base by July 31, 2002. RAC staff will verify that the vines have been removed or adequately chain sawed. RAC staff will re-inspect vines that have been chain sawed to ensure that the remainder of the vine is removed at a later date.

Accordingly, a new paragraph (u) is added to § 989.156 that specifies the provisions of the additional opportunity program with applicable time frames. In addition, necessary conforming changes have been made to paragraphs (a), (q), and (s) of § 989.156.

#### 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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$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.

This rule revises § 989.156 of the order's rules and regulations regarding the RDP. Under a RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. A 2002 RDP for NS raisins was established in November 2001, and 54,086 tons of 2001 crop reserve raisins were allocated to the program. This rule allows producers an additional opportunity to participate in the 2002 RDP in view of the oversupply situation affecting the California raisin industry. An additional 25,000 tons of 2001 crop reserve raisins has been allocated to the RDP. The additional program is applicable to producers who agree to remove vines from production, and is intended to help the industry reduce its burdensome oversupply. Authority for this action is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, the additional opportunity program is intended to help the industry as a whole reduce its burdensome oversupply. The California raisin industry has experienced successive crop years of high production. The 10-year average for deliveries of NS raisins to handlers is 344,303 tons. NS raisin deliveries for the 2000 crop year were 432,616 tons, and deliveries to-date for the 2001 crop year are about 375,000 tons. As previously stated, the initial RDP should remove about 3,850 acres from production. It is estimated that the additional opportunity program could remove another 8,350 acres from production, for a combined total of about 12,200 acres, which would help the industry reduce its oversupply.

Regarding the impact of this action on producers, the program will provide producers with an additional opportunity to earn some income for removing their vineyards from production. Participating producers will receive a bonus for removing their vines. They will receive a diversion certificate from the RAC equal to 1.5 times the creditable fruit weight of the raisins produced on the production unit (up to a maximum of 3 tons per acre). Producers will sell their certificates to handlers this fall and be paid for the free tonnage applicable to the diversion certificate minus the harvest cost for the diverted tonnage. Applicable harvest costs for the additional RDP were announced by the RAC at \$100 per ton for "new participants" (producers who did not participate in the initial 2002

RDP), and \$340 per ton for "early season spur pruners" (approved participants in the initial 2002 RDP who curtailed production by spur pruning their vines).

Regarding the impact on handlers, handlers will redeem certificates for 2001 crop NS raisins and pay the RAC the applicable harvest cost (\$100 per ton for new participants, and \$340 per ton for early season spur pruners) plus payment for bins (\$20 per ton) and for receiving, storing, fumigating, handling (\$46 per ton), and inspecting (\$9.00 per ton). The program will return \$175 per ton for new participant certificates, and \$415 per ton for remaining certificates to the 2001 NS reserve pool. Such income to the reserve pool could be used to pay remaining pool expenses or be distributed to 2001 NS reserve pool equity holders (producers). Thus, all such equity holders could potentially benefit from this action.

Several alternatives to the recommended action were considered by the RAC. There was discussion at the meeting regarding whether the program should include a moratorium on replanting. Some members expressed concern that growers may remove their vines and replant with new systems that produce higher yields, thereby contributing to more oversupply. However, there is no authority for a moratorium on replanting.

There was some discussion at the meeting about the impact of adding an additional 25,000 tons of 2001 crop NS reserve raisins to the 2002 supply. Through the order's mathematical formula for volume regulation, additional 2002 supply will reduce the 2002 free tonnage percentage. This could reduce returns for producers since producers are paid a field price for the free tonnage percentage of their crop. There was some consideration of allowing handlers to redeem a portion of their certificates for 2001 reserve raisins and a portion for 2002 crop reserve raisins. However, the current order only provides authority for handlers to redeem certificates for reserve raisins from the prior crop year.

There was also discussion at the meeting about giving smaller producers some priority in the program. For example, the program could allow 2 days for producers with production units of 80 acres to apply, and then the program could be opened up to other applicants. However, this was not recommended over a program providing the same opportunity to all eligible producers.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork

Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (i.e., the RDP application) has been approved previously by the Office of Management and Budget (OMB) under OMB Control No. 0581-0178. 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. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the RAC's meeting on May 30, 2002, where this action was deliberated was a public meeting widely publicized throughout the raisin industry. All interested persons were invited to attend the meeting and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and information impact 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.

A 15-day comment period is provided to allow interested persons to comment on this rule. Fifteen days is deemed appropriate taking into account producers must submit applications to the RAC by July 8, 2002, to participate in the program.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC 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) This rule needs to be in effect as soon as possible because producers must submit applications to participate in the program to the RAC by July 8, 2002; (2) this rule allows producers an additional opportunity to participate in the 2002 RDP and earn some income for removing their vines; (3) producers are aware of this action

which was recommended by the RAC at a public meeting; and (4) this interim final rule provides a 15-day comment period for written comments 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 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, paragraphs (a)(1), (q)(2), and (s) are revised, and paragraph (u) is added to read as follows:

**§ 989.156 Raisin diversion program.**

(a)(1) *Quantity to be diverted.*

On or before November 30 of each crop year, the Committee shall announce the quantity of raisins eligible for a raisin diversion program. On or before January 15 of each crop year, the Committee may announce an increase in the tonnage eligible for a raisin diversion program: *Provided*, That, for the 2002 Natural (sun-dried) Seedless raisin diversion program, the Committee may announce an increase in the quantity of tonnage eligible for the program later than January 15. \* \* \*

(q) \* \* \*

(2) Each approved applicant shall, with respect to liquidated damages not paid by July 1, pay to the Committee interest on such unpaid liquidated damages at the rate of the prime rate of the bank in which the Committee has its reserve pool funds deposited, on the day the liquidated damages become delinquent, plus 2 percent, and further such rate of interest shall be added to the unpaid amount, monthly, until the liquidated damages plus applicable interest are paid: *Provided*, That for the program specified in paragraph (u) of this section, the applicable date concerning liquidated damages not paid, shall be September 1 instead of July 1 as referenced in this paragraph. \* \* \*

(s) *Additional opportunity for vine removal.* 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.

(1) For the 2002 Natural (sun-dried) Seedless raisin diversion program, additional opportunity for vine removal shall be provided in accordance with paragraph (u) of this section.

(2) For raisin diversion programs applicable to the 2003 and subsequent crop years, the following provisions apply.

(i) 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.

(ii) Producers who agree to remove the vines pursuant to this paragraph shall notify the Committee in advance of the date when such vines will be removed in order to allow a representative of the Committee to observe and verify such vine removal.

\* \* \* \* \*  
(u) *Additional opportunity for producers to participate in the 2002 raisin diversion program.* An additional opportunity for vine removal of 2002 crop Natural (sun-dried) Seedless raisins provided for 25,000 additional tons of raisins in accordance with the following provisions.

(1) The additional opportunity applies to production units on which producers agree to remove vines. The additional opportunity program applies to "new participants" (producers who are not approved participants in the initial 2002 diversion program), and to "early season spur pruners" (approved participants in the initial 2002 diversion program who curtailed production by spur pruning their vines). Grafting vines of one varietal type to another varietal type does not constitute removal under the program.

(2) Priority will be given to "new participants." If the production volume in such applications exceeds 25,000 tons, a lottery will be held to allocate such diversion tonnage among applicants, pursuant to applicable procedures specified in § 989.156(d).

(3) Eligible producers who wish to participate in this program must file an application with the Committee by July 8, 2002, with appropriate documentation as specified in § 989.156(b). The Committee shall notify the applicant, in writing, as to whether or not the application has been approved. Vines must be removed or chain sawed at the base of the vine by July 31, 2002. Committee staff will verify that the vines have been removed or adequately chain sawed. Committee staff will re-inspect vines that have been chain sawed to ensure that the remainder of the vine is removed. Procedures specified §§ 989.156(e), (f), (g), and (i) through (r) are applicable to the additional opportunity program for vine removal of 2002 crop Natural (sun-dried) Seedless raisins.

Dated: June 20, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-15961 Filed 6-20-02; 2:04 pm]

**BILLING CODE 3410-02-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM223; Special Conditions No. 25-205-SC]

#### **Special Conditions: Boeing Model 737-700 IGW Airplane (BBJ, S/N: 32807); Certification of Cooktops**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Boeing Model 737-700 IGW airplane (BBJ serial number 32807). This airplane, as modified by Piedmont Hawthorne—Associated Air Center, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of an electrically heated surface, called a cooktop. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for addressing the potential hazards that may be introduced by cooktops. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to

that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is June 13, 2002. Comments must be received on or before July 24, 2002.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM223, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM223. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Connie Beane, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-2796; facsimile (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so

without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

#### **Background Information**

On October 9, 2001, Piedmont Hawthorne—Associated Air Center, P.O. Box 540728 (8321 Lemmon Ave, Love Field), Dallas, Texas 75234, applied for a Supplemental Type Certificate (STC) to modify a Boeing Model 737-700 IGW airplane (BBJ serial number 32807). The Boeing Model 737-700 IGW airplane is one of the Boeing Business Jet (BBJ) variants of Model 737 airplanes. It is a large transport category airplane powered by two CFM 56 engines, with a maximum takeoff weight of 171,000 pounds. The modified Boeing Model 737-700 IGW airplane (BBJ serial number 32807) operates with a 2-pilot crew, up to 4 flight attendants, and can hold up to 18 passengers.

The modification incorporates the installation of an electrically heated surface, called a cooktop. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. These potential hazards to the airplane and its occupants must be satisfactorily addressed. Since existing airworthiness regulations do not contain safety standards addressing cooktops, special conditions are therefore issued.

#### **Type Certification Basis**

Under the provisions of 14 CFR 21.101, Piedmont Hawthorne—Associated Air Center must show that the Boeing Model 737-700 IGW airplane (BBJ serial number 32807), as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate Data Sheet No. A16WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate Data Sheet No. A16WE are part 25, as amended by Amendments 25-1 through 25-77, with reversion to earlier Amendments, voluntary compliance to later Amendments, special conditions, equivalent safety findings, and exemptions listed in the type certificate data sheet.