34

Sun-Maid Growers of California

Headquarters: 13525 South Bethel Avenue • Kingsburg, CA, U.S.A. 93631-9232
Ph. 559/896-8000 • Fax: 559/897-2362
E-mail: smaid@sunmaid.com • www.sunmaid.com

The World's Favorite

November 17, 2014

Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W., Room 200-A
Washington, D.C. 20250-3700

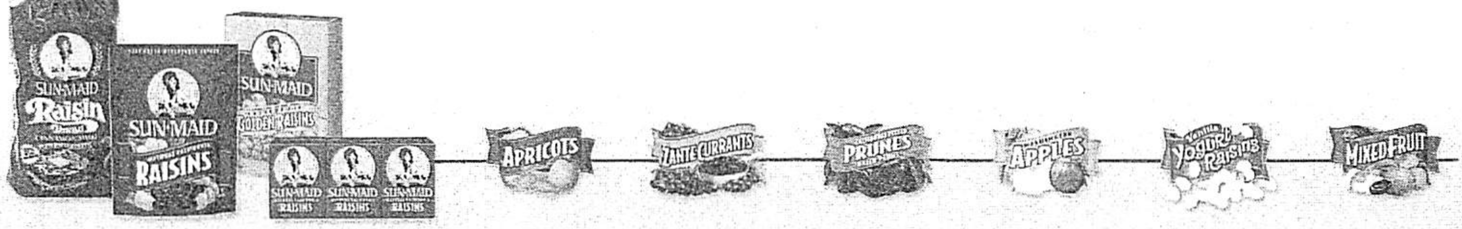
Re: Petition to Amend and Request an Amendment Hearing Applicable to the California Raisin Marketing Order No. 989 or in the Alternative, to Suspend Its Volume Regulation Provisions

Dear Mr. Secretary:

On behalf of the grower-members of Sun-Maid Growers of California ("Sun-Maid") and Sun-Maid itself as a handler, this is a Petition to Amend the California Raisin Marketing Order, 7 CFR Part 989 (the "Order") to delete the authority for volume regulation, specifically those provisions applicable to establishing a reserve for California raisins, and the initiation of a hearing to so amend the Order. The petitioners also request that the Secretary exercise his authority to immediately suspend such provisions during the pendency of the amendment process. As more fully described below, the current volume regulation provisions in the Order do not tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended ("AMAA"). In fact, these provisions are contrary to the stated policy goals of the AMAA that underpin the establishment of the Order, namely, to enhance producer returns and to maintain orderly marketing conditions. 7 U.S.C. §602(1) and (4). As such, the Secretary has the authority to terminate or suspend the applicable provisions of the Order. 7 U.S.C. §608c(16).

Petitioners see a need for the Secretary to take this action before acting upon the Raisin Administrative Committee's ("RAC's) recent request to amend the Order submitted on November 7, 2014.

Sun-Maid is an agricultural marketing cooperative established in 1912, owned by, and operated on behalf of our 650 family farmers who farm approximately 40,000 acres of raisin grapes within a 75 mile radius of Fresno, California. Our producer members typically represent approximately 25-30 percent of the raisins produced in California.



It is recognized that technically, the Order regulates handlers. But it must also be recognized that our grower-members are economically impacted by the Order's provisions. Since the Order was established by the U.S. Department of Agriculture in large measure to benefit producers, it is most appropriate for our grower-members to identify for you those provisions of the Order that do not promote their economic well-being and to request action to suspend and terminate those provisions.

In filing this Petition, Sun-Maid wants to make clear the there are various provisions of the Order that may benefit the industry, such as those requiring mandatory inspection. Consequently, Sun-Maid is not requesting termination of the Order. Rather, the Petition is focused on removing the provisions relating to volume regulation including those that authorize establishing reserve requirements through the Trade Demand formula specified in 7 C.F.R. §§ 989.54 and 989.55 and the associated administrative regulations.

The Basis of the Petition

The volume regulation provisions of the Order are not necessary, needed or appropriate to today's production and marketing circumstances. The conditions of significant raisin over-production and large surplus raisin inventories that existed when the volume regulation provisions were included in the Order are no longer present, and are not likely to re-occur in the foreseeable future. With these changed circumstances, the standing authorization for volume regulation in the Order and the continued possibility of its implementation are creating economic disincentives to marketing innovation and longer-term investment decisions with resulting disorder in the market place for raisins.

A. The impact of the wineries has substantially changed since the Order was created.

- The underlying facts and circumstances that justified the creation of the Order by the Secretary of Agriculture in 1949 no longer exist. The fundamental purpose of the Order's establishment in 1949 was to implement volume regulation including reserve pool provisions. This was a post-World War II era, when world trade was struggling and U.S. producers of agricultural commodities had production capabilities that exceeded their ability to reasonably sell their crop in commercial markets.

- In 1949 the California raisin industry was confronted with surpluses. As a result of large wine grape inventories, many acres of raisin variety grapes that had been utilized in wine production were shifted to raisin production, while, simultaneously, exports of raisins had dropped. Converting grapes to raisins was the primary method for dealing with the large grape surpluses in California after World War II. This led to a sharp decline in the price of raisins. Barring unforeseen circumstances, such as crop disasters, it appeared to the Secretary that raisin production would far exceed the volume that could be economically marketed in commercial markets. Consequently, the Secretary of Agriculture determined that the supply of raisins moving to the commercial market should be restricted, and volume regulation, better known within the industry as the reserve pool, was instituted. 14 Fed. Reg. 5136-44, August 18, 1949.

This shifting of raisin variety grapes from the crush for wine or juice production to utilization for raisins has had an adverse economic effect on the raisin industry at several times in its history. However, the last time a significant shift occurred in raisin variety grape use from wine to raisins was in 2000 – well over a decade ago. The enormous shift in raisin variety use from wine to raisin production from year to year is no longer likely to occur.

- In 1950, there were approximately 500,000 acres devoted to grape production, with about 240,000 (48 percent) of these acres of the Thompson Seedless variety, the primary raisin variety grape. Today, there are approximately 820,000 acres of grapes in California, with less than 200,000 acres (24 percent) of the Thompson Seedless variety.

- The California wine and juice crush is now acquiring many more grapes from non-raisin varieties than was the case in 1949. The planting and utilization of other white grape varieties for the crush is financially much more lucrative for growers. The trend of Thompson Seedless grapes being used in the wine and juice crush is at its low point.

- Acreage planted to raisin variety grapes has been in decline over the past decade.

Table 1: Raisin Variety Acreage

Year	Acres
2005	240,000
2006	234,000
2007	227,000
2008	221,000
2009	216,000
2010	209,076
2011	210,000
2012	205,000
2013	200,000
2014	200,000

Source: Raisin Administrative Committee
Agricultural Statistics Board NASS, USDA, July 2014

Much of this decline in raisin variety acreage has come from acreage that historically could shift back and forth from wine/crush utilization. In fact, for the current 2014 harvest, the wine crush of raisin variety grapes was very low in the raisin growing area [Wine District 13], and still raisin production is projected to be no more than 305,000 tons (RAC minutes of Oct. 4, 2014).

Table 2: Raisin Variety Grapes Crushed (tons)

Year	Statewide	District 13
2004	726,946	610,310
2005	467,482	325,372
2006	267,021	196,161
2007	363,516	280,222
2008	494,124	397,505
2009	307,360	240,104
2010	273,577	190,130
2011	372,551	304,229
2012	270,085	227,315
2013	327,790	254,377
2014*	180,000	135,000

*2014 estimate
Source: California Grape Crush Reports,
March 2004 – February 2014

B. Volume Regulation inhibits development.

Since the Order's inception in 1949, there has been an enormous expansion of competing, financially successful crops grown in California. California enjoys the benefit of the finest Mediterranean climate in the United States. It produces 250 different agricultural commodities, leads the Nation in producing 75 different crops, and is the sole producer of 12 commodities, including almonds, dates, olives, pistachios, prunes, walnuts and raisins. (Ca. Dept. of Water Resources). These are produced and marketed on a free market basis without the burden of volume regulation. As a competitive issue, over the past 25 years, almond acreage in California has increased from 97,000 to 940,000 acres. Raisin variety acreage has declined from 283,450 in 1985 to less than 200,000 in 2014. In many cases, the same land and water is competing to be utilized in the most revenue producing commodity. California has become a leader in world agriculture when it operates openly and freely. The raisin industry is one of the only California commodities that has relied on volume regulation in the 21st century.

C. The raisin industry's composition has changed since volume regulation was established in the Order.

The makeup of the raisin industry has changed since the Order with volume regulation included was established in 1949. Specifically, in 1949, raisin growers were for the most part either grower-members affiliated with Sun-Maid or were independent growers with very little market influence. They were left to negotiate with proprietary raisin handlers who often purchased raisins on consignment. However, in 1967, the Raisin Bargaining Association (RBA) was established, which now represents approximately 30 percent of the industry's volume. The RBA has demonstrated its ability year in and year out to negotiate reasonable crop prices on behalf of their association members.

Additionally, over the past 60 years, the raisin industry has shifted from essentially a very large number of small acreage producers who were selling their crop to proprietary independent packers to some very large producers who in many cases own, lease, or control substantial raisin acreage and are vertically integrated with their own packinghouses. These packer-producers are advantaged relative to individual growers by being better able to deal with the complexity of the Order with its volume regulation provisions. They produce or control significant raisin supplies and are better positioned to store but not deliver their raisins at their packinghouses. Historically, this has allowed them to bridge between crop years. So, for example, if the free market tonnage established under the Order's volume regulation was too low in their minds, they could hold their crop during that marketing year, choosing instead to deliver it the following year when the free tonnage levels might be higher. The small grower really doesn't have the ability to do the same thing. The integrated packer-grower simply has the ability to take advantage of the Order in a way that small growers realistically cannot. Our proposal would eliminate this imbalance of market power that derives from the Order.

D. Volume regulation is not needed for the raisin industry to compete.

Today, world trade in raisins and dried grapes is robust. Each of the major dried grape producing countries is exporting dried grapes without commercial restrictions. Moreover, California has demonstrated it can compete in the world market by marketing 100 percent of its production without a reserve pool, and consistently exporting 40 percent of its production. Notwithstanding these realities, the raisin

> ". . . marketing order attempts to improve grower returns by controlling supplies, even though it lacks the tools to do so effectively. Since it cannot control imports, the result of regulating domestic supplies has been artificially high domestic prices that unnecessarily constrain domestic market growth at the same time that they stimulate competition from imports. But unlike foreign suppliers, when US growers expand their production in response to high prices, they risk getting penalized with a large reserve requirement that directly reduces their returns and diminishes their competitive position in growing export markets." [Dr. Mark D. Jekanowski, Informa Economics]

E. Volume regulation inhibits the industry.

The volume regulation provisions of the Order were intended to help stabilize supplies and prices, and to strengthen market conditions. However, the uncertainty of volume regulation including its reserve provisions has become a barrier to growth, investment and reinvestment in the raisin industry by producers. The amount of the reserve is not known during the growing season, and is usually not known as grape growers prepare for harvest. The earliest that the RAC considers volume regulation is at its annual August 15th meeting. Over the last 20 years, the development of earlier ripening grapes has clearly made the August 15th date too late for making economic decisions. Moreover, the next scheduled opportunity for the RAC to make its reserve decision for a crop year is

October 5th, which can actually extend to February 15th, a full six months after harvest.

There is no short term or long term predictability regarding the marketing of a crop because of the potential volume regulation provisions. Producers have great difficulty in projecting potential future revenue. This substantial uncertainty makes it harder for growers, particularly those with business operations that are smaller or not vertically integrated, to obtain credit financing to cover production expenses. Long term planning decisions are more difficult. Other segments of the California grape industry have prospered because of their ability to have long-term contracts with the wineries. This is not possible in the raisin industry because of the uncertainty created by the volume regulation provisions.

F. Experience establishes that volume regulation is not necessary or needed.

Experience has now demonstrated that volume regulation is no longer needed. Over the past four years when the entire raisin crop could be marketed as free tonnage, significant volatility in supplies and prices did not occur. And, for the 5th consecutive crop year, the RAC elected to market the 2014 crop without volume regulation. The California raisin industry has demonstrated that it can successfully market its crop without resorting to government imposed volume regulation requirements. During the past four years the financial benefit to raisin growers for avoiding such regulation totaled approximately $573 million. Likewise, U.S. consumers have been benefited by the California industry marketing its crop on a world price basis.

Table 3: Grower Financial Gains From No Reserve Pools (Natural Seedless)

	2010	2011	2012	2013	Total
Final Crop Actual Deliveries	354,878	346,132	311,090	364,794	1,376,894
Trade Demand	297,387	268,496	240,064	231,308	1,037,255
Tons Gained	57,491	77,636	71,026	133,486	339,639
Field Price	$1,500	$1,700	$1,900	$1,650	
Grower Financial Gains in millions	$86.2	$132.0	$135.0	$220.3	$573.5

Source: RAC Statistics and RBA announced field price

If the Order's specified Trade Demand formula provisions had been followed over the past four years, it would have resulted in establishing reserves ranging from 16% to 37% percent of the crop.

Table 4: Unnecessary Reserves Which Regulation Would Have Created (Natural Seedless)

	2010	2011	2012	2013
Final Crop Actual Deliveries (A)	354,878	346,132	311,090	364,794
Trade Demand (B)	297,387	268,496	240,064	231,308
Final Free %	100%	100%	100%	100%
Calculated Free % (B ÷ A)	84%	78%	77%	63%
% Points Gained without regulation	16%	22%	23%	37%

Source: RAC Statistics

The artificial shorting of the raisin supply moving to the commercial market that would have occurred if the Order's volume regulation provisions had been followed would not have been in the interest of growers and consumers. Prices to consumers would have been artificially and unreasonably increased. California raisin growers would not have benefited because they most certainly would have received a lower return for the raisins designated as reserve tonnage than they would have received for their free tonnage raisins. In fact, so far, producers have received zero income from reserve pool raisins in every year since 2003.

G. The administrative rulemaking associated with volume regulation creates uncertainty and the formula can be manipulated.

The administrative rulemaking that would have been associated with volume regulation over the past four years would have contributed to uncertainty for both producers and handlers regarding the disposition of each year's crop. For example, for the 2009-2010 raisin crop, the last year in which the reserve was established, the interim final rule was published on April 22, 2010, and finalized on June 24, 2010. See 75 Fed. Reg. 35959. This applied to raisins actually produced for a crop year that began August 1, 2009, and ended July 31, 2010. This delay in initiating and finalizing the necessary rules associated with volume regulation just contributes to the uncertainty for growers and handlers regarding the potential disposition of a crop. These uncertainties can be avoided by removing the authority to establish reserve requirements.

Volume regulation decisions are essentially made at the discretion of 47 voting members (or alternate members) of the RAC. For example, in 2014, at its August 14th meeting, the California raisin industry knew that the crop would be much, much smaller than the 2013 crop, for which there was no volume regulation, strong sales, and strong grower returns. Nonetheless, at its August 14, 2014 meeting, an RAC subcommittee voted by a small margin to recommend volume regulation. Fortunately, a small majority of the full RAC voted for no volume regulation on a 20-16 vote. With 47 elected positions, 11 representatives did not participate in the vote. It is obviously disconcerting to growers to have their annual income held in the balance by a small handful of voting competitors.

It is unclear how anyone could have looked at the relevant economic facts and circumstances and objectively come to the conclusion that volume regulation was warranted.

The problem with the Trade Demand formula is not a recent one. Members of the RAC recognized that the provisions for calculating Trade Demand for crop years 2004, 2005, 2006, 2007, 2008, and 2009 did not result in mathematically defensible outcomes. However, rather than face the issue directly by seeking an amendment to the Order, the RAC adjusted its crop estimates to create more acceptable results, reducing the reserve requirement by 10 percent, 9.5 percent, 12 percent, 14 percent, 12 percent, and 6 percent, respectively, by forecasting a smaller than actual crop size. Although this was advantageous to producers, it demonstrates the failure and inadequacy of the existing Trade Demand formula and raises fundamental doubts about the contribution of the Trade Demand formula to the orderly marketing of U.S. raisins in the domestic and world marketplaces.

Table 5

Year	Industry Adopted %	Calculated Trade %	% Points Gained
2004	100%	90%	10%
2005	82.5%	73%	9.5%
2006	90%	78%	12%
2007	85%	71%	14%
2008	87%	75%	12%
2009	85%	79%	6%

Source: RAC Statistics (Natural Seedless)

H. The process to update and modernize the Order has broken down.

The raisin industry has not been effective in completing the process to secure much needed amendments to update the Order and have it reflect current and projected circumstances for the industry. In relevant part, the record shows:

- Over the past 15 years the Department has made it clear to the RAC that changes to the Order are necessary for the overall benefit of the raisin industry, and that some of the ideas of the industry may not be in accordance with the regulatory and legislative framework:

  Specifically, the AMS has stated that:

  > December 1999
  > "We have reviewed the Raisin Administrative Committee's (RAC) November 10 recommendation for informal rulemaking regarding the use of estimated trade demand for the 2000-2001 crop year...while USDA certainly understands the RAC's goal of maintaining market stability, we have concerns with the RAC moving toward institutionalizing the use of estimated trade demand to compute volume regulation percentages. Substantive changes to the order's volume regulation provisions should be

made through formal rulemaking procedures. Thus, we request that this issue, as well as appropriate changes to other order provisions, such as RAC structure, export programs, and order definitions, be given serious consideration."
[Letter from Robert C. Keeney, Deputy Administrator to Terry W. Stark, General Manager, Raisin Administrative Committee]

<u>April 2001</u>
"As you may know, the RAC has formed a Formal Rulemaking Subcommittee to consider changes to the order. The subcommittee held three listening sessions in March throughout the production area – Kerman, Easton, and Visalia. RAC subcommittee members and USDA representatives attended all three meetings. Ideas were presented and discussed, including proposals to reduce the size of the RAC, revise the trade demand formula, and tighten certain quality control requirements.

I am pleased with the open discussions that occurred at the meetings and want to thank all of you who attended the sessions. USDA will be working with the subcommittee to review and evaluate the proposals. The subcommittee plans to make recommendations to the full RAC for consideration. The RAC will then make recommendations to USDA to begin the long and deliberative formal rulemaking process."
[Letter from Robert C. Keeney, Deputy Administrator, to California Raisin Growers]

<u>September 2003</u>
"It is also USDA's policy to require periodic continuance referenda as a means to regularly reassess the value of marketing orders and gauge the sentiment of growers."
[Letter from Robert C. Keeney, Deputy Administrator, to John Beck, President, Raisin Administrative Committee]

<u>May 2004</u>
"The Department of Agriculture (USDA) has reviewed the Raisin Administrative Committee's (RAC) April 13, 2004, recommendation for informal rulemaking to establish parameters for implementing volume regulations for 2004-05 crop Natural (sun-dried) Seedless (NS) raisins if the crop is small...based on the information that we have reviewed, we are not able to proceed with the RAC's recommendation. Extreme and unusual conditions must exist to warrant implementing volume regulation in a short crop year."
[Letter from Robert C. Keeney, Deputy Administrator, to John Beck, President, Raisin Administrative Committee]

January 2005
We carefully review and evaluate RAC recommendations to ensure that they are fully justified, based on sound economic principles, and used appropriately in marketing policy calculations....We are committed to ensuring proper oversight of the marketing order."
[Letter from Kenneth C. Clayton, Acting Administrator, to William J. Friedman, Piper Rudnick LLP]

November 2006
"We strongly suggest that you initiate an amendment process to revise the order for this purpose and to make other order changes to reflect current marketing practices and administrative needs."
[Letter from Robert C. Keeney, Deputy Administrator, to Ron Worthley, President/General Manager, Raisin Administrative Committee]

March 2009
"While AMS appreciates the efforts of the RAC to adjust the operations of the marketing order to accommodate unforeseen industry or market circumstances, we also point out that this is another example of the overly complex nature of this program, and the lack of specificity in the order and its regulations, both of which contribute to excessive need for interpretation by AMS. Improved simplicity and specificity and an overall review of the order to ensure that it is meeting the needs of California's raisin producers should all be considered as you formulate your strategy for revision, as previously requested in our letter of January 6, 2009. In this regard, we look forward to receiving your plan by April 2009."
[Letter from Bruce W. Summers, Acting Deputy Administrator, to Gary Schulz, President, Raisin Administrative Committee]

May 2009
"From our previous letters and discussions, you and the Raisin Administrative Committee have heard what we in USDA want in relation to making the marketing order more efficient and operate better today. We have highlighted the benefits to reviewing the order's volume regulation provisions to avoid yearly adjustments to trade demand calculations, downsizing the 47-member committee to make it more manageable, starting periodic grower continuance referenda to further facilitate grower input, and streamlining administrative processes.

Simplifying the marketing order would also provide great advantages. Experience has shown that very few industry members fully understand the regulations and that leads to uncertainty, lack of clarity at meetings, and overall program inefficiencies. Our combined ideas will allow government and industry to focus attention where it is needed most for the benefit of the raisin industry.

In closing, I firmly believe that everything can be improved. In the instance of the raisin marketing order, operations can be more streamlined, protocols can be established, and regulations can be more clearly defined for those who are directly impacted by the program. As we have reached May without seeing the Raisin Administrative Committee's ideas, I welcome them without further delay so that we can begin the process of discussing them and developing an implementation strategy."
[Letter from Robert C. Keeney, Acting Associate Administrator, to Barry F. Kriebel, President, Sun-Maid Growers of California]

<u>September 2010</u>
"As discussed at the meeting, we urge you to consider new approaches to balance the needs of domestic and export markets while considering the impacts on grower returns and consumer interests...The concept of establishing a reserve for the primary purpose of supporting export sales could be problematic, as the statutory authority for reserve programs is primarily intended to address oversupply situations and to mitigate the effects of wide fluctuations in seasonal production. Attempting to utilize a reserve program when supply and demand are in relative balance could be of particular concern and could subject the order to heightened scrutiny.

I would also like to reiterate the importance of grower outreach and education. Since one of the primary purposes of Federal marketing orders is to improve returns to producers, it is important that growers understand how the programs operate so they can become involved and make informed decisions. This holds true for existing programs as well as any new programs or concepts being contemplated through order amendments."
[Letter from Robert C. Keeney, Deputy Administrator, to Chris Gunlund, Chairman, Raisin Administrative Committee]

<u>August 2011</u>
"It is imperative that RAC members agree on changes in the marketing order's authority and regulations to address the challenges that have come up in the last few years in areas such as the use of reserve assets, the operations of the export program, and the volume control provisions. Resolving these and any other matters now will enable the RAC to be positioned to fully support the industry in its future marketing efforts."
<u>[Letter from Michael V. Durando, Director, to Gary Schulz President/General Manager, Raisin Administrative Committee]</u>

- Unfortunately, efforts to effectuate changes in the Order have proven unproductive:

    - A Formal Rulemaking Subcommittee chaired by Jeffrey Jue met 9 times from January 31, 2001 through August 31, 2001, and held three district grower outreach meetings in Kerman, Easton, and Visalia. Eleven recommendations were submitted to the RAC with the expectation that formal rulemaking would proceed in September 2001. No further action was taken.

    - In 2003, a Formal Rulemaking Steering Committee, chaired by Ron Kazarian, held a series of meetings from July 8, 2003, through November 2003. A number of recommendations were referred to the Committee for action. In fact, the RAC voted to support adding a 5 year continuation referendum to the Order, but no further action was taken.

    - In 2008, the RAC recommended a change in the Trade Demand formula. This went through the USDA administrative process to the point where it was published in the Federal Register for public comment on July 18, 2008 (73 FR 41302). This was withdrawn by the Department on November 25, 2009 (74 FR 61585).

    - In 2010, the RAC proposed a change to the Trade Demand and reserve formula, based on unanimous RAC action on May 13, 2010, which was published for comment on August 6, 2010 (75 FR 47490). No further action was taken.

    - There has not been a producer referendum since 1989 - - 25 years ago. This is inadequate oversight by the Committee.

The foregoing highlights that the process to amend the Order is broken. The Secretary needs to become involved to initiate an amendment process if there are ever going to be significant changes to modernize the Order. Given the deficiencies of the current volume regulation provisions of the Order, the Secretary should take immediate action to suspend those provisions. This should be followed by the appropriate administrative action to amend the Order to eliminate the volume regulation provisions to make it more relevant to today's marketing and production environment for raisins.

<u>Specific elements of the proposal</u>

(a) <u>The purpose of the proposal</u>.
As the foregoing explains in considerable detail, the purpose of the proposal is to delete the volume regulation provisions of 7 C.F.R. Part 989 including 7 C.F.R. 989.54 and 989.55 and the associated administrative regulations. This will result in the California raisin industry operating in the 21st

century in the same manner as most domestic and international dried grape, dried fruit, and nut industries.

(b) The problem the proposal is designed to address with explanation and quantification.
The current volume regulation provisions in the raisin marketing order are contrary to the policy goals of the AMAA. Applying those provisions in today's raisin marketing environment does not enhance producer returns and does not maintain orderly market conditions. More to the point, the reserve provision, originally implemented to foster orderly marketing conditions, has become a principal source of disorder in raisin production and marketing. As a matter of good public policy, when a regulation is no longer appropriate because of a change in circumstances, the regulation should either be suspended or terminated. The history of the California raisin industry demonstrates that under current and foreseeable circumstances, producers will suffer economic harm if the volume regulation continues to be applied as written.

(c) The current requirements or industry practices relative to the proposal.
From 2004 to 2009, in an attempt to fit the regulation to the changing market circumstances of the raisin industry, crop estimates were adjusted to engineer a much smaller reserve than the Order's formula would have prescribed. Subsequently, for the last five crop years, the industry has elected to have no volume regulation and has successfully marketed the raisin crop to the benefit of producers and consumers. Earlier in this petition we outlined the economic impacts both from abiding by the Order's Trade Demand formula as well as the actual benefits of not following the formula. The California raisin industry has demonstrated that it can operate well without the restrictions and uncertainty imposed by the volume regulation formula specified under the Order.

(d) The expected impact on the industry, including producers, handlers, and on consumers.
If the volume regulation authority is removed from the Order the economic gains that have accrued to producers in recent years as a result of not having to operate under the volume regulation provisions of the Order would continue to be experienced. As discussed above, the cloud of uncertain marketing restrictions continues to restrain business decisions to the detriment of growers, handlers, and consumers. Producers and handlers would benefit from being able to contract on a more reliable and predictable basis, possibly akin to long term grape contracts in the wine industry, without having to factor in potential unknown annual reserve requirements. The willingness of growers, and those that finance them, to make investments in new technologies that increase yields and reduce costs would be enhanced. U.S. consumers would benefit from raisin prices that are not artificially and unnecessarily propped up by volume restrictions of the raisin marketing order.

(e) An explanation, including supporting information and data, of how the proposal would tend to improve returns to producers.
Past history demonstrates the improvement of returns to producers as the reserve pool has been decreased or eliminated entirely starting with the 2010 crop. It is expected that producers will enjoy similar benefits in future years without the burden of the reserve.

(f) The expected effects on small businesses as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612).

Small businesses will be free to compete without the marketing uncertainty and financial burden of the raisin reserve. The burden of regulatory rigidity and paperwork will decrease substantially for growers with the elimination of volume regulation.

(g) A description and quantification of whether the proposal would increase or decrease costs to producers, handlers, or others in the marketing chain, and to consumers, marketing order committees and boards and/or the Secretary.
As the California industry has operated in recent years without volume regulation and production is expected to remain stable for the foreseeable future, it is expected that the economics will continue much as they have over the past five years.

(h) A description of how the proposal would be implemented.
The proposal would be implemented through the Secretary's suspension of the volume regulation and his initiation of an Order amendment process. The amendment would be to delete the authority for volume regulation. Other provisions of the Order would not be affected.

(i) A description, including quantification, of how compliance with the proposal would be effected.
Compliance with the Order would be dramatically simplified if the volume regulation provisions are eliminated. Management and accounting issues associated with raisin reserves would no longer exist. Litigation with handlers over reserve requirements and obligations would cease to arise.

Conclusion

Based on the foregoing, there is ample reason to warrant the immediate suspension of the volume regulation provisions, and the initiation of amendment proceedings to delete those provisions from the Order.

Please let me know if you have any questions concerning Sun-Maid's request or if additional information is needed. We reserve the right to supplement this Petition.

Sincerely,

Barry F. Kriebel
President