

9 POINT JUSTIFICATION

1. What is the purpose of the proposal/amendment?

The purpose of the proposal is to amend the Raisin Marketing Order (Order) to:

- A. Modify the size of the Raisin Administrative Committee (Committee), quorum, and voting requirements as follows:
1. The total number of Committee Member/Alternate seats would be reduced from 47 to 21 seats. The 21 seats would be comprised as follows:
 - Twelve (12) Producer Member seats (reduced from 35), of which one producer seat would be allocated to a Non-Affiliated Producer (*no proprietary or employment affiliation with cooperative marketing associations, cooperative bargaining associations, or any handler*);
 - Eight (8) Handler Members seats (reduced from 10); and
 - One (1) Public Member.
 - The seat representing cooperative bargaining association(s) would be removed.
 - The requirement that members represent designated Districts would be removed.
 - Each Committee Member position would continue to have one Alternate.
 2. The Committee quorum requirement would be reduced to 14 (which is 66.7% of the 21 total seats) from the current 25 (which is just 53.2% of the 47 total seats).
 3. Remove the language in the nomination process that allows nominees the option to choose their preference to serve specifically as a Member or Alternate.
- B. Add language that clarifies that successfully reconditioned fruit that meets the Order's minimum grade requirements shall not be differentiated from other fruit.
- C. Modify the Marketing Policy to remove a factor (§ 989.54(a)(4)) that is no longer relevant after removing volume regulation authority from the Order. Further, remove the words "considering the estimated world raisin supply and demand situation" from § 989.54(a)(5), as the source of the information is no longer readily available.

2. What problem is the proposal designed to address? Explain/quantify.

- A. The Committee is one of the oldest Federal marketing orders, having been established in 1949. The Committee's current membership is the largest of all Federal marketing orders, with 47 members and 47 alternates.

The California raisin industry is currently in flux. Twenty years ago, the raisin industry had 235,000 bearing acres and approximately 3,500 producers. As of 2020, there were only 136,000 bearing acres and approximately 1,700 producers. This overall substantial reduction of the industry makes it difficult to fill all the positions on the Committee, and at times obtaining a quorum.

A review of the last year's Committee attendance records shows that, for the 7 Committee meetings held from August of 2021 through August of 2022, the number of acting Members (Member or Alternate) available to conduct Committee business averaged 31 out of the 47 positions, or 67% (see

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attached sheet). The lowest attended meeting was the August 18, 2021, Annual Meeting, where only 25 of the 47 positions were represented and available to conduct Committee business, which was just 53% of the total. The records also showed that many of the positions were represented at meetings by both the Member and the Alternate, but only the Member was authorized to act, indicating that there may be individuals that can/will attend meetings and could participate if the Committee was restructured.

The Committee believes that it is time to reduce the size of the Committee to reduce the risk of not being able to conduct business at meetings and to bring the Committee size into balance with the overall size of the industry. Both the declining size of the industry and the meeting attendance records support the restructuring of the Committee.

In addition, eliminating the requirement that individuals must be nominated for either a Member or an Alternate position, but not both, will not be needed with a smaller size Committee. This provision was originally added to the Order due to the number of vacancies. This encouraged participation by those who only wanted alternate positions, thus not having to devote as much time to the Committee. With less positions to fill, the Committee believes that all of the nominees should be able to commit to service without reservation and would not need to be specifically nominated as an alternate to relieve them of some of the time commitment.

B. The Committee believes that there is the impression in the raisin market that the quality of reconditioned raisins that have been reworked and reinspected to meet the Order's minimum grade requirements is somehow diminished. This has been evidenced in the past with sales solicitations that specify that the product cannot be reconditioned fruit. The Committee believes that this additional language will help to dispel this negative impression by defining natural condition raisins as any raisins that have been inspected and meet the Order's minimum requirements, whether or not the fruit has been reworked at some point.

C. The Committee believes that determining and including factor 4 in the Marketing Policy, "The estimated desirable carryout at the end of the crop year", is no longer necessary now that there is no volume control authority under the Order. Additionally, the USDA source providing the information for factor 5 in the Marketing Policy, USDA-NASS "Raisins: World Market and Trade Report", was discontinued in 2019. That information is also not needed in the absence of volume regulation authority.

3. What are the current requirements or industry practices relative to the proposal?

A. Currently, the Committee is comprised of 47 Members and 47 Alternates. Producer positions (35 of the 47) represent one of three groups: 1) Cooperative marketing association(s) producers, 2) Cooperative bargaining association(s) producers, and 3) Independent producers. The number of producer seats allocated for each of the groups is based on the percentage of the total raisin tonnage acquired by those groups during the preceding crop year. Handler positions (10) are allocated to cooperative marketing association(s) and independent handlers based on their percentage of total acquisitions during the preceding crop year. In addition, one position represents cooperative bargaining association(s) (the position is a dedicated position in addition to cooperative bargaining association(s) producer Members/Alternates allocated by percentage of total industry acquisitions). One position represents the public.

The Committee's 47 members are allocated for the 2022-2024 term as follows:

Producer seats:

- Sun-Maid Growers of California (cooperative marketing association) (12)
- Raisin Bargaining Association (cooperative bargaining association) (7)

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- Independent producers (16)

Handler seats:

- Sun-Maid Growers of California (cooperative marketing association) (3)
- Representatives from the 4 largest handlers (by acquisitions) (2)
- Representatives from the next 6 largest handlers (by acquisitions) (3)
- All other handlers (2)

Other seats:

- Raisin Bargaining Association (1)
- Public Member (1)

B. The current Order language does not address the quality of reconditioned fruit specifically. The addition of the paragraph clarifying that the quality of reconditioned fruit is not differentiated from other marketable fruit.

C. Factor #4 has not been included in the Marketing Policy statement in several years and is not relevant to the current administration of the Order. With the removal of volume control authority from the Order, the Committee believes that this factor should no longer be a requirement. Factor #5 has also not been included in the annual Marketing Policy statement for many years as the source for this information is no longer available and it would be cost prohibitive to acquire this information by other means.

4. What are the expected impacts on producers, handlers, and consumers?

A. This proposal should have no impact on consumers. Positive impacts on producers and handlers include improved flexibility for scheduling meetings with a smaller Committee, increased participation rates of Members at meetings, and reducing the risk of not being able to conduct business because a quorum was not met.

Further, the Committee recognizes that many independent producer seats are filled with producers that have some handler affiliation. Requiring one seat to be allocated specifically for a non-affiliated producer helps ensure there is not an unfair balance favoring handler representation on the Committee.

Some industry participants (handlers, producers, and associations) may be impacted by a smaller Committee, as there would be fewer positions available and fewer individuals would be able to serve on the Committee. Some industry groups may disagree with their level of representation on the smaller Committee moving forward. Specifically, the cooperative bargaining association has raised concerns at meetings that eliminating the seat that is currently dedicated to the cooperative bargaining association would diminish its influence in Committee functions. The cooperative bargaining association and some of its members do not support a restructured Committee without the dedicated seat. The Committee vote regarding the recommendation to restructure the Committee reflects that, with Members representing the cooperative bargaining association voting against the recommendation.

The Committee believes that the percentage of the total acquisitions of raisins covered by the bargaining association in recent years does not warrant a dedicated position on the restructured Committee moving forward. Committee records show that the percentage of industry fruit represented by the cooperative bargaining association has dropped from as high as 30 percent 8 years ago to just 12.57 percent of the total acquisitions for the 2021-22 crop year. The dedicated position allocates

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greater representation on the Committee for the bargaining association, and that outsize influence would be increased if the position was retained as the Committee is reduced from 47 positions to just 21. Further, the association would continue to have the opportunity to maintain representation on the Committee with producer Member/Alternate seats that are allocated by volume. If the volume of fruit covered by the bargaining association increases in the future, the association would likewise gain more representation on the Committee.

B. There should be no negative impacts on producers, handlers, and consumers. The change may positively impact producers and handlers in the marketing of their fruit. The change would not impact the quality of the fruit but would allow handlers to market fruit without prejudice based on how the fruit was conditioned.

C. This information has not been provided for several years with no impact on producers, handlers, or consumers. The Order's administration and regulatory function have not been affected by the absence of the information. No industry participants have indicated that the information is valuable to them moving forward.

5. How would the proposal tend to improve returns to producers? Quantify.

As the proposal primarily affects the administrative function of the Committee, the proposal is not expected to impact returns to producers.

6. What are the expected impacts on small businesses?

There should be no negative impact on any businesses, small or large.

7. Would the proposal increase or decrease costs to producers, handlers, committees and/or the USDA? Explain/quantify.

There would be a decrease in costs with a reduced Committee size as it would decrease the Committee meeting mileage expense reimbursements. In addition, it would lower the amount of Committee staff time allocated to the administration of Members/Alternates (nominations/communications/etc.) as the number of individuals would be reduced from 94 to 42.

There would be no financial impact as a result of any of the other proposed changes.

8. How would the proposal be implemented?

A. The Committee is selected on a bi-annual basis. The proposed reduction in Committee size and structure would be implemented for the next selection cycle after publication of the final rule, hopefully for the 2024-26 term. The Committee would hold nominations for Committee Members/Alternates in the manner prescribed after the amendments. The Members and Alternates serving immediately prior to the Committee size reduction may be nominated to serve on the new Committee, if they remain eligible to do so. Producer nominees would be nominated for Member or Alternate positions and would be seated in accordance with the number of votes they receive, as the requirement that producers be nominated for either a Member or Alternate position, but not both, would be removed.

Handlers in their respective groups would provide their nominations for handler Member and Alternate positions in the same manner as before the change.

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The cooperative marketing association(s) would provide their selections for its representative Members and Alternates in the same manner as before the change.

The cooperative bargaining association(s) would provide their selections for its producer Members and Alternates in the same manner as before the change.

The dedicated cooperative bargaining association(s) position would be eliminated upon implementation of the new Committee structure.

B. The clarification description added for Natural Condition Raisins would be added to the CFR immediately.

C. The changes to the Marketing Policy factors would be implemented for the crop year following publication of a final rule.

9. How would compliance with the proposal be affected? Explain/quantify.

The proposal would not make any changes to the Order's handling, assessment, or reporting requirements. There should not be any compliance effects/issues with the proposal to change the size of the Committee, the Committee's quorum and voting requirements, the quality fruit clarification, and the Marketing Policy factors.