



## **Agricultural Marketing Service**

### **7 CFR Part 989**

**[Docket No. AMS-SC-23-0039]**

#### **Raisins Produced from Grapes Grown in California; Secretary's Decision and Referendum Order on Proposed Amendments to Marketing Order No. 989**

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

**ACTION:** Proposed rule and referendum order.

**SUMMARY:** This decision proposes amendments to Marketing Order No. 989 (Order), which regulates the handling of raisins produced from grapes grown in California and provides producers with the opportunity to vote in a referendum to determine if they favor the proposed changes. The Raisin Administrative Committee, which locally administers the Order, recommended amendments that would reduce Committee size, eliminate the designated cooperative bargaining association member seat, lower quorum requirements, remove producer district representation, remove the requirement for separate member and alternate nominations for independent and small cooperative producers, remove factors for establishing marketing policy, add language to clarify the quality of reconditioned raisins, add authority to accept voluntary contributions, and add language regarding ownership of intellectual property. In addition, the Agricultural Marketing Service proposed to make any such changes to the Order as may be necessary to conform to any amendment that may result from the hearing.

**DATES:** The referendum will be conducted from January 12, 2026, through January 30, 2026. The representative period for the purpose of the referendum is August 1, 2024, through July 31, 2025.

**ADDRESSES:** Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237.

**FOR FURTHER INFORMATION CONTACT:** Christy Pankey, Marketing Specialist, or Matthew Pavone, Chief, Rulemaking Services Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Christy.Pankey@usda.gov* or *Matthew.Pavone@usda.gov*.

Small businesses may request information on this proceeding by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-8085, or Email: *antoinette.carter@usda.gov*.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding: Notice of Hearing published in the January 12, 2024, issue of the **Federal Register** (89 FR 2178) and a Recommended Decision and Opportunity to File Written Exceptions published in the September 13, 2024, issue of the **Federal Register** (89 FR 74851).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Orders 12866 and 13563.

Notice of this rulemaking action was provided to Tribal governments through the Department of Agriculture’s (USDA) Office of Tribal Relations.

### **Preliminary Statement**

This decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act,” and the applicable rules of practice and procedure governing the formulation and amendment of marketing agreements and orders (7 CFR part 900).

The proposed amendments in this decision are based on the record of a public hearing on February 13 and 14, 2024, at the office of the Raisin Administrative Committee, 2445 Capitol Street, Suite 200, Fresno, California 93721. Notice of this

hearing was published in the **Federal Register** on January 12, 2024 (89 FR 2178). The notice of hearing contained four proposals submitted to the Agricultural Marketing Service (AMS) by the Raisin Administrative Committee (Committee). AMS also proposed to make conforming changes as may be necessary to conform to any amendments, and to correct minor inconsistencies and typographical errors. The Recommended Decision notes that the Committee has struggled to fill vacancies and secure member attendance at meetings, largely because the California raisin industry has significantly declined and that volume regulation authority was removed from the Order in 2018. In response to these challenges, the Committee proposed several changes:

Under Proposal No. 1, the Committee membership size would be reduced from 47 to 21 members and alternates. Specifically, Proposal No. 1 would decrease producer member seats (from 35 to 12) and handler member seats (from 10 to 8), eliminate the designated cooperative bargaining association member seat, remove producer district representation, and would add a designated seat for an unaffiliated independent producer member. The quorum requirements would also be reduced from 25 to 14 members.

Additionally, the Committee recommended eliminating separate nomination procedures for small cooperative and independent producers (Proposal No. 2); removing two factors no longer relevant to the development of their annual marketing policy and clarifying language regarding the quality of reconditioned raisins (Proposal No. 3); and adding authority to accept voluntary contributions as well as to develop and use intellectual property (Proposal No. 4).

Witnesses testified on the record that the proposed amendments would help reduce Committee vacancies, improve attendance, generate cost savings, enhance administrative efficiency, ensure fair representation, and align Committee membership with the overall size of the California raisin industry. As outlined in the Recommended Decision, the Committee believes that reducing its size from 47 to 21 members and

alternates would make it easier to manage and fill Committee positions, thus improving attendance and lessening the likelihood of prolonged vacancies. This amendment, along with the other amendments under Proposal No. 1, would ensure that the size and composition of the Committee aligns with the size and structure of the industry, and that different stakeholders within the industry have a fair and equitable level of representation on the Committee. Further, with lower quorum requirements, the Committee can make decisions more easily, reduce meeting delays and the number of rescheduled meetings caused by low attendance, improve administrative efficiency and generate a cost savings for the Committee.

Eliminating separate nomination procedures for small cooperative and independent producers under Proposal No. 2, would also enhance administrative efficiency by reducing administrative burden and streamlining the nomination process.

Removing factors for establishing marketing policy under Proposal No. 3 would improve administrative efficiency by removing unnecessary and outdated considerations and allow the Committee to focus on more relevant matters. Further, the amendment to clarify the quality of reconditioned raisins under Proposal No. 3 would dispel negative impressions stemming from misconceptions and clarify the quality of reconditioned fruit, streamlining sales and contribute to improving administrative efficiencies.

Lastly, the addition of voluntary contribution authority and intellectual property language under Proposal No. 4 would generate a costs savings because voluntary contributions and revenue from intellectual property can provide additional funding, aside from assessments, that the Committee may use for other activities approved under the Order, such as research and promotion.

After thorough consideration of the hearing record, USDA has determined that the proposed amendments would tend to effectuate the declared policy of the Act.

Additionally, USDA proposed to make any such changes as may be necessary to the Order to conform to any amendment that may be adopted, or to correct minor inconsistencies and typographical errors. Accordingly, USDA recommended the following change in the Recommended Decision: revise § 989.129 to replace the word “ballot” with “vote.” This conforming change aligns with the Committee’s proposal to remove separate nomination procedures, reverting the regulatory text to its original form prior to the 2018 amendment. Witnesses at the hearing testified in support of the removal of separate nominations for small cooperative and independent producers, as separate nomination procedures had been shown to discourage participation and would not be needed with a smaller Committee.

#### *Comments and Exceptions*

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on September 16, 2024, filed with the Hearing Clerk, USDA, a Recommended Decision and Opportunity to File Written Exceptions thereto by October 15, 2024. USDA received three comments opposing the removal of the designated cooperative bargaining association seat from the Committee membership. Accordingly, three exceptions were filed.

All three comments proposed establishing a Committee size of 22 members, instead of the 21-member structure as proposed by the Committee, and retaining the designated cooperative bargaining association seat. The relevant issues raised by commenters suggest that under the structure proposed by the Committee, Sun-Maid Growers (Sun-Maid), a cooperative marketing association, would control 50 percent of the Committee’s representation, giving it dominance in decision-making, and that the removal of the cooperative bargaining association seat would disenfranchise workers and weaken the Raisin Bargaining Association (RBA). We address these points, as well as the alternate proposal, below:

### *Alternate Proposal*

USDA considered but rejected the proposal to increase the proposed Committee size to 22 members because record evidence does not support this proposal. Rather, the record evidence shows that the justification for the extra seat no longer applies. Adding the seat to the proposed 21-member Committee structure would give the RBA disproportionate representation, as the extra seat is not allocated on proportional shares and would be unfair to other industry groups, such as independent producers, who do not have a dedicated seat.

### *Sun-Maid's Influence on the Committee*

Two of the three comments raised concerns about Sun-Maid gaining more influence on the Committee, asserting that it would control 50 percent of the Committee's seats under the proposed structure, which could negatively impact small producers. Under the proposed Committee membership structure, Sun-Maid would hold eight seats—five for producers and three for handlers—representing approximately 38 percent of the Committee, not the 50 percent asserted by the commenters. Further, the number of seats allocated to Sun-Maid aligns with its share of industry volume. While this would give Sun-Maid some level of influence, there would still be 10 seats reserved for independents—five independent producers and five independent handlers—which would help to ensure that no single entity can dominate decisions without the support of other Committee members.

Record evidence shows that the Committee has been considering a reduction in size for many years and has explored various alternatives, ultimately recommending the proposed amendments. The addition of the unaffiliated independent producer member seat would help to reduce the marginalization of small producers. The unaffiliated seat would most likely be filled by a small producer, ensuring representation of producers not affiliated with handlers on the Committee. Furthermore, small independent producers

testified in favor of the changes, including the elimination of the designated cooperative bargaining association seat, indicating that they are comfortable with Sun-Maid's level of representation within the proposed Committee structure. Lastly, under the proposed Committee structure, the majority of Committee seats would be allocated to producers ensuring that there would not be disproportionate handler representation and that the Committee is producer-focused.

#### *RBA's Reduced Representation*

Commenters also suggested that removing the cooperative bargaining association seat would disenfranchise workers by eliminating a seat designated for industry workers, thereby reducing diversity, and further weakening the RBA, as well as hindering new member recruitment and disrupting the worker/manufacturer relationship. Record evidence shows that the RBA's diminished representation and the Committee's proposal to remove the designated seat are the result of a significant decline in RBA's membership and total raisin acquisitions over time, as well as the removal of volume control authority under the Order.

As noted above in the alternate proposal discussion, if the designated seat were to remain on the Committee, the seat would grant the RBA disproportionate representation on the Committee, which would be unfair to other industry producers. While the designated seat's removal may be perceived to further contribute to the RBA's decline, the sustainability and continuity of such organizations ultimately depends on the evolving needs and preferences of the industry. Therefore, new member recruitment to the RBA and the maintenance of a good working relationship between such workers and manufacturers falls under the RBA's purview, and not the Committee, as the Committee does not have authority over the RBA or any other organization representing industry regarding such matters.

Record evidence further indicates that the RBA's role has changed over time. Historically, the RBA played a vital role in the establishment of volume regulation, which helped to address pricing contracts. However, raisin growers voted through referendum in 2017 to remove volume regulation authority from the Order. Furthermore, the Committee's primary authorities are to recommend regulations related to quality control and research and promotion. Since the Committee no longer has authority to implement volume control, it does not make decisions that directly affect surplus raisins and, consequently, pricing. Therefore, the RBA's function of bargaining for commodity prices falls outside the current scope of the Order. Without this authority, the Committee no longer views the RBA-designated seat as necessary. RBA would still have Committee representation that is proportional to its raisin acquisitions, so if the RBA experiences future growth in acquisitions, its representation on the Committee would change accordingly. The opportunity for RBA members to serve directly on the Committee as producers would remain.

For these reasons, no changes have been made to the amendment under Proposal No. 1 related to the reduction of Committee membership to 21 members or the elimination of the cooperative bargaining association seat.

### **Initial Regulatory Flexibility Analysis**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this proposed rule 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 businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments issued pursuant to the Act, and the rules issued thereunder, are unique in that they are normally brought about through group action of essentially small entities acting on their own behalf.



According to the hearing transcript, there are approximately 1,500 producers of California raisins. According to the National Agricultural Statistical Service (NASS) data presented at the hearing, the total value of production for the 2022-2023 crop year of raisins was \$381,780,000. Taking the total value of production for raisins and dividing it by the total number of raisin producers provides a return per producer of \$254,520. Small agricultural producers of raisins are defined by the Small Business Administration (SBA) as those having annual receipts equal to or less than \$4.0 million (NAICS code 111332, Grape Vineyards) (13 CFR 121.201). Therefore, a majority of raisin producers would be considered small entities under SBA's standards.

According to the record, there were 17 handlers for the 2022-2023 crop year. Small agricultural service firms are defined as those whose annual receipts are equal to or less than \$34.0 million (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201). To make a similar computation for handlers, the first step is to estimate a representative handler price received per pound for packaged raisins. Recent USDA purchases under the Commodity Procurement Program provide such an estimate. For the most recent raisin crop year used by the Committee (August 2022-July 2023), the average price paid for packaged raisins purchased by the USDA for food assistance programs was \$1.56 per pound. The annual receipts for handlers can be calculated by taking the USDA average purchase price and multiplying it by the total number of shipments as reported by the Committee for the 2022-2023 crop year ( $\$1.56 \times 414,898,000 \text{ LB}$ ) which equals \$647,240,880. Taking the calculation for the annual receipts by handlers and dividing by the number of handlers provides an estimated annual receipt per handler (\$647,240,880 divided by 17), which equals \$38,072,993. Based on the SBA definition of an agricultural service firm having less than \$34 million in annual receipts, there is a mix of both large and small raisin handlers.

The production area regulated under the Order covers the State of California. Acreage devoted to raisin production in the production area has declined in recent years. According to data presented at the hearing, bearing acreage for raisins reached a high of 280,000 acres during the 2000-2001 crop year. Since then, bearing acreage for raisins has decreased almost 53 percent to 133,000 acres in 2021-2022. Total production of raisins reached a high during the 2000-2001 crop year of 2,921,000 tons (green tons) but has decreased 65 percent to a total production of raisins of 1,010,000 tons in 2021-2022.

During the hearing held on February 13 and 14, 2024, interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the Order on small businesses. The evidence presented at the hearing shows that none of the proposed amendments would have any burdensome effects on small agricultural producers or firms.

### **Estimated Economic Impact of Amending Committee Membership Size and Composition**

Proposal No. 1 would remove producer district representation in § 989.26(c) and add an unaffiliated independent producer member seat to § 989.126(a)(1). Corresponding changes would also remove §§ 989.22 and 989.122 and references to producer districts in §§ 989.29(b)(2), 989.126(a), and 989.129. In addition, Proposal No. 1 would eliminate the designated cooperative bargaining association seat in § 989.26. Corresponding changes would also remove the reference to the cooperative bargaining association position in § 989.30. Lastly, Proposal No. 1 would amend § 989.38 by lowering the quorum requirement from 25 to 14.

Most witnesses supported this proposal and stated that reducing the size of the Committee would make conducting business more efficient. These witnesses' statements are supported by the data collected by NASS showing that bearing acreage for raisins has decreased almost 53 percent since the 2000-2001 season.

Currently, the Committee structure consists of 47 members and 47 alternates, where quorum is met when at least 25 members are in attendance. A witness testified that, from April 2019 through June 2023, Committee meeting participation averaged only 33 out of the 47 members in attendance. Further, witnesses testified that the number of raisin producers has declined from approximately 3,500 during the 2000-2001 season to approximately 1,500 during the 2022-2023 season. Reducing the number of members on the Committee would bring representation into balance with the overall size of the industry.

For the reasons described above, it is determined that the proposed amendment would benefit industry participants and improve administration of the Order. The costs of implementing this proposal would be minimal, if any, and may even create efficiencies that would reduce administrative costs.

### **Estimated Economic Impact of Removing Separate Nomination Procedures**

Proposal No. 2 would amend § 989.29 to eliminate the requirement for separate nominations for independent producers or producers affiliated with small cooperative marketing associations.

Currently, the Committee has difficulty filling Committee seats designated for independent producer members and independent producer alternate members. Independent producer alternate member seats have gone unfilled for several consecutive years.

According to witness testimony, the purpose of the proposal is to eliminate the requirements for separate nominations for independent producers and create greater competition for all Committee positions. When the raisin industry had more producers, the Committee believed designating separate nominations for independent producers ensured that independent producers' concerns were part of Committee discussions. As

the raisin industry has evolved, separate nominations for independent producers have resulted in low attendance rates and absenteeism at Committee meetings.

In conclusion, it is determined that the benefits of eliminating the requirements for separate nominations for independent producers would outweigh any costs associated with the implementation of the proposed amendment.

### **Estimated Economic Impact of Updating Marketing Policy and Quality Standards for Reconditioned Raisins**

Proposal No. 3 would modify § 989.54(a) by removing factor number 4 “An estimated desirable carryout at the end of the crop year;” and the last part of factor number 5, “, considering the estimated world raisin supply and demand situation”. Proposal No. 3 would also amend §§ 989.24 and 989.58 by adding language to clarify that the quality of reconditioned raisins is the same as other “standard raisins.”

Currently, many customers believe reconditioned raisins differ from raisins that were not reconditioned, even though both raisins have been inspected and met the same quality standard. The Committee believes that there is an impression in the raisin market that the quality level of reconditioned raisins is lower than other standard raisins. Clarifying that “standard raisins” shall be defined as any raisins that have been inspected and meet the Order’s minimum requirements, regardless of whether the fruit has been reconditioned or not, would remove the negative quality association customers may have with reconditioned raisins.

According to a witness, the proposed amendment would streamline the sales process and would have a positive impact for raisin handlers and producers. Currently, USDA does not distinguish between reconditioned or standard raisins when purchasing for feeding programs.

It is determined that the benefits gained from implementing this proposal would outweigh additional implementation costs incurred, if any.

## **Estimated Economic Impact of Adding Contribution Authority and Patent/Trademark Authority**

Proposal No. 4 would add § 989.63 to establish the authority to accept voluntary contributions; add § 989.64 to establish authority related to ownership of, and rights to, intellectual property; and add authority for the collection of rents/royalties from the same.

The Order does not currently allow for the Committee to accept voluntary contributions or have ownership of, and rights to, intellectual property. This proposal would allow for the Committee to generate additional income outside the collection of handler assessments.

According to a witness, the Committee has been approached recently with the opportunity to generate revenue from “The California Raisins,” the trademarked animated rhythm and blues music group created by the raisin industry. Adding the authority to own, and to exercise the rights of, intellectual property would allow the Committee to receive income from patents, copyrights, trademarks, inventions, publications, or product formulations. Such authority would allow the Committee to collect additional income from “The California Raisins” and any other intellectual property owned or controlled by the Committee. The additional income could benefit the raisin industry by, for instance, supporting future production research as determined by the Committee.

For the reasons described above, it is determined that any additional costs incurred as a result of this proposal would be outweighed by the increased flexibility for the industry to respond to a changing global marketplace.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are intended to improve the operation and administration of the Order and to assist in the marketing of California raisins.

Committee meetings regarding these proposals, as well as the hearing date and location, were widely publicized throughout the California raisin industry, and all interested persons were invited to attend the meetings and the hearing to participate in Committee deliberations on all issues. All Committee meetings, and the hearing, were public forums, and all entities, both large and small, were able to express views on these issues.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### **Paperwork Reduction Act**

Current information collection requirements that are part of the Federal marketing order for California raisins (7 CFR Part 984) are approved under OMB No. 0581-0178 Vegetables and Specialty Crops. Some changes in those requirements are anticipated as a result of this proceeding. Such changes would be submitted to OMB for approval.

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.

### **Civil Justice Reform**

The amendments to the Order proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 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 no later than 20 days after the date of entry of the ruling.

### **Findings and Conclusions**

The findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision and Opportunity to File Written Exceptions set forth in the September 13, 2024, issue of the **Federal Register** (89 FR 74851), are hereby approved and adopted.

### **Marketing Order**

Annexed hereto and made a part hereof is the document entitled "Order Amending the Order Regulating the Handling of Raisin Produced from Grapes Grown in California." This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, that this entire decision be published in the **Federal Register**.

### **Referendum Order**

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 through 900.407). To determine whether the annexed order amending the order regulating the handling of raisins produced from grapes grown in California is approved or favored by growers, as defined under the terms of the Order, who during the representative period were engaged in the production of raisins produced from grapes in the production area.

The representative period for the conduct of such referendum is hereby determined to be August 1, 2024, through July 31, 2025.

The agents of the Secretary to conduct such referendum are hereby designated to be Peter Sommers, Marketing Specialist, and Abigail Maharaj, Branch Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487-5905, or Email: *peterr.sommers@usda.gov* or *abigail.maharaj@usda.gov*.

**Order Amending the Order Regulating the Handling Raisins Produced from Grapes Grown in California<sup>1</sup>**

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary to the findings and determinations that were previously made in connection with the issuance of the marketing order, and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon proposed further amendment of Marketing Order No. 989, regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record, it is found that:

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<sup>1</sup> This order shall not become effective unless and until the requirements of §900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.



(1) The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order upon which a hearing has been held;

(3) The marketing order, as amended, and as hereby proposed to be further amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of raisin produced from grapes grown in California; and

(5) All handling of raisins produced from grapes grown in the production area, as defined in the marketing order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

#### **Order Relative to Handling**

It is therefore ordered, that on and after the effective date hereof, all handling of raisins produced from grapes grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the Order contained in the Recommended Decision and Opportunity to File Written Exceptions published in the September 13, 2024, issue of the **Federal Register** (89 FR 74851), and in this Secretary's Decision and Referendum Order, will be and are the terms and provisions of this order amending the Order and are set forth in full herein.

#### **List of Subjects in 7 CFR Part 989**

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

#### **Recommended Further Amendment of the Marketing Order**

For the reasons set out in the preamble, 7 CFR part 989 is proposed to be amended as follows:

#### **PART 989 – RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA**

1. The authority citation for part 989 continues to read as follows:

**Authority: 7 U.S.C. 601-674.**

#### **§ 989.22 [Removed and Reserved]**

2. Remove and reserve § 989.22.

3. Amend § 989.24 by revising paragraph (b) to read as follows:

**§ 989.24 Standard raisins, off-grade raisins, other failing raisins, and raisin residual material.**

\* \* \* \* \*

(b) *Off-grade raisins* means raisins which do not meet the then effective minimum grade and condition standards for natural condition raisins: *Provided*, That raisins which are certified as off-grade raisins shall continue to be such until successfully reconditioned as standard raisins or become “other failing raisins.”

\* \* \* \* \*

4. Revise § 989.26 to read as follows:

**§ 989.26 Establishment and membership.**

A Raisin Administrative Committee is hereby established consisting of 21 members of whom 12 shall represent producers, 8 shall represent handlers and 1 shall be a public member.

(a) The producer members shall be selected as follows:

(1) Producer members representing the cooperative marketing association(s) shall be members of such association(s) engaged in the handling of raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the preceding crop year, and those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 12 by the ratio the cooperative marketing association(s) raisin acquisitions are to the acquisitions of all handlers during the preceding crop year.

(2) Producer members representing cooperative bargaining association(s) shall be members of such association(s), and the number of those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 12 by the ratio the raisins acquired by handlers from bargaining association members are to the total acquisitions of all handlers during the preceding crop year.

(3) All other producer members, who shall not be members of a cooperative bargaining association(s), cooperative marketing association(s) engaged in the handling of raisins which acquired 10 percent or more of the total acquisitions during the preceding crop year, nor sold for cash to cooperative marketing association(s), shall represent all producers not defined in paragraphs (a)(1) or (a)(2) of this section and shall be selected as designated in the rules and regulations.

(b) The handler members shall be divided into two groups and include the following:

(1) Handler members shall be selected from and represent cooperative marketing association(s) engaged in the handling of raisins each of which acquired not less than 10

percent of the total raisin acquisitions during the preceding crop year, and the number of those members shall be equal to the product, rounded to the nearest whole number, obtained by multiplying 8 by the ratio of the cooperative marketing association(s) raisin acquisitions are to the total acquisitions of all handlers during the preceding crop year.

(2) The remaining handler members shall be selected from and represent all other handlers, which would include all independent handlers and small cooperative marketing association(s) who acquired less than 10 percent of the total raisin acquisitions during the preceding crop year. Handler nominees for this group shall be nominated by all handlers in the group in a manner determined by the Committee, with the approval of the Secretary, and specified in the rules and regulations.

(c) The public member shall be nominated by the Committee and selected by the Secretary as public member.

(d) For each member of the Committee there shall be an alternate member who shall have the same qualifications as the member for whom they are an alternate.

5. Amend § 989.29 by revising paragraphs (a) and (b) (1) and (2) to read as follows:

**§ 989.29 Initial members and nomination of successor members.**

(a) *Initial members.* Members and alternate members of the Committee serving immediately prior to the effective date of this amended subpart shall, if thereafter they are eligible, serve on the Committee until April 30, 2026, and until their respective successors have been selected and qualified.

(b) \* \* \*

(1) The Committee shall notify the cooperative marketing association(s) engaged in handling not less than 10 percent of the total raisin acquisitions during the preceding crop year, and cooperative bargaining association(s), of the date by which nominations to fill member and alternate member positions shall be made. The Committee shall give

reasonable publicity of a meeting or meetings of producers who are not members of cooperative bargaining association(s), or cooperative marketing association(s) which handled 10 percent or more of the total raisin acquisitions during the preceding crop year, and of independent handlers and cooperative marketing association(s) who handled less than 10 percent of the total raisin acquisitions during the preceding crop year, for the purpose of making nominations to fill the member and alternate member positions prescribed in § 989.26 (a)(3) and (b): *Provided*, That member and alternate member nominations by independent handlers and cooperative marketing association(s) who acquired less than 10 percent of the total raisin acquisitions during the preceding crop year may be made to the Committee by mail in lieu of meetings.

(2)(i) Any producer representing independent producers and producers who are affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year must have produced grapes which were made into raisins.

(ii) Each such producer whose name is offered in nomination to represent on the Committee independent producers or producers who are affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year shall be given the opportunity to provide the Committee a short statement outlining qualifications and desire to serve if selected. These brief statements, together with a ballot and voting instructions, shall be mailed to all independent producers and producers who are affiliated with cooperative marketing associations handling less than 10 percent of the total raisin acquisitions during the preceding crop year of record with the Committee. The producer candidate receiving the highest number of votes shall be designated as the first member nominee for a member position in which they qualify, the second highest shall be designated as the second member nominee for a member position which they qualify, until nominees for all

producer member positions have been filled. Similarly, after all producer member positions have been filled, the producer candidate receiving the highest number of votes shall be designated as the first alternate member nominee for a member position in which they qualify, the second highest shall be designated as the second alternate member nominee for a member position in which they qualify, until nominees for all alternate member positions have been filled.

(iii) In the event there are no qualified candidates for any designated producer member or alternate member positions, such positions may be filled by other producer candidates not otherwise nominated for a position.

(iv) Each independent producer or producer affiliated with cooperative marketing association(s) handling less than 10 percent of the total raisin acquisitions during the preceding crop year shall cast only one vote with respect to each position for which nominations are to be made. Write-in candidates shall be accepted. The person receiving the most votes with respect to each position to be filled, in accordance with paragraph (b)(2)(ii) and (iii) of this section, shall be the person to be certified to the Secretary as the nominee. The Committee may, subject to the approval of the Secretary, establish rules and regulations to effectuate this section.

\* \* \* \* \*

6. Revise § 989.30 to read as follows:

**§ 989.30 Selection.**

The Secretary shall select producer, handler, and public members and alternate members in the number specified in § 989.26, as applicable, and with the qualifications specified in § 989.27. Such selections may be made from nominations certified pursuant to § 989.29 or from other eligible producers, or handlers.

**§ 989.38 [Amended]**

7. Amend § 989.38 by removing the numeral “25” and adding in its place the numeral “14”.

**§ 989.54 [Amended]**

8. Amend § 989.54 by:

a. Removing paragraph (a)(4);

b. Redesignating paragraphs (a)(5) through (9) as paragraphs (a)(4) through (8), respectively; and

c. Removing in newly redesignated paragraph (a)(4), removing the text “, considering the estimated world raisin supply and demand situation”.

9. Amend § 989.58 by adding paragraph (g) to read as follows:

**§ 989.58 Natural condition raisins.**

\* \* \* \* \*

(g) *Quality reconditioned raisins.* All raisins which have been inspected and certified as meeting the minimum grade, quality, and condition standards established pursuant to this section, whether upon incoming inspection or upon later inspection after reconditioning, shall be determined to be standard raisins, labelled accordingly, and shall be eligible for commercial disposition as natural condition raisins or packed raisins in normal outlets.

10. Add § 989.63 to read as follows:

**§ 989.63 Contributions.**

The Committee may accept voluntary contributions: *Provided*, That such contributions shall only be used to pay expenses authorized under § 989.79.

Furthermore, contributions shall be free from any encumbrances by the donor and the Committee shall retain complete control of their use.

11. Add § 989.64 to read as follows:

**§ 989.64 Patents, copyrights, trademarks, inventions, product formulations, and publications.**

(a) Any patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Committee under this subpart shall be the property of the U.S. Government, as represented by the Committee, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, product formulations, or publications, inure to the benefit of the Committee; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Committee; and may be licensed subject to approval by the Secretary.

(b) Upon termination of this subpart, § 989.92 shall apply to determine disposition of any property, including patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Committee under this subpart.

(c) Should patents, copyrights, trademarks, inventions, product formulations, or publications be developed through the use of funds collected by the Committee under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, trademarks, inventions, product formulations, or publications shall be determined by agreement between the Committee and the person or organization contributing funds towards the development of such patents, copyrights, inventions, trademarks, product formulations, or publications in a manner consistent with paragraph (a) of this section.

(d) Should any patents, copyrights, trademarks, inventions, product formulations, or publications, be licensed to the Committee by another person or organization, the rights and obligations regarding such licensed patents, copyrights, trademarks, inventions, product formulations, or publications shall be determined by agreement



between the Committee and the person or organization permitting licensure in a manner consistent with paragraph (a) of this section.

**§ 989.122 [Removed and Reserved]**

12. Remove and reserve § 989.122.

13. Revise § 989.126 to read as follows:

**§ 989.126 Representation of the Committee.**

(a) Pursuant to § 989.26(a)(3), and commencing with the term of office beginning May 1, 2026, apportionment of independent and small cooperative producers shall be:

(1) One producer member, selected from and representing all producers, who is unaffiliated with any handler (including, but not limited to, ownership, employment, or agent of any handler, and whose family members are similarly unaffiliated with any handler); and

(2) The remaining producer member(s) selected from and representing all other independent and small cooperative producers.

(b) Pursuant to section § 989.26(b)(2), and commencing with the term of office beginning May 1, 2026, apportionment of the independent and small cooperative marketing association handlers shall be:

(1) Two members selected from and representing the four handler(s) other than major cooperative marketing association handler(s) who acquired the largest percentage of the total raisin acquisitions during the preceding crop year; and

(2) The remaining member(s) selected from and representing all other handlers, including small cooperative marketing association handler(s) and all processors.

13. Revise § 989.129 to read as follows:

**§ 989.129 Voting at nomination meetings.**

Any person (defined in § 989.3 as an individual, partnership, corporation, association, or any other business unit) who is engaged, in a proprietary capacity, in the

production of grapes which are sun-dried or dehydrated by artificial means to produce raisins and who qualifies under the provisions of § 989.29(b)(2) shall be eligible to cast one vote for a nominee for each producer member position and one vote for a nominee for each producer alternate member position on the Committee which is to be filled. Such person must be the one who or which: Owns and farms land resulting in his or its ownership of such grapes produced thereon; rents and farms land, resulting in his or its ownership of all or a portion of such grapes produced thereon; or owns land which he or it does not farm and, as rental for such land, obtains the ownership of a portion of such grapes or the raisins. In this connection, a partnership shall be deemed to include two or more persons (including a husband and wife) with respect to land the title to which, or leasehold interest in which, is vested in them as tenants in common, joint tenants, or under community property laws, as community property. In a landlord-tenant relationship, wherein each of the parties is a producer, each such producer shall be entitled to one vote for a nominee for each producer member position and one vote for each producer alternate member position. Hence, where two persons operate land as landlord and tenant on a share-crop basis, each person is entitled to one vote for each such position to be filled. Where land is leased on a cash rental basis, only the person who is the tenant or cash renter (producer) is entitled to vote. A partnership or corporation, when eligible, is entitled to cast only one vote for a nominee for each producer position to be filled.

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