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REPORT TO THE CONGRESS

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BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

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Marketing Order Program-- An Assessment Of Its Effects On Selected Commodities

Departments of Agriculture and State

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GAO has assessed the costs and effects of Federal marketing orders authorized by the Secretary of Agriculture under the Agricultural Marketing Agreement Act of 1937 on potatoes, onions, and raisins.

The orders benefit some producers and handlers by improving farm-level prices and also assist industries to organize, exchange ideas, and evaluate marketing conditions. On the other hand, consumers pay higher retail prices for commodities regulated by marketing orders.

The program needs better domestic and international trade guidelines. The Secretary of Agriculture should advise the Congress on a more realistic gauge than the present parity formula for protecting producer and consumer interests.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report describes the costs and effects of Federal marketing orders on potatoes, onions, and raisins authorized by the Secretary of Agriculture under the Agricultural Marketing Agreement Act of 1937.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the Director, Office of Management and Budget; the Secretary of Agriculture; and the Secretary of State.

Elmer B. Staats

Comptroller General
of the United States

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COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

MARKETING ORDER PROGRAM--AN ASSESSMENT OF ITS EFFECTS ON SELECTED COMMODITIES
Departments of Agriculture and State

DIGEST

The Agricultural Marketing Agreement Act of 1937 authorizes the use of marketing orders to regulate the handling and marketing of domestically produced fresh vegetables, fresh and dried fruits, and nuts. The act allows producers and handlers to regulate the shipment and marketing of certain agricultural commodities subject to approval by the Secretary of Agriculture--actions that otherwise could be subject to anti-trust and other types of legislative control.

This report raises a fundamental question of whether implementation of the act provides the protection the Congress desires for farmer and consumer interests and whether the legislation appropriately recognizes U.S. international trade concerns. The Congress should review the relevancy of the act's basic objectives to current domestic and international economic conditions.

If the Congress decides to continue a program for controlling the marketing of certain agricultural products, it could revise existing legislative provisions that authorize regulatory controls, determine import standards, and use parity as a program guide. Alternatively, the Congress could specify its objectives and require the Secretary of Agriculture to develop appropriate implementing procedures.

The farm value of 29 agricultural commodities covered by marketing orders exceeded $3.2 billion for fiscal year 1974. Imports of 12 of these 29 commodities are also regulated under provisions of the act. GAO reviewed marketing orders covering 3 of these 12 commodities--potatoes, onions, and raisins, which approximated 22 percent of the farm value of commodities covered by marketing orders.

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The potato, raisin, and onion marketing orders have benfited some producers and handlers by enhancing farm-level prices and have played a major role in developing the industries' abilities to organize, exchange ideas, and evaluate marketing conditions.

Desirable effects have also been derived by industry use of marketing order authority, which provides for such activities as market research and development and promotion and advertising.

On the other hand, consumers have had to pay higher retail prices for commodities regulated by marketing orders.

Higher prices paid for potatoes and onions are attributable to the ability of the committees, composed of producers, to remove part of the crops from the fresh market by imposing quality control regulations. In the raisin industry, the combination of volume control and effective bargaining power has enabled producers to stabilize prices, but at higher levels than would appear warranted by market conditions.

Program operations and results for the commodities GAO reviewed have not been closely tied to the Agricultural Marketing Agreement Act's principal objectives, which were to

--establish and maintain orderly marketing in the interests of both producers and consumers,

--enable farmers to obtain parity for their commodities, and

--protect consumers by prohibiting any marketing action which would maintain prices to farmers above the parity level.

The marketing program for raisins has not effectively balanced producer and consumer interests, and the potato and onion industries have not achieved orderly marketing.

The parity price formula is a complex series of price relationships which attempts to equate the purchasing power of farm goods during the 1910-14 era to today's cost of living and production for the farming community. Parity levels established for the commodities GAO examined were based on this formula, which is outdated when applied to current economic conditions.

Although the Department of Agriculture has recognized the shortcomings of the parity formula, it has not proposed a more realistic gauge for monitoring the economic well-being of producers.

Decisions on the use of marketing orders can have widespread domestic and international trade implications; however, no appropriate guidelines have been developed to control marketing order authorization, types of marketing controls used, or import regulations.

Canadian, Mexican, and Turkish Government officials contacted consider U.S. marketing order standards on fruits, vegetables, and nuts to be international nontariff trade barriers and consequently have perceived them as being inconsistent with the U.S free trade posture.

The findings on the three commodities selected for GAO's review identified some fundamental problems in the administration of the Agricultural Marketing Agreement Act of 1937. Accordingly, the Secretary of Agriculture should:

--Develop policy guidelines for domestic fruit, vegetables, and specialty crop industries and advise the Congress on (1) which commodities should have domestic marketing assistance, (2) what criteria should be used to control the authorization of regulatory privileges granted to growers and handlers, and (3) how more equitable assistance might be accorded to growers and handlers of varied commodities produced in diverse locations.

--Recommend to the Congress a more realistic gauge than that presently used for measuring producers' economic well-being.

--Develop consistent and comparable marketing order import standards to give exporting countries a more logical set of standards to follow.

The Department of State commented that it had no objection to these recommendations. It advised us that adequate legislation already exists to protect U.S. farmers from unfair competition and that marketing orders should not be designed to provide such protection. (See app. II.)

The Department of Agriculture disagreed with many aspects of GAO's report, but its comments did not deal directly with the issues or recommendations presented. (See app. I.)

CHAPTER 1

INTRODUCTION

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601), authorizes the use of marketing orders and marketing agreements to regulate the handling and marketing of domestically produced fresh vegetables, fresh and dried fruits, and nuts. During fiscal year 1974 the farm value of 29 agricultural commodities covered by these marketing programs was about $3.2 billion. The act (7 U.S.C. 608e-1) also currently regulates imports of 12 of these 29 commodities (avocados, dates, grapefruit, limes, olives, onions, oranges, Irish potatoes, dried prunes, raisins, tomatoes, and walnuts).

This report reviews marketing orders covering 3 of the 12 imported commodities affected by the act--potatoes, onions, and raisins. During fiscal year 1974, the marketing of $690 million of these 3 commodities was covered by 8 orders.

BACKGROUND

In the 1930s, the Congress enacted agricultural legislation to help relieve depressed economic conditions in the U.S. agricultural sector. The Agricultural Marketing Agreement Act of 1937, an outgrowth of the Agricultural Adjustment Act of 1933, gave legislative guidance to the Department of Agriculture and authorized the Secretary of Agriculture to establish Federal marketing orders and agreements with varying types of regulatory controls.

The act (7 U.S.C. 602) declared the policy of the Congress to be:

> "(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity [1] prices * * *.
>
> "(2) To protect the interest of the consumer by (a) approaching the level of prices which it is

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[1] Parity is intended to give a unit of an agricultural commodity the same purchasing power for other goods and services as it held in the base period, 1910-14.

declared to be the policy of Congress to establish * * * by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish * * *."

* * * * *

"(4) * * * to establish and maintain such orderly marketing conditions for any agricultural commodity * * * [as enumerated in the act] as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices."

* * * * *

Thus, the principal objectives of the act center on the:

1. Establishment and maintenance of orderly marketing conditions to enable producers to obtain parity prices for their commodities.

2. Protection of consumer interests by authorizing no marketing order actions which would maintain prices to producers above the parity level.

3. Establishment and maintenance of orderly marketing conditions to provide for a more orderly flow of a commodity, thus creating greater stability in supplies and prices.

To effect the declared policy, the act (7 U.S.C. 608b) authorizes the Secretary:

"* * * after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof."

The act (7 U.S.C. 608c(1)) also authorizes the Secretary, after giving due notice of and an opportunity for a hearing, to:

> "* * * issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof * * *."

Industry groups, called committees or boards, recommend to the Secretary those controls they deem necessary to maintain an orderly marketing condition. The Secretary must approve the proposed regulations before the committees can implement them. When approved, the regulations become part of the Code of Federal Regulations and have the force and effect of law.

These orders specify the size and composition of the marketing order committees, which essentially consist of producers, or producers and handlers, of the regulated commodity. Committee members are nominated by the industry and must be approved by the Secretary. Each committee is given the authority through the Secretary to implement the order's provisions, propose regulations to effect those provisions, and recommend amendments to the Secretary. The committee must investigate and report violations to the Secretary and may employ the staff necessary to administer its orders.

Some of the regulatory controls authorized under the act are:

--Quality restrictions, for controlling grade, size, or maturity of a commodity going to market.

--Quantity restrictions, for controlling the total amount or rate of flow of a commodity going to market.

--Container restrictions, for controlling size, capacity, weight, and dimensions of shipping containers.

Section 8e of the act (7 U.S.C. 608e-1) requires that whenever the Secretary issues grade, size, quality, or maturity regulations under a domestic marketing order for a particular commodity, he must issue the same or comparable regulations on imports of that commodity.

The act identifies the commodities, and products of these commodities, which can and cannot be covered by marketing orders. Regulation must be limited to the smallest production area the Secretary finds practicable for achieving the purposes of the act. Regulated production areas presently range from several counties to States and groups of States.

Marketing orders are binding on all handlers who market the regulated commodity. Marketing agreements are voluntary contracts between handlers and the Secretary and are binding only on handlers who sign the agreements. When both marketing orders and marketing agreements are in effect, their regulatory terms are identical. The act (7 U.S.C. 608b) specifically exempts the making of marketing agreements from the provisions of antitrust laws. The U.S. Supreme Court has held that marketing orders do not violate antitrust laws provided that they are consistent with the provisions of the Agricultural Marketing Agreement Act.[1] The Justice Department has not challenged any fruit, vegetable, or nut marketing order as violating antitrust laws, although its attorneys have questioned Agriculture about the possible anticompetitive aspects of marketing order programs.

The Fruit and Vegetable Division of the Agricultural Marketing Service administers fruit and vegetable marketing orders and marketing agreements. The administrative responsibility for the orders is divided among the Service's fruit, vegetable, and specialty crop branches.

POTATOES

In 1974 the United States produced 34 billion pounds of long, round white, and round red potatoes, valued at $1.5 billion. West Germany, France, Poland, the United States, and Russia are the major potato-producing countries. The United States imported 109 million pounds from Canada in 1974, less than 1 percent of U.S. domestic consumption, and exported less than 2 percent of U.S. production, valued at $19 million, to Canada. Most foreign countries are prohibited by plant quarantine regulations from shipping potatoes to the United States.

Domestic marketing orders on potatoes became effective in the 1940s and 1950s. Presently, five potato-producing regions--the Idaho-Oregon, Oregon-California, Virginia-North Carolina areas and Washington and Colorado--actively regulate their produce. In 1954, potatoes were brought under section 8e of the Agricultural Marketing Agreement Act, thereby prohibiting the importation of potatoes unless the potatoes were certified by an Agriculture inspector as meeting the same or comparable grade, size, and maturity requirements of the domestic marketing orders.

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1 United States v. Rock Royal Cooperative, Inc., 307 U.S. 533 (1939).

Potato import regulations are based on the potato production area the import is in most direct competition with at the time it is imported. For example, when Colorado round white potatoes are being marketed, imports of this variety must meet the requirements of the Colorado potato marketing order. When two domestic potato orders are concurrently in effect, the Secretary determines which marketing order standards will apply to imports.

Marketing order standards, based on U.S. grade standards, require domestic and imported potatoes to be free from blight, rot, and serious damage; not seriously misshappen; and of minimum size and maturity. The potatoes may not exceed specified limits for external and internal defects, freezing, soft rot, and bacterial wilt.

ONIONS

The 1974 domestic crop of yellow and white onions was approximately 3.3 billion pounds, valued at $158 million. Mexico supplied 92 percent of our imported onions in 1974, about 90 million pounds. Chile, a declining source of U.S. onion imports, supplied less than 1 percent.

Federal marketing orders have regulated the marketing of domestic onions since 1957. The marketing orders are in effect on yellow and white onions grown in southern Texas and the Idaho-Oregon area. In 1961, onions were brought under section 8e of the act, which imposed requirements on imported onions comparable to those imposed on domestically produced onions.

Marketing order standards, based on U.S. grade standards, require domestic and imported onions to be free from damage caused by seedstems, sunscald, sprouting, dirt, disease, or insects and to meet minimum size and maturity requirements. The onions may not exceed specified limits for decay, sunscald, and defects.

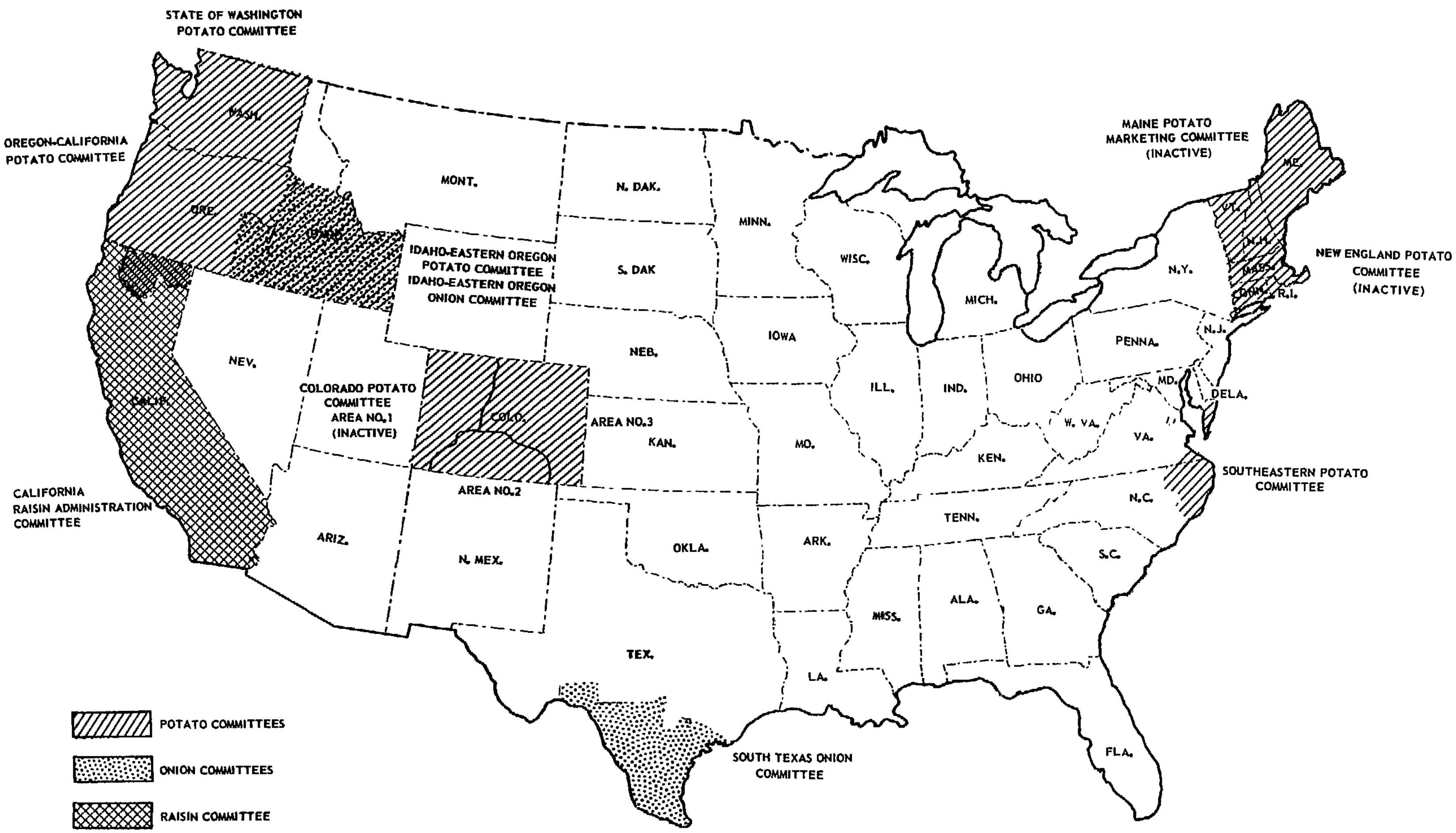
RAISINS

The San Joaquin Valley of central California produces almost the entire U.S. raisin crop, about 35 percent of total world production. The 1974 crop of 240,000 tons was valued at $152 million. In recent years, 5 countries have produced about 96 percent of the reported world raisin crop. Following the United States, the leading producers have been Greece, Turkey, Australia, and Iran. In 1974, the United States exported 49,562 tons of raisins valued at $51 million, and imported less than 500 tons the same year from Turkey, Greece, Iran, and Italy.

A Federal marketing order has regulated the marketing of California raisins since 1949. In 1972, raisins were brought under section 8e of the act, which prohibited the import of raisins unless they were inspected before release by Customs and certified by an Agriculture inspector as meeting the same or comparable grade and maturity requirements imposed on domestic raisins.

Marketing order standards require domestic and imported raisins to be from sound, wholesome, and properly matured grapes, free from active infestation, and to have a normal characteristic color, flavor, and odor. Other requirements, such as specified limits for moisture, sugaring, mechanical damage, pieces of stem, and capstems, must also be met.

POTATO, ONION AND RAISIN MARKETING ORDER COMMITTEES



Prepared by GAO from information obtained from the Department of Agriculture

CHAPTER 2

EFFECTIVENESS OF MARKETING ORDERS

IN PROTECTING PRODUCERS AND CONSUMERS

A basic objective of the Agricultural Marketing Agreement Act of 1937 is to establish and maintain orderly marketing conditions. The raisin order allows producers and handlers to maintain such an orderly market. However, the potato and onion marketing orders have proven to be much less effective because they do not cover a sufficient amount of shipments to the domestic market to stabilize farm-level prices.

Two further objectives of the act are to enable farmers to obtain parity for their commodities and to protect consumers by prohibiting any marketing order action which would maintain prices to farmers above the parity level. Neither consumers nor producers are adequately protected because parity levels, the legislative gauges for monitoring these objectives, are unrealistic, outdated and disregard basic supply and demand considerations.

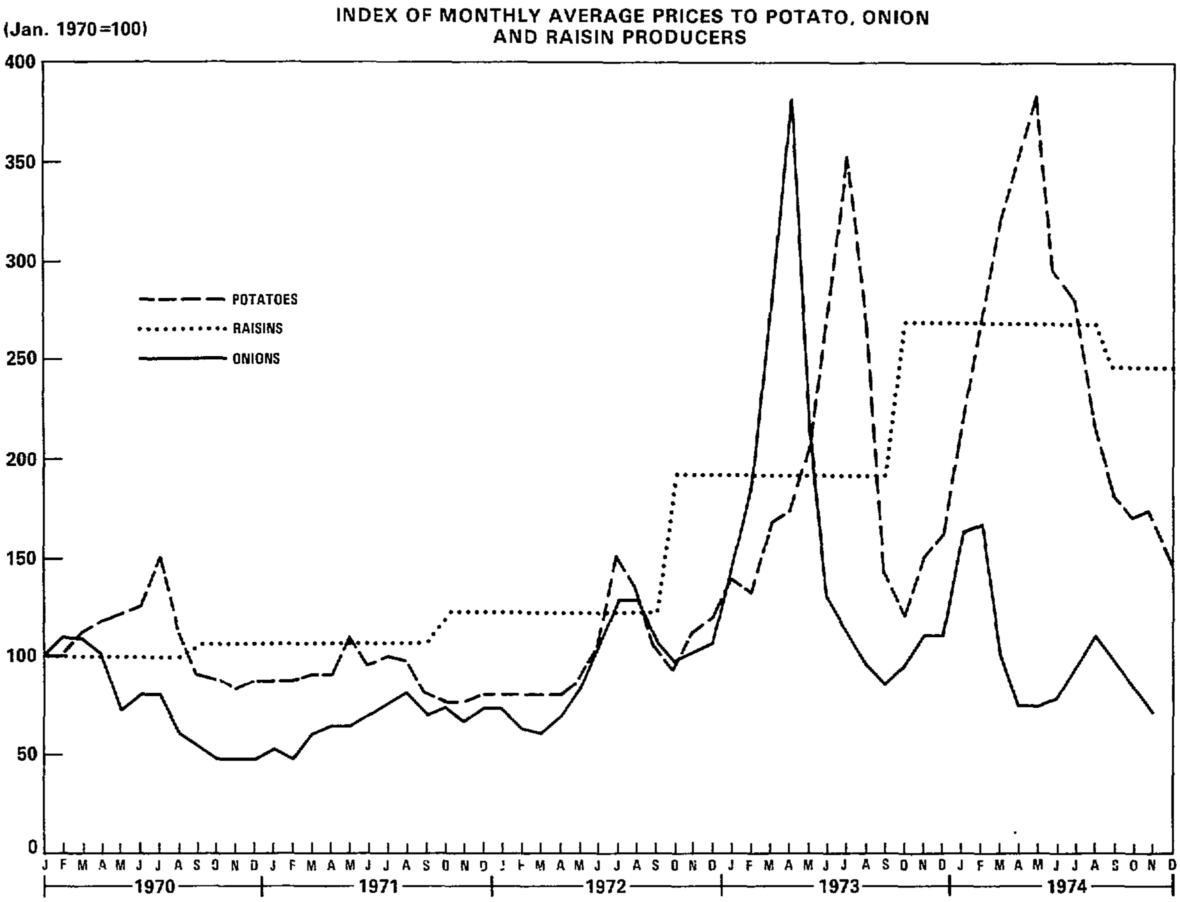
MAINTAINING ORDERLY MARKETING CONDITIONS

The act authorizes the Secretary of Agriculture to establish and maintain orderly marketing conditions to avoid surplus or shortage of a commodity within or throughout a season and unreasonable fluctuations in its price.

To do this, the Secretary allows the raisin industry to use both quantity and quality regulations. This control, and the existence of a bargaining association and a cooperative, has enabled producers and handlers to regulate raisin supplies and reduce price fluctuations.

In contrast, potato and onion producers have sold their produce domestically or for export at variable market prices due to their lack of effective volume controls or bargaining power. The use of quality standards by themselves in these industries appears to have had little effect on the price stability or flow of these commodities to market.

The following graph shows prices for potatoes, onions, and raisins indexed to their January 1970 average prices. Raisin growers' returns for sales on the domestic market generally show a steady increase each year and a fairly constant price per ton for the entire marketing season. Potato and onion returns, in contrast, fluctuate dramatically throughout a marketing year.



SOURCE PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE DEPARTMENT OF AGRICULTURE

The type of regulation selected for a particular commodity depends on several factors, including type of commodity (storable or nonstorable), contiguity of production areas, variations in climate of production areas, and variation in each area's production capabilities.

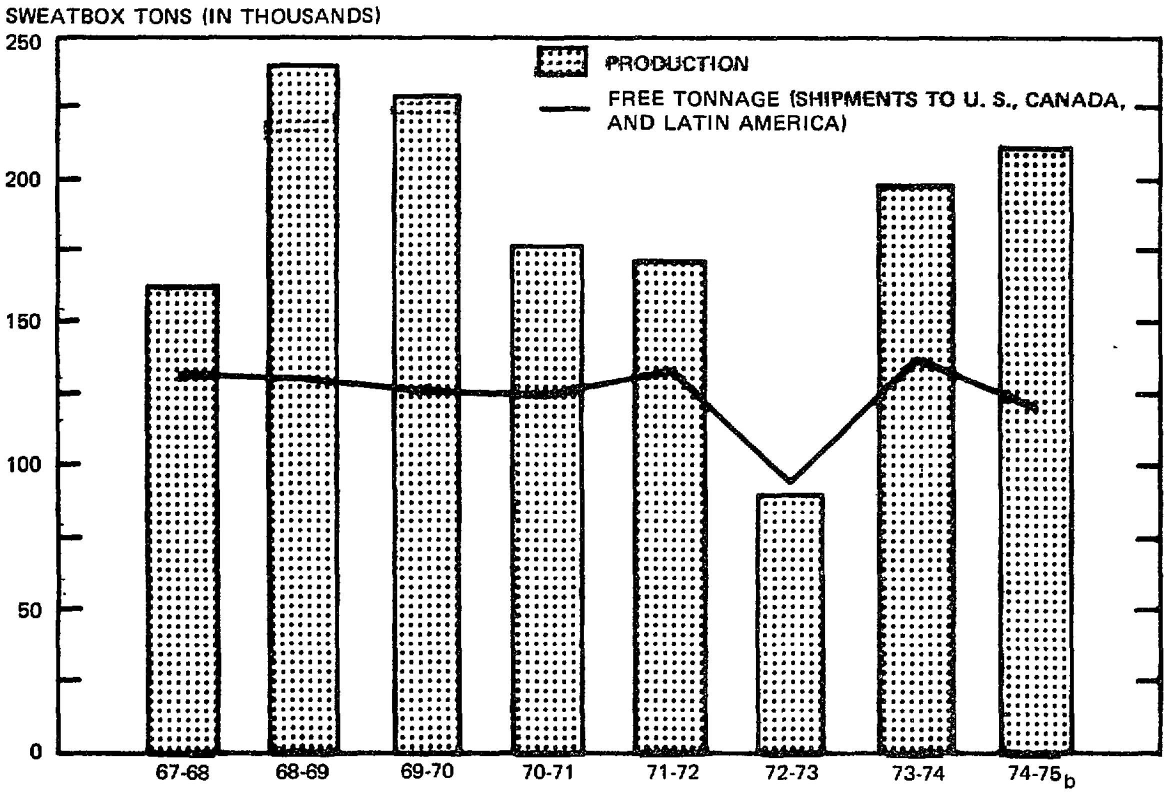
Raisins

The raisin industry, located within a 50 by 240-mile area in the central California valley, developed a marketing order designed to regulate volume through reserve restrictions and to upgrade quality with grade and maturity requirements. The dry climate and the irrigated soil of the valley make it the most suitable area in the United States for producing raisins.

The raisin marketing regulation, which must be approved by Agriculture each marketing season, enables producers and handlers to regulate the entire U.S. raisin supply by allocating production between domestic and export markets. The industry holds a portion of the raisin crop, a reserve pool, in handlers' storerooms. This reserve pool may be exported to countries outside the Western Hemisphere, sold to noncompetitive outlets, used in industrial processes for making alcohol or feed, or carried into the next crop year. Marketing of the remaining raisins, the free tonnage, is unrestricted, but is normally marketed domestically. In 1974, based on the marketing order committee's recommendation and supporting information, Agriculture designated 73 percent of the U.S. crop as free tonnage and 27 percent as the reserve pool.

The following graph shows that the industry maintained a fairly constant supply of raisins for domestic consumption, even though the total amount of raisins produced fluctuated significantly. In surplus years the industry removed a portion of the crop, the reserve, from the domestic market. In shortage years, 1972-73 for example, the industry maintained shipments at a level above production by withdrawing from the reserve pool.

FREE TONNAGE SHIPMENTS AND PRODUCTION OF U.S. RAISINS CROP YEARS[a] 1967 – 74



[a]Crop years = September 1 through August 31.

[b]Free tonnage for 11 months, ending July 31.

Source: Prepared by GAO from information obtained from the Raisin Administrative Committee.

Prospects for the raisin industry

During 1974, California grape growers produced about 1.9 million tons of raisin variety grapes, but used only 1.0 million tons for making raisins. Since more than 90 percent of the raisin variety grapes produced are Thompson seedless, which can be sold as table grapes, crushed for wine, or dried as raisins, growers have an option on their crop usage. A potential problem arises from this "swing factor" because, under the marketing order, the raisin industry can restrict only the supply of raisins marketed domestically, not the amount produced.

Relatively high raisin prices and low crush prices for wine could attract many grape producers, who do not currently have bargaining power, to the raisin industry. The amount of raisin variety grapes used to make raisins has increased from 38 to 52 percent since 1971.

Use of Raisin Variety Grapes

	1971	1972	1973	1974
	(1,000 tons)			
Canning	58	51	59	61
Fresh market	177	159	140	130
Wine	1,204	717	1,210	752
Raisin (note a)	878	436	967	1,015
	2,317	1,363	2,376	1,958
Percent used for raisins	38	32	41	52

[a]Weight of fresh grapes--conversion ratio for dried raisins was 4.60 in 1971, 4.15 in 1972, 4.32 in 1973, and 4.23 in 1974.

The success of a raisin bargaining association or cooperative in regulating prices depends on the industry's ability to regulate supplies through the marketing order committee. Yet, relatively high raisin prices or low crush prices for wine may cause Thompson seedless grape growers to produce raisins, even though such production is more difficult, resulting in an extreme surplus of grapes flowing into the raisin industry. Thus, the industry's ability to maintain higher raisin prices may tend to keep growers in an industry that is already in overproduction and may even draw more producers from the wine and fresh market sectors.

Potatoes and onions

Potato and onion quality regulations have proven much less effective in providing an orderly market than has the raisin volume control program. The raisin committee, due to the contiguity of its production area, regulates 100 percent of the U.S. production of raisins. In contrast, the 5 active potato committees regulate only about 30 percent of U.S. fresh market potato crop and the 2 onion committees regulate only about 25 percent of the U.S. fresh market onion crop.

Potato and onion industry representatives explained that volume control is not practical for these industries because of scattered production areas, diversified types of produce, and varied climates. Potatoes are produced in every State, and onions are produced in about 20 States. All production areas probably would not have surpluses or shortages during the same season, and determining national free and reserve pool percentages would be difficult. Reserve pooling would also be impractical because potatoes and onions are not easily stored.

Without volume control programs, potato and onion committees can neither maintain constant yearly domestic supplies nor stabilize prices. In years of surplus, even though quality standards may remove large percentages of the crop from the market, an oversupply of high-quality produce may still flood the market and cause lower prices. If trends toward greater use of processed foods continue, regulation of potatoes and onions under marketing orders will be even less significant, because these orders do not cover produce designated for processing.

PARITY PRICE

In the 1930s, severe price disparities existed between depressed farm-level prices of agricultural goods and the higher prices of other commodities. In response to these price disparities, the parity concept was developed. A parity price is intended to give a unit of a farm commodity the same purchasing power as it held in the period 1909-14, the "golden age of agriculture." The Agricultural Acts of 1948 (62 Stat. 1247) and 1949 (63 Stat. 1051) prescribed the present method of computing the parity price. This formula, which uses the base period January 1910 to December 1914, has not been amended.

The parity price formula is based on a complex series of price relationships and has the following elements:

$$\text{PARITY} = \overbrace{\text{10 YEAR AVERAGE PRICE OF THE COMMODITY} \div \frac{\text{10 YEAR AVERAGE OF ALL FARM PRODUCT PRICES}}{\text{AVERAGE OF ALL FARM PRODUCT PRICES FOR BASE YEARS 1910-1914}}}^{\text{ADJUSTED BASE PRICE}} \times \overbrace{\frac{\text{ONE MONTH LEVEL OF COSTS FOR ALL FARMERS}}{\text{1910-1914 LEVEL OF COSTS FOR ALL FARMERS}}}^{\text{PARITY INDEX}}$$

In computing the parity price, the ratio of the most recent 10-year average prices farmers received for all farm products to the base period average prices received is divided into the most recent 10-year average of the commodity. This calculation equals the adjusted base price. The adjusted base price is then multiplied by the ratio of the previous monthly level of farm costs to the base period level (the parity index) to obtain the parity price. The same process is used for all farm products.

Effects on producers and consumers

The parity price formula disregards basic changes in demand and production costs and thus cannot assure farmers of equitable incomes. Producers, handlers, processors, Department of Agriculture officials, economists, and farm association representatives agree that the formula is inappropriate and a more realistic method of determining fair market prices should be developed.

Potato, onion, and raisin industry representatives stated that parity prices are not realistic in relation to their costs of production. Yet, under the Agricultural Marketing Agreement Act of 1937, authorizations for raisin volume control and potato and onion quality standards each season are based on the relationship of estimated grower returns to parity.

Marketing order committee recommendations for regulatory action are sent to the Fruit and Vegetable Division of the Agricultural Marketing Service for review at the beginning of each marketing season. If Agriculture determines at that time that a committee proposal will cause season average prices to go above the parity level, it must reject the regulations. In this event, quantity or quality standards may have to be lowered to allow more produce to be marketed and to bring farm prices down to parity. Agriculture officials told us that this rarely occurs because season average prices seldom rise above parity.

Constant returns at the parity level, as intended by the act, would have resulted in excessively high returns to growers and in higher retail prices. The level that farm returns would have reached in 1974 had growers always received 100 percent of parity price since 1950 for their commodities are as follows:

	Parity price in 1974 if 100 percent received	Actual 1974 parity price	Average 1974 farm-level price
	(100 pounds)		
Potatoes	$12.16	$ 5.01	$ 4.35
Onions	15.30	8.47	5.15
Raisins	45.36	31.95	35.65

Assuming a consistent percentage markup from farm to retail level, retail prices for potatoes, onions, and raisins would be:

	Retail price if 100 percent were received	Average retail price (1974)
Potatoes	$3.55 per 10 pounds	$1.66 per 10 pounds
Onions	.50 per pound	.21 per pound
Raisins	.98 per pound	.77 per pound

If growers had received 100 percent of the parity price for their produce since 1950, farm-level potato prices would be approximately 113 percent higher, onion prices 142 percent higher, and raisin prices 27 percent higher. Retail prices for potatoes and onions would be more than double the current prices.

Some reasons the parity formula results in these unrealistic price levels are because it does not recognize differences in price and yield of a commodity or productivity increases that have occurred since the 1910-14 period.

Differences in price and yield

Since parity is a national price concept, parity prices do not reflect differences in location, grade, variety, or yield. The formula uses a 10-year average of prices received for the commodity. For commodities like potatoes which have diverse varieties and yields, the parity price level is inequitable for many producers.

Potato Average Return Per Acre in 1974 for Selected States

	Price per 100 pounds	Yield per acre (100 pounds)	Return per acre
California	$6.15	351	$2,159
Idaho	4.20	238	1,000
Maine	3.30	260	858
Maryland	5.10	155	791
North Carolina	7.85	141	1,107
Oregon	4.38	350	1,533
Virginia	5.15	130	607
Washington	4.10	420	1,722

Nevertheless, all potato producers in these States had the same parity price, $5.01 per 100 pounds for 1974. Although Virginia and Maryland producers received prices just above the parity level, their returns per acre were much lower than those of Idaho and Washington producers, who received about 16 and 18 percent less than the parity price, respectively.

Agriculture officials who administer the potato and onion marketing orders recognize the inequity of the single parity price concept and have made administrative adjustments for computing a parity price equivalent for areas that have marketing orders. These adjustments attempt to reduce some of the wide discrepancies found between grower returns in certain areas of the country and a national parity price. Because Agriculture uses parity prices as a basis for these adjustments, the new figures still contain the basic shortcomings of parity.

Increased productivity

Although the parity concept attempts to give a 1975 unit of farm goods the same purchasing power it had in 1910-14, technological progress has greatly increased farm yield per acre. An hour of farm labor now produces many more bushels of food than it did then, as shown in the table below.

Potato production, for example, has increased 244 percent per acre since 1910-14, yet neither the parity index nor the adjusted base price considers the farmers' greatly increased efficiency.

Yields

Potatoes		Onions	
Year	100 pounds per acre	Crop year	100 pounds per acre
1910-14	68	[a]1918-22	155
1933-37	67	1933-37	109
1950-54	151	1950-54	184
1970-74	234	1970-74	298

[a] Earliest figures available.

The parity index covers most of the farm families' major expenditures. The areas covered are divided into two groups--items bought for family living (food, clothing, household furnishings, autos) and items bought for production (feed, motor vehicles, farm machinery, fencing materials, fertilizer, seed). The index reflects cost increases in these items.

The adjusted base price reflects average prices that farmers receive per unit. This unit price does not reflect a farmer's increased productivity and resulting increase in total income.

Thus, the present parity formula does not provide a measure of satisfactory or equitable levels of income for farmers or show how profitable or unprofitable production of a particular commodity may be.

Since marketing order legislation bases the use of controls and standards on the relationship of estimated grower returns to the parity level, parity calculated at an unrealistic level bases the authorization for regulatory control on an inappropriate gauge. Parity used as the gauge for monitoring marketing order programs cannot adequately protect producers or consumers.

CHAPTER 3

COSTS OF MARKETING ORDERS

Potato, onion, and raisin marketing orders have resulted in considerable costs to U.S. consumers and the U.S. Government. Higher consumer costs are generally attributable to the marketing orders' volume or quality controls which remove a percentage of the crop from the retail market, while Government costs are incurred for general administrative responsibilities.

GOVERNMENT COSTS

The Department of Agriculture bears the entire Government cost of administering the marketing orders and agreements. Separate data is not maintained for programs, and, because each program has different requirements, activities, and problems every year, there is no practical way to determine individual program costs. The Agricultural Marketing Service budget for fiscal year 1974 was $3.3 million. Committee expenses are defrayed by assessing the handlers on a unit basis.

CONSUMER COSTS

The estimated costs of potato, onion, and raisin marketing orders to U.S. consumers in 1974 are as follows.

	Total volume regulated in 100 pounds	Farm-level effect per 100 pounds	Farm-level effect	Percent of markup from farm to retail	Retail level effect
Raisins	2,850,749	$ 4.94	$14,082,700	148	$34,925,096
Potatoes	33,933,000	.06	2,035,980	191	5,924,702
Onions	6,560,000	.06	393,600	230	1,298,880

Source: Volumes and retail markups obtained from Agriculture statistical services.

These figures are intended to show an estimated order of magnitude rather than precise cost estimates. They are based on data, calculations, and some simple and straightforward assumptions, explained in the following sections.

Efforts to obtain more precise cost figures would be difficult because of the need to simultaneously determine the reaction of many economic variables, such as production levels, prices, and product demand, to a totally unregulated domestic market.

Department of Agriculture research on the price effects of marketing orders has been general in nature and concerned with effects on farm prices. This research has indicated that most quality regulation has had little effect on farm prices, while quantity controls have shown significant price-enhancing capabilities. A January 1975 Agriculture report stated that "prices for raisins have been enhanced through a combination of reserve pool and market allocation requirements."

Raisins

Since 1967, farm-level raisin prices have risen from $297 to $632 a ton, an increase of 113 percent. Without the price-enhancing combination of volume control and effective bargaining, the large amount of U.S. raisins available for the domestic market and for export in 1974 and the 11 percent increase in total world production would have greatly deflated farm-level prices. Raisin handlers and packers have been willing to accept these higher prices because of the assurance of a limited raisin tonnage on the U.S. market due to volume controls. In addition, control by two cooperatives of a large percent of the available supply and a low volume of imports limits alternative sources of raisins.

The creation of a raisin producers' bargaining association in 1967 gave growers cooperative control of about 80 percent of the raisin crop. Approximately 45 percent of the growers sell their raisins through the association. The other cooperative controls 36 percent of the crop. Although the cooperatives' pricing controls are independent of Federal marketing orders, the industry must rely on the orders to control the supply of raisins flowing to the domestic market.

The bargaining association controls its growers' raisins through contracts with each member. Handlers pay the growers a negotiated price for their free tonnage through the association. Cooperative members, also under contract, can produce grapes for fresh market, wine, canning, or raisins, but if raisins are produced, these belong to the cooperative. The cooperative pays its growers an advance amount upon delivery and full payment later in the marketing season. All reserve pool raisins go into the handlers' storage, and payments are made to the producers as the marketing order committee disposes of the raisins.

Raisin industry representatives felt that the combination of volume controls and bargaining power enhanced grower returns and increased consumer costs but were unable to quantify the increases. To determine the farm-level effect of this combination in 1974, we calculated a 10-year average (1957-66) of parity prices and season average prices received by raisin producers, eliminating any short crop years. During the 10 year period before the raisin bargaining association was established, growers received approximately 75.3 percent of parity.

Average Season and Parity Prices for Raisins, 1957-1974

Crop year (Sept. 1 - Aug. 31)	Price received	Parity	Percent of parity
	(per ton)		
1957 (note a)	264	204	129
1958 (note a)	315	228	138
1959	196	239	82
1960	212	240	88
1961	204	248	82
1962 (note a)	266	269	99
1963	204	281	73
1964	235	298	79
1965	200	314	64
1966	211	322	66
Non-short crop year average	208.85	277.42	75.3
1967 (note b)	297	327	91
1968	265	335	79
1969	266	348	76
1970	283	369	77
1971	312	396	79
1972 (note a)	541	463	117
1973 (note a)	754	589	128
1974	632	708	89

a/ Year of raisin shortage (no pooling).

b/ Raisin bargaining association established.

In 1972, a frost reduced U.S. raisin production by 45 percent and helped to create a worldwide shortage and high raisin prices. Tight supplies continued through the 1973 season, and the bargaining association was able to negotiate a record high price of $700 a ton. Cooperative members received over $800 a ton.

The 1974 crop returned the industry to a surplus condition, but farm-level prices remained high. Growers received $632 a ton, 89.3 percent of the parity price of $708, for their free tonnage raisins that year. Under normal supply and demand conditions, without the price-enhancing effects of the volume control system and bargaining power, prices probably would have declined further. Government and industry representatives agreed that in the absence of controls the U.S. raisin price would have been lower; however, they maintain that no accurate determinations of price are possible.

With this in mind, we estimated that without marketing controls raisin prices would have followed pricing trends that existed during the 10 years prior to 1967 and would have declined to about 75 percent of current parity, or $533.12 a ton. This estimated price is $98.88 per ton or $4.94 per 100 pounds less than the actual price of $632 a ton. Multiplying this difference by the farm to retail price spread, we estimated that consumer raisin prices were increased by about $35 million during 1974 because of the regulations and controls.

The U.S. industry, when selling reserve pool raisins on the unregulated world market, has accepted considerably less than the domestic price. For example, from 1967 to 1971, U.S. raisins sold on the world market for about $102 to $110 a ton, or 5 cents per pound, less than the domestic free tonnage price. This two-tier price system was not used during the 1974 crop year. The industry designed an export incentive plan as a substitute. After a tonnage quota was met, additional raisins would be sold to a foreign country at a price much lower than the base quota cost per ton. Some industry members told us that the raisin industry was unsuccessful in exporting reserve raisins under the incentive plan and is considering a return to the two-tier price system.

Potatoes and onions

While higher costs paid by U.S. consumers for raisins are generally attributable to quantity controls, the less significant price effects of potato and onion marketing orders are attributable to quality regulations, which also remove a percentage of the crop from the fresh market.

Potato and onion marketing order quality standards are based on the "United States Standards for Grades" developed by the Agricultural Marketing Service. Most marketing order committees set quality standards above the minimum standards for marketing orders established by Agriculture. However, if Agriculture determines that the higher standards will cause season average prices to rise above parity, the Secretary of Agriculture must reject the proposed marketing policy, and the standards must be lowered.

Four of the five active potato committees have set their quality standards above these minimum levels, as shown below.

Potato Marketing Order Minimum Standards

Committee	Committee minimum standards: Size	Weight	Type	Agriculture minimum standards: Size	Weight	Type
Idaho-Eastern Oregon	2" or 1-7/8"	4 oz. -	Long Red	1-7/8" or 1-1/2"	3 oz. -	Long Other
Washington	2" or 1-7/8"	4 oz. -	Long Round	1-1/2"	-	All
Oregon-California	1-7/8"	-	All	1-1/2"	-	All
Colorado area 2	1-7/8" 2"	- -	Long Round	1-1/2"	-	All
Colorado area 3	1-7/8" 2"	- -	Long Round	1-1/2"	-	All
Southeastern	1-1/2"	-	All	1-1/2"	-	All

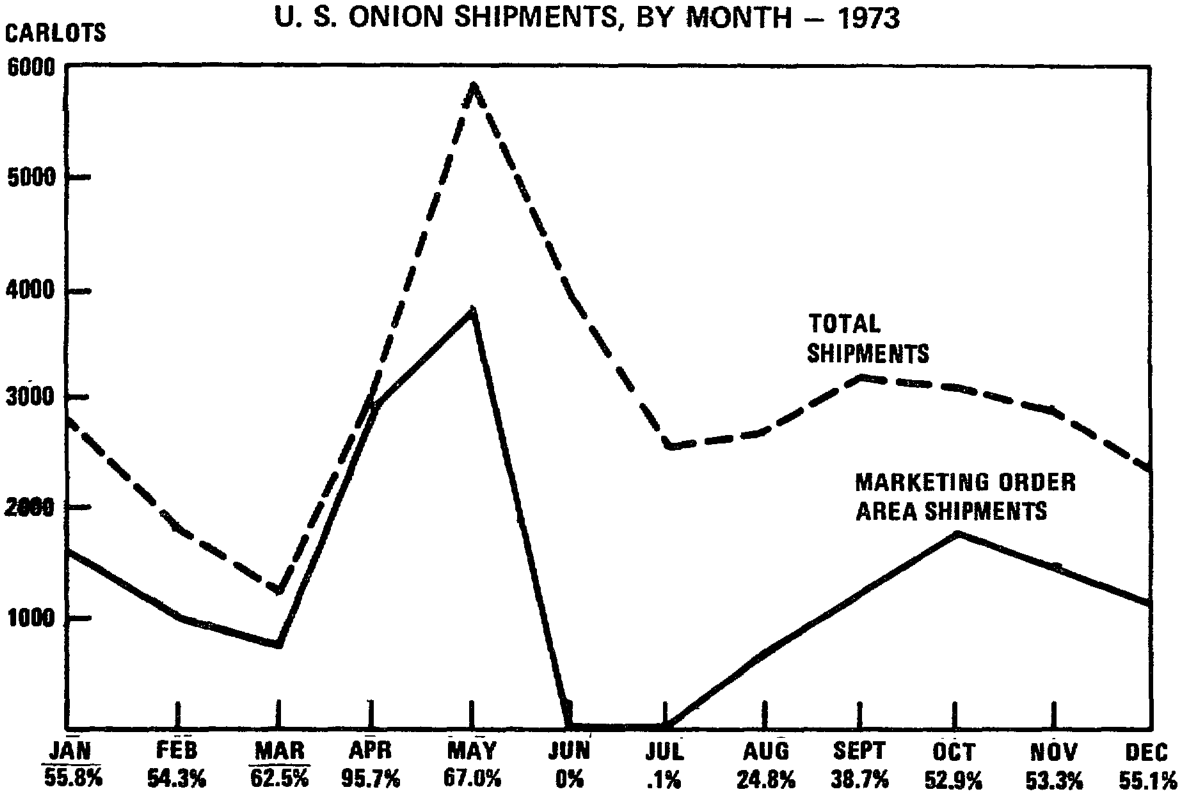
A grade and size distribution survey of the Idaho crop was used to quantify the effect this size differential had on potato volume. The survey showed the committee requirements, which were set above Agriculture's minimum standards, removed 5 percent more of the potato crop from the fresh market in 1 year.

Department of Agriculture and industry representatives estimated that in 1974 potato and onion orders were worth at least 5 to 6 cents a hundred pounds at the farm-level--the approximate costs of inspection and administration. This amounts to an increase of $2 million on farm-level potato prices and $393,000 on farm-level onion prices in 1 year. Multiplied by the 1974 retail markup percentages, this added $7 million to retail prices of potatoes and onions. The economic burden of this regulation falls most heavily on low-income consumers.

The price effects of the potato and onion regulations would be even greater if the orders covered 100 percent of the crops; however, the orders do not regulate the total supply marketed domestically. The five active potato committees regulate only 27 percent of the U.S. potato crop going to the fresh market, and the two onion marketing order areas regulate only 25 percent of the total U.S. fresh market onion crop. To consumers, this quality regulation means that, at certain times of the year or in certain areas of the country, the grocery counter will contain potatoes and onions not regulated by marketing orders. At other times, only the inspected, and possibly higher priced, produce will be available.

Thus, potato and onion quality regulation alone has not been able to provide a consistent supply of quality produce for all U.S. consumers. An examination of monthly domestic onion shipments in 1973 showed that the regulation of the U.S. market ranged from 0 percent in June to 95.7 percent in April.

MARKETING ORDER AREA
ONION SHIPMENTS TO U. S. MARKET AND TOTAL
U. S. ONION SHIPMENTS, BY MONTH – 1973



SOURCE: PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE DEPARTMENT OF AGRICULTURE

Other major nonregulated onion production areas, such as California and Michigan, shipped the remainder of fresh marketed onions--100 percent of the U.S. supply, for example, in June. These nonregulated areas are not required to have inspections.

To achieve a constant supply of inspected, standard quality produce, an industry must be highly regulated, as is the raisin industry. But such increased regulation also means much higher costs to U.S. consumers.

CHAPTER 4

BENEFITS OF MARKETING ORDERS

A unique characteristic of marketing order programs is the joint efforts of Government and industry representatives to improve the marketing of agricultural commodities. This joint effort has had many beneficial results for producers and handlers. In addition to working toward solving price and supply problems inherent in agricultural production, the orders have played a major role in developing the potato, onion, and raisin industries' abilities to organize, expand, and evaluate their constantly changing marketing conditions. Chairpersons and committee managers we contacted were satisfied with Agriculture's present administration of the program.

Summarized below are some of the regulatory functions and activities authorized under marketing orders.

MARKETING ORDER PROGRAMS FOR POTATOES, ONIONS AND RAISINS

Area and Commodity	Grade	Size	Pack and Container	Reserve Pool	Promotion and Advertising	Market Research and Development
Idaho-Oregon Potato	X	X	X			
Washington Potato	X	X	Pack			
Oregon-California Potato	X	X	Pack			X
Colorado Potato	X	X	X			X
Southeastern Potato	X	X				
Idaho-Oregon Onion	X	X	X		X	X
Texas Onion	X	X	X			X
California Raisin	X			X		X

SOURCE: PREPARED BY GAO FROM INFORMATION OBTAINED FROM THE DEPARTMENT OF AGRICULTURE.

RAISINS

The raisin industry has a research program under a California marketing order in addition to its quality regulation and reserve pool system. This combination has resulted in more consistent product quality and improved marketing techniques.

Industry members have encouraged research and market development through the State program. A March 1970 research project financed by the raisin industry examined homemakers' attitudes toward raisins and the influence of raisin prices on sales. A more recent study examined communication channels of groups of raisin consumers and methods of improving these channels. The overwhelming conclusion of this research is that advertising and promotion will sell more raisins.

The Federal raisin marketing order committee has become a focal point for the industry. It is an example of successful cooperation between producers and handlers. The industry has realized that both these segments must be objective and willing to negotiate and that both are necessary for a prosperous domestic raisin industry.

ONIONS AND POTATOES

The Idaho-Eastern Oregon Onion Committee has combined grade, size, and container regulations with a successful promotion and research program to improve its product image and marketing abilities. Promotion techniques have included distributing recipe books and pamphlets on onion storage and handling, preparing local newspaper question and answer columns, participating in State and county fairs, and developing advertising packages for grocery stores. The industry also conducts a substantial production research program.

The South Texas Onion Committee has a market research program in addition to its grade, size, and container regulations. The committee has financed many major research studies, including the effectiveness of particular types of onion promotion and the feasibility of a central onion sales organization for the committee.

Both onion committees have become focal points for their industries and forums for the discussion of all types of producer and handler problems. They have also efficiently distributed statistical information vital to onion production and marketing.

The five active potato committees have developed grade and size restrictions to improve the quality of their marketed product. All except the Southeastern Potato Committee also use pack and/or container regulations to control size, capacity, weight, and dimension of shipping containers.

The potato committees have also become forums for discussing grower and handler problems and an effective means of disseminating information. Both the potato and onion committee systems have the potential to become more important and effective links with the Department of Agriculture and with growers in other areas of the country. The potato and onion orders have also benefited the industries by making it easier for buyers and sellers to come to terms regarding their particular products.

CHAPTER 5

TRADE IMPLICATIONS OF MARKETING ORDERS

Although the range and application of U.S. agricultural import barriers are not unique, their use is of concern to importers, foreign governments, and foreign exporters. Some foreign governments consider U.S. marketing order standards on fruits and vegetables to be international nontariff trade barriers.

The Department of Agriculture sets import standards on the basis of the marketing order regulations. The Agricultural Marketing Agreement Act of 1937 requires that whenever the Secretary issues a marketing order containing grade, size, quality, or maturity standards on domestic potatoes, onions, or raisins, imports of these commodities must comply with the same or comparable standards while the order is in effect. If two or more domestic orders for the same commodity are concurrently in effect, the import must comply with standards regulating the commodity produced in the area with which it would most directly compete. The Secretary makes this determination.

Currently, imported potatoes must meet certain requirements of one of five different potato marketing orders, depending on the time of year and the particular order in effect. Onion import regulations are based on two marketing orders and imported raisins on one.

The Department of Agriculture has little flexibility under the act in setting import requirements or in developing international policy guidelines for the program. Current import restrictions, based on domestic committee standards, are often inconsistent or inappropriate for the specific imported commodity. This has caused several trade problems; however, no formal notifications have been made under any international trade agreements.

POTATO TRADE

U.S. plant quarantine regulations prohibit potato imports from all countries except Canada, Bermuda, and the Dominican Republic. Export markets for U.S. potatoes are also very limited due to foreign government import regulations. Therefore, U.S. trade in potatoes is almost exclusively with Canada, which in 1974 supplied 99.8 percent of the potatoes imported into the United States. All potatoes imported for fresh use or for processing must meet U.S. marketing order standards for potatoes.

Canadian Government officials we contacted questioned the logic and consistency of U.S. marketing orders. Canadian exporters must meet one of the different potato committee standards shown below depending on the time of year and the particular order in effect on imports. These exporters viewed the U.S. orders as definite trade restrictions because of the seasonal variations in standards and the constant possibility of stricter import regulations.

Potato Import Standards

Committee	Potato variety	Date
Idaho-Eastern Oregon	Long	Jan. 1 to Dec. 31
Southeastern	Round white	June 5 to July 31
Colorado area 3	Round white	Aug. 1 to June 4
Washington	Red	July 1 to Aug. 31
Colorado area 2	Red	Sept. 1 to June 30

The varied marketing order standards have caused not only trade problems but also retaliatory action from the Canadian Government. During 1965, the Canadian Government responded to the U.S. orders by enacting its own "marketing order" import regulation which stated that "produce shall not be imported into Canada of grade or quality inferior to that permitted under the U.S. order." U.S. industry representatives and Canadian Government officials agreed that this action was retaliatory, enacted only because Canadian exporters were forced to meet U.S. marketing order standards.

The basic purpose for the Southeastern Potato Committee's current regulatory activity is to enable that area's potatoes to be exported to Canada. Southeastern producers normally export more than 40 percent of their crop of fairly immature potatoes to Canada. When the area was unable to meet the new Canadian maturity standards for round white potatoes--which were, in reality, identical to those of the Colorado Potato Committee--the area was forced to reactivate its own more lenient standards which had been inactive since 1951. Thus, when the Southeastern Potato Committee standards are in effect, Canadian import regulations based on these standards are also in effect, enabling both Canada and the Southeastern Committee to export their potatoes.

ONION TRADE

All onions imported into the United States, for fresh use or for processing, must meet U.S. marketing order standards. Current import requirements are based on either Idaho-Eastern Oregon or Texas Committee standards, depending on the time of import.

Varied onion standards have caused inconsistencies in onion import regulation. Mexican onions, which are very similar to the type produced in Texas, are imported from November to March, when the Idaho-Eastern Oregon regulation is in effect. Idaho-Eastern Oregon standards were designed to regulate marketing of firm storage onions grown in the cooler northern climate, not the fresh, delicate Mexican onion. The more suitable and comparable standards of the Texas order become effective on onion imports in March, after the Mexican marketing season is completed.

RAISIN TRADE

Until the marketing order import requirements for raisins became effective in 1972, the quality of imported raisins was regulated by standards set by the Food and Drug Administration. Imports averaged about 1,500 tons a year during 1967-71.

Some foreign exporters of raisins have had problems in meeting the marketing order standards for imports which became effective in 1972. During the 5 years previous to the restrictions, Turkish imports into the United States averaged about 1,000 tons a year. However, in 1973, 642 tons were imported; in 1974, 51 tons; and during the 12-month period ending in June 1975, only 5 tons were imported.

Correspondence from Turkish exporters and comments of Turkish consul representatives in New York indicate that Turkish raisin producers and exporters believe that much of the marketing order regulation is totally unjust. Raisins are one of Turkey's main exports--$30 million in export sales in 1972 alone--but exports to the United States are at a virtual standstill due to producers' anxieties over rejections. Rejections, according to a Turkish consul representative, not only cause financial loss, but also affect Turkish prestige on the world market.

EFFECT ON U.S. IMPORTERS

Importers generally stated that, except for standards guarding against unsanitary and dangerous foreign material, potato, onion, and raisin import restrictions are not necessary.

Potato importers had no administrative problems with the orders because the Canadian Government checks all potato exports against current U.S. import requirements before shipment so few rejections occur at the U.S. border. The importers believe that imports would increase if they were no longer subject to domestic marketing orders and that smaller sized potato imports could be sold less expensively and would be welcomed by U.S. consumers.

New York onion importers, who import principally from Chile, said that marketing orders limited their imports. They stated that many foreign onions, rejected because they did not conform with U.S. quality standards, could be sold on the U.S. market at a lower price than the prime commodities. Importers felt that imports of Chilean onions have decreased substantially in recent years due to high shipping costs and the risk of rejections.

New York onion importers said the principal difficulty posed by the orders is the 5 percent maximum allowable decay which, because of the distance these imports travel, is easily exceeded. Rejected onions must be repacked before entry into the United States, and importers claimed that such repacking is prohibitively expensive. Consequently, rejected onions are either dumped or shipped to Canada or Europe. However, the 5-percent maximum decay limit, acceptable for onions in transit 10 days or more, is a more lenient tolerance than the 2-percent decay limit allowed for domestic onions.

Texas importers of Mexican onions generally view the marketing orders as a method of protecting the quality of imports, reducing losses to importers, and restricting the supply of onions. U.S. broker/handlers, some of whom are members of the South Texas Onion Committee, finance 90 percent of the onions produced in Mexico for export to the United States. Importer/committee members told us that marketing orders do decrease exports of Mexican onions.

Raisin importers agreed that the marketing orders were the principal reason U.S. raisin imports have decreased since 1972. A former major raisin importer told us that most of his shipments to the United States were rejected after the marketing orders were applied to imports. Shipments which do not pass inspection are reexported for sale to Europe or Canada. Importers said that raisin importing is now so risky that insurance probably can no longer be obtained on shipments.

Importers told us that marketing orders have caused a raisin classification problem and that, because most imported raisins are sold to bakeries for further processing, the standards are meaningless. The imported Sultana (Turkish) raisins are categorized as Thompson seedless (California) raisins for inspections, even though Thompson seedless are a larger, tougher fruit with less sugaring. Sultana sugaring is often higher and cannot pass the 15 percent maximum sugar restrictions. Importers stated that sugaring completely disappears in the baking process. Also, since Sultanas are smaller, there are more raisins per gram, and the 50 capstems per 500 grams regulation is not a comparable regulation for imports.

The Department of Agriculture has recognized the difference in raisin varieties and has attempted to make import requirements more equitable. Current import standards for pieces of stem and capstems are more liberal than domestic standards. The regulations also permit raisins not meeting stem and capstem requirements to be imported for the production of alcohol or syrup for industrial use and raisins not meeting mechanical damage and sugaring requirements to be imported for use in raisin paste production.

A review of Agriculture's inspection records covering the majority (9.5 million pounds) of attempted raisin imports through New York from January 1972 to May 1974 showed that 5.4 million pounds failed Agriculture's inspection. Only 16 percent of the imports were rejected solely because they could not meet marketing order requirements, such as capstem tolerances, damage limits, and sugar content limits; 84 percent failed the health standard maximum tolerance for hair, stones, and insect infestation.

CHAPTER 6

CONCLUSIONS, RECOMMENDATIONS, AGENCY COMMENTS, AND MATTERS FOR CONSIDERATION BY THE CONGRESS

The Agricultural Marketing Agreement Act of 1937 authorizes the use of marketing orders to regulate the handling and marketing of domestically produced fresh vegetables, fresh and dried fruits, and nuts. The act allows producers and handlers, subject to approval by the Secretary of Agriculture, to regulate shipping and marketing of certain agricultural commodities--actions that otherwise could be subject to anti-trust and other types of legislative control. Although decisions on the use of marketing orders can have widespread domestic and international policy implications, no appropriate guidelines have been developed to control marketing order authorization, types of marketing controls used, or import regulations.

Potato, raisin, and onion marketing orders have benefited some producers and handlers by enhancing farm-level prices and have played a major role in developing the industries' ability to organize, exchange ideas, and evaluate marketing conditions. Desirable effects have also been derived by industry use of marketing order authority, which provides for such activities as market research and development and promotion and advertising.

On the other hand, consumers have had to pay higher retail prices for commodities regulated by marketing orders. Higher prices for potatoes and onions are attributable to the ability of the committees, composed of producers, to remove part of the crops from the fresh market by imposing quality control regulations. In the raisin industry, the combination of volume control and effective bargaining power has enabled producers to stabilize prices, but at higher levels than would appear warranted by market conditions.

One of the basic tenets of the 1937 act, the parity concept, is based on a formula that is outdated and unrealistic and that disregards some basic economic considerations. As a result, the Department of Agriculture is required to use an inappropriate gauge for monitoring two of the act's principal objectives, to (1) enable farmers to obtain parity prices for their commodities and (2) protect consumers by prohibiting any marketing order action which would maintain prices to farmers above the parity level. A third objective of the act, to maintain an orderly market, cannot be attained by the potato and onion industries through the use of marketing orders because the committees cannot control a sufficient amount of shipments to the domestic market to stabilize farm-level prices.

Foreign governments we contacted during this review considered U.S. marketing order standards on fruits, vegetables, and nuts to be international nontariff trade barriers. Currently, these import standards appear unfair and often inconsistent to foreign government officials and exporters and have caused a lower volume of imports and ill feeling toward the United States.

Although the application of marketing orders is constantly expanding, no recent review has been made to determine whether the act's basic objectives are still desirable and in accord with present U.S. economic conditions. The Department of Agriculture, although recognizing the many shortcomings of the parity formula, has not proposed a more realistic gauge for monitoring the economic well-being of producers.

RECOMMENDATIONS

In view of the above, we are recommending that the Secretary of Agriculture:

--Develop policy guidelines for domestic fruit, vegetable, and specialty crop industries and advise the Congress on (1) which commodities should have domestic marketing assistance, (2) what criteria should be used to control the authorization of regulatory privileges granted to growers and handlers, and (3) how growers and handlers of varied commodities produced in diverse locations might receive more equitable assistance.

--Recommend to the Congress a more realistic gauge than that presently used for measuring producers' economic well-being.

--Develop consistent and comparable marketing order import standards to give exporting countries a more logical set of standards to follow.

AGNECY COMMENTS

The Department of State had no objections to our recommendations. It noted that the Trade Act of 1974 and other legislation now in force provide adequate means for protecting U.S. farmers from unfair foreign competition and indicated that marketing orders should not be designed to provide such protection. (See app. II.)

The Trade Act of 1974 does provide a mechanism for protecting American farmers from foreign competition. However, unless the Agricultural Marketing Agreement Act of 1937 is significantly modified, marketing order, grade, size, and quality standards will continue to regulate imports of certain agricultural products and to provide a vehicle for protecting U.S. farmers.

The Department of Agriculture stated that the report presents an inaccurate and misleading portrayal of marketing orders to the Congress and the public and is potentially damaging to both domestic program operations and current international trade negotiations. Agriculture's comments (see app. I) focused on certain statements but took no stand on any of the overall issues or recommendations. For example, Agriculture took no position on whether marketing orders (1) effectively balance producer and consumer interests, (2) result in costs to consumers and to the Government, or (3) have any impact on imports or on whether parity is an appropriate legislative gauge for the program. Our evaluation of the comments is also contained in appendix I.

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report raises a fundamental question of whether implementation of the Agricultural Marketing Agreement Act of 1937 provides the protection the Congress desires for farmer income and consumer interests and whether the act appropriately recognizes U.S. international trade concerns. Thus, the Congress might wish to review whether the act's basic objectives are relevant to current domestic and international economic conditions.

If the Congress decides to continue a program to control marketing of certain agricultural products, it may wish to revise existing legislative provisions that authorize regulatory controls, determine import standards, and use parity as a program guide. Alternatively, the Congress could specify its objectives and require the Secretary of Agriculture to develop appropriate implementing procedures.

CHAPTER 7

SCOPE OF REVIEW

The data in this report is based on extensive domestic and foreign fieldwork. Discussions were held in Washington, D.C., at the Departments of Agriculture and State, and data was obtained from the Bureaus of Labor Statistics and Census and the Department of Agriculture. We interviewed Agriculture officials in Colorado, Oregon, Texas, California, and New York; Embassy officials in Canada and Mexico; and Food and Drug Administration officials in New York. We also reviewed legislation, congressional hearings, data and records, and other materials pertaining to U.S. marketing order policies and programs.

Other interviews were held with:

--Marketing order committee representatives in Virginia, Idaho, Oregon, Colorado, Texas, and California.

--Industry representatives of national councils, trade and bargaining associations, packers, processors, and a cooperative.

--Importers and brokers in New York, Texas, and California.

--University professors of agricultural sciences in Idaho, Oregon, Colorado, California, and Texas (through correspondence).

--Canadian provincial and federal government officials, exporters, producers, trade associations, and marketing boards.

--Mexican Government officials, exporters, and producers.

--A Mexican embassy official in Washington, D.C., and Turkish consul representatives in New York and Washington.

EVALUATION OF AGRICULTURE COMMENTS

Department of Agriculture comments are quoted below followed by our evaluations. The full text of Agriculture's comments are at the end of the appendix.

MARKETING ORDER OBJECTIVES AND EFFECTIVENESS

> "Aside from the import issue, there are a number of other contentions deserving comment. One concerns the effectiveness of marketing orders. Specifically the report concludes that: 'This objective [establishment of orderly marketing conditions] has not been effectively accomplished by the use of marketing orders--.' We question the validity of a general conclusion based on cursory study of only selected types of marketing order regulations and on only three of the 31 commodities covered by marketing orders on fruits, vegetables, and specialty crops. This approach reveals an unfortunate lack of understanding of marketing order objectives which begs for more comprehensive analysis."

To add clarity, we modified the report language to state that, "The marketing program for raisins has not effectively balanced producer and consumer interests, and the potato and onion industries have not achieved orderly marketing."

Our conclusions relate specifically to only the marketing orders covered in our review. However, we note that marketing orders covering other commodities contain the same essential operating characteristics, such as parity and quality standards. The findings in this report, therefore, may well pertain to other commodities and other marketing orders.

Although Argriculture is critical of the scope of our review, it did not take a position that the objective of orderly marketing conditions has been effectively accomplished by the use of marketing orders. This position would be difficult to defend because a review of fresh fruit and vegetable pricing trends would quickly indicate that prices for most commodities covered by marketing orders are as unstable as prices on non-marketing-order commodities.

> "The authors also contend that '* * * no appropriate guidelines have been developed to control marketing order authorizations, types of marketing controls used or import regulation.' This is a debatable conclusion, inasmuch as review of the enabling legislation and its amendments reveals rather specific identification of authorizations, types of controls, and import requirements under marketing orders. Further, the extensive promulgation proceedings for development of marketing orders; i.e., public hearings, recommended decision, public comment result in defined limits of program authority."

We agree that the proceedings for authorizing marketing orders provide for a democratic process to consider producer interests. The actual proceedings have not, however, insured consideration of consumer or foreign interests. The Agricultural Marketing Act of 1937 does not define, nor has Agriculture developed, economic guidelines for evaluating the need for marketing orders or for reviewing the effectiveness of marketing controls.

PARITY CONCEPT

> "Another important but dubious conclusion of this report is that the parity price concept is outdated, no longer relevant to modern agriculture, and that USDA relies on this concept to determine the degree of regulation undermarketing orders.
>
> "Application of the parity concept reaches far beyond marketing order administration. In the case of its application under marketing orders, however, the authors exaggerate parity's role. The importance of parity objectives was diluted early in the history of the enabling legislation so that orderly marketing became the primary objective. The report states that the parity formula has not been amended since 1949. It was in fact amended in 1954 and 1956. Moreover, USDA has reviewed the parity concept (and alternatives) in depth at the request of the

> Congress. The study (Document No. 18, 85th Congress) analyzed the concept of parity and concluded that it continues as a useful analytical device."

The report states that "The parity concept, is based on a formula that is outdated and unrealistic and that disregards some basic economic considerations." If, by labeling this conclusion on parity as "dubious," Agriculture is implying that the formula for computing parity prices <u>is relevant</u> to modern agriculture, it is reversing a position of its leading economist. As the report states, producers, handlers, processors, Agriculture officials, economists, and farm association representatives we talked with also believed the parity formula to be inappropriate and a more realistic method of determining fair market prices should be developed.

If Agriculture is also implying that it <u>does not use parity</u> as a guide for marketing order decisions, it is not acting in accord with the legislative provisions which declared the policy of the Congress to be as follows.

> "(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices * * *.
>
> "(2) To protect the interest of the consumer by * * * authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish * * *."

Agriculture's other comments on parity have little merit, considering that:

- --The parity objectives relate to two of the act's three principal objectives; thus the importance of parity is not exaggerated. Agriculture did not explain how the legislative objectives were diluted.

- --The 1954 and 1956 amendments referred to by Agriculture related to the transitional parity price (7 U.S.C. 1301(a)(1)(E)) and not to the basic formula for computing parity prices. Thus, it is accurate to state that the parity formula has not been amended since 1949.

--Agriculture misstates Document No. 18, 85th Congress, entitled, "Possible Methods of Improving the Parity Formula," dated February 1, 1957. That report recommended that the parity formula now contained in the Agricultural Adjustment Act of 1938, as amended, be continued but that the base period 1910 to 1914 be changed to 1947 to 1956, inclusive. The report also stated that it was difficult to defend the use of a base period which (as of 1957) was more than 40 years past. Notwithstanding the report's recommendations, the parity formula has not been amended, and the 1910 to 1914 base period is still used for computing parity prices.

COST TO CONSUMERS AND GOVERNMENT

"A final questionable issue is the assertion that the marketing orders investigated by the authors have resulted in considerable costs to consumers and the U.S. Government. This issue is supported with contrived estimates of program costs. The text supports the consumer cost contention on the basis of respondents' appraisals of what potato and onion orders 'were worth -- per 100 pounds' and relates this to the cost of inspection and administration. Inspection is, of course, not limited to marketing order commodities and it should be recognized that assurance of minimum quality provided by inspection is a cost offset.

"It is also alleged that higher prices paid for potatoes and onions are attributable to the committees' ability to remove a percentage of the crop from the fresh market by enacting quality control regulations. The implication of 'removal of the crop from the fresh market' is misleading. For potatoes, processing provides a larger outlet than fresh market and any usable supplies not meeting fresh market requirements can and usually are used in this unregulated outlet. This is normal commercial practice in or out of marketing order production areas. While the processing outlet is proportionately smaller for onions, it

> is a viable outlet and the same principle applies. It would be difficult to attribute objectively any measurable cost to consumers as the result of these programs. We also challenge the statement that government costs are considerable -- in the sense implied."

As clearly stated in the report, the increased retail prices for raisins, potatoes, and onions were intended to show an estimated order of magnitude rather than precise cost estimates. In any event, Agriculture criticized the $7.2 million estimated for potato and onion marketing orders. It did not comment on the more significant $34.9 million cost estimate attributed to raisin marketing controls nor assert that marketing orders do not increase consumer prices.

The "respondents," as stated in the report, were Agriculture officials and industry representatives who estimated that the orders were worth at least the approximate costs of produce inspection and administration. This estimate is based on the simple economic rationale that the program must return to the growers--at the very least--what they invest, otherwise they would vote to dissolve the order. Our estimate of 6 cents per hundred pounds is conservative, considering that Agriculture Economic Impact Statements estimated that the 1974 impact of using 2-inch rather than 1-7/8-inch minimum standards on potatoes raised farm-level prices by 25 cents per hundred pounds on the 1.9 billion pounds of potatoes entering the fresh market from the Idaho-Eastern Oregon and Washington areas.

Agriculture also commented that statements that marketing orders removed a percentage of the crop from the fresh market are misleading because processing provides an alternative outlet. We did not analyze the prices paid by processing plants but, from producer comments, we assume they were much less than fresh market prices. Some growers told us that, contrary to Agriculture's position, processing does not offer an economic alternative because the cost of separately handling and transporting removals to processing plants often exceeds the value of the commodities.

Our statements concerning Government costs recognized that the $3.3 million budgeted in 1974 covered the entire Government cost of administering the marketing orders and agreements. This information was taken from a letter signed by the Director of the Fruit and Vegetable Division, Agricultural Marketing Service.

TRADE IMPLICATIONS

> "In that part of the report dealing with the impact of marketing orders on imports, there are several points which, either through omission or misinterpretation, tend to create false impressions. For example, the report suggests that import regulations issued in conjunction with marketing orders are discriminatory--'inconsistent and unfair' to foreign suppliers. In actuality, both the enabling legislation and the administration of marketing order regulations demonstrate considerable sensitivity to protecting the equity of foreign suppliers.
>
> "Section 8e of the Agricultural Marketing Agreement Act provides that when one of a number of specified commodities is regulated under a domestic marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as prescribed for the domestic product under the order.
>
> "We adhere completely to this congressional mandate in program administration. Most import requirements generated by marketing order actions are identical to those affecting the domestically-produced product as far as grade, size, quality, and maturity are concerned. Those which differ can withstand careful scrutiny regarding their fairness to foreign suppliers. Examination of import regulations for raisins, onions, and potatoes -- the commodities selected for study by the report's authors -- reveal discrimination only to the extent that requirments applicable to imported items are less restrictive than those for their domestic counterparts."

Although we did not use the term "discriminatory" in the text of the report, it appropriately describes the effect of marketing orders on foreign suppliers because the orders' quality standards are discriminatory in that they are optional for U.S. producers but mandatory for foreign suppliers.

Producers in any geographic area of the United States can vote on whether they want to use Federal marketing orders to control the quality of certain commodities grown and marketed from their area. Their decision, however, has no effect on producers of the same commodity in other areas of the United States.

The five active potato marketing order committees regulate only 27 percent of the U.S. potato crop entering the fresh market, and the two onion marketing order areas regulate only 25 percent of the total U.S. fresh market onion crop. No Federal standards, therefore, control the quality of about 75 percent of the potatoes and onions marketed because most U.S. producers have not elected to use marketing orders.

Foreign suppliers, however, do not have an option. As indicated by Agriculture, section 8e of the Agricultural Marketing Agreement Act of 1937 requires that, whenever the Secretary issues grade, size, quality, or maturity regulations under a domestic marketing order for a particular commodity, he must issue the same or comparable regulations for imports of that commodity. Currently, imported potatoes must meet one of five potato marketing orders, depending on the time of year and the particular order in effect. Onion import regulations are based on two orders and imported raisins on one.

The report states that "these import standards appear unfair and often inconsistent to foreign government officials and exporters." This statement of opinion is based on extensive foreign fieldwork.

> "The report would lead one to believe that the United States has been an important outlet for imported raisins and that marketing order regulations have reduced such imports. This conclusion is based on selective import statistics showing unusually high raisin imports in 1971-72 (in reaction to drastically weather-reduced U.S. production) which even then were equal to only three percent of U.S. consumption.
>
> "The United States is, in fact, a net exporter of raisins, with imports normally accounting for less than one percent of domestic consumption. The subsequent decline in imports after 1971-72 reflected the renewed, and usual, plentiful state of domestically-grown supplies.

> "The reasons for rejection of most raisins failing U.S. import requirements -- which the authors omitted in their conclusions -- should be emphasized. As stated in the report's text, '--eighty-four percent failed to pass health standard minimum tolerance for [rodent] hair, stones, and insect infestation.' It should be recognized that the health standards did not originate or become more stringent with the advent of marketing order requirements; rather all shipments are now inspected rather than the portion selected under the random sampling techniques previously employed under the procedures of the Food and Drug Administration."

We do not believe the report implies that the United States has been an important outlet for imported raisins. The introduction states that the United States, with 35 percent of total world production, is the world's leading raisin producer. In addition, import and export statistics are given for raisins.

The conclusion is that marketing orders have reduced U.S. imports of raisins. This conclusion is based, not on "selective import statistics," but on a review of Agriculture's inspection records of attempted raisin imports through New York during a period of 1-1/2 years, interviews with foreign importers, and communications from foreign exporters. No judgment is made about the reasonableness of the quality standards established, which played an important role in the level of raisins imported.

> "With regard to onions, the report states that 'marketing orders do lower exports of Mexican onions.' It further states that Mexican onion imports are governed by regulations issued in conjunction with the Idaho-Eastern Oregon marketing order, rather than the Texas order, which covers a more comparable type of onion. The implication is that Mexican onions are thus unfairly treated.
>
> "The authors failed to recognize (i) that Mexican onions are marketed principally during the Idaho-Oregon marketing season, and (ii) that Texas marketing order regulations are nearly always more stringent than those affecting Idaho-Eastern Oregon and Mexican

> imports. Mexico, our leading supplier of imported onions, has substantially increased its penetration of the U.S. market despite the existence of the import requirements.
>
> "The authors also claim that the minimal level imports of Chilean onions in recent years is largely due to import requirements. Examination of trade statistics reveals that U.S. imports of onions from Chile in 1961-62, the first year of onion import regulation in conjunction with marketing orders, were more than double those of the previous year and the prior 5-year average. Onion imports from Chile have declined sharply since the late 1960's, reflecting factors other than U.S. import requirements; no redirection of import requirements occurred. Furthermore, to avoid any aura of injustice to distant suppliers, the Secretary has permitted a five percent decay tolerance for imported onions requiring 10 or more days in transit, while only two percent is permitted for domestic onions."

Agriculture's position is that import standards based on regional marketing orders are not discriminatory to foreign suppliers. If all U.S. producers had to meet these same standards, we would agree. However, as previously noted, marketing order quality standards regulate a relatively small percentage of onions and potatoes grown in the United States.

Our statements concerning the establishment of onion import standards attempt to point out that, if the United States has import standards, it would seem more logical to base national standards for Mexican onion imports on a similar variety of U.S. onion. Presently, Mexican onions must meet the Oregon-Idaho standards, which are not comparable.

The issue of why Chilean onion imports are at minimal levels was raised by onion importers, who advised us that imports of Chilean onions have decreased substantially in recent years due to high shipping costs and risk of rejections. The rejection issue is, of course, directly related to the establishment of marketing order quality standards.

> "The report also is critical of import regulations for potatoes. While the authors recognize that U.S. trade in potatoes is almost exclusively with Canada, the implication that U.S. import requirements render a hardship to Canadian exporters is unwarranted, since Canadian export standards are more stringent than U.S. import requirements."

The report states that "Canadian Government officials we contacted questioned the logic and consistency of the U.S. marketing orders" and that "exporters viewed the U.S. orders as definite trade restrictions." In addition, the report states that U.S. "potato importers had no administrative problems with the orders" and "they did not believe that their imports would increase if they were no longer subject to domestic marketing orders."

Although it is not a report issue, Agriculture's comment that Canadian export standards are more stringent than U.S. import requirements is inaccurate according to currently published Canadian Fresh Fruit and Vegetable Regulations. These regulations provide for less stringent size and maturity standards than four of the five U.S. marketing orders.

> "It is important to note that import regulations issued in conjunction with marketing order programs are consistent with existing trade rules governing international commerce. Article XX of the General Agreement on Tariffs and Trade (GATT) prescribes that such measures shall not be administered in a discriminatory manner nor so as to constitute a disguised restriction on international trade. It is thus significant that in the current round of GATT multilateral trade negotiations, where all participating countries have been invited to notify the GATT of all restrictive import devices maintained by other countries, not one nation has mentioned U.S. marketing orders."

The trade implications of marketing orders are not important in terms of the value of international trade in items covered under such regulations. However, the issues raised in the report merit serious consideration because they represent a possible violation of the fundamental free trade principle which Agriculture has espoused. The report states that:

> "Although U.S. agricultural import barriers are not unique in range and application, their use is of concern to importers, foreign governments, and foreign exporters. Some foreign governments consider U.S. marketing order standards on fruits and vegetables to be international nontariff trade barriers."

Considerable evidence supports these statements, including the (1) May 1973 briefing materials prepared for the use of the House Committee on Ways and Means for hearings on Foreign Trade and Tariffs, (2) International Trade Commission report dated April 1974 on Nontariff Trade Barriers, and (3) interviews with U.S. importers and Government officials and foreign government representatives and exporters. Each of these sources expressed the view that marketing orders inhibited the free flow of commerce.

The Foreign Agricultural Service of the Department of Agriculture is responsible for formulating U.S. positions on agricultural trade issues during the multilateral trade negotiations now in progress. According to Foreign Agricultural Service officials, the issue of whether marketing order regulations are consistent with existing GATT trade rules is debatable because U.S. marketing orders have not been challenged under GATT procedures. Since Mexico, the U.S. leading supplier of fresh fruits and vegetables, is not a member of GATT, it is understandable that it has not challenged the United States under GATT rules. It has, however, complained through the years about discriminatory U.S. marketing order regulations, especially those applying to tomatoes.

Foreign Agricultural Service officials indicated that Artical XX, "General Exceptions," is not applicable to marketing order import regulations as implied by Agriculture's comments. They observed, however, that Article III, "National Treatment of Internal Taxation and Regulation," or Article XI, "General Elimination of Quantitative Restrictions," might apply to the regulations. A principal question appears to be whether imported products are accorded as favorable treatment as domestic products.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

WASHINGTON, D.C. 20250

December 31, 1975

Mr. J. K. Fasick, Director
International Division
United States General Accounting Office
Washington, D. C.

Dear Mr. Fasick:

We welcome the opportunity to review the draft report, Review of Import Restrictions -- Need to Reassess Marketing Order Legislation and to present facts in areas where we believe additional information would be beneficial to correct and complete understanding of marketing orders' operations.

1. Impact on Imports.

In that part of the report dealing with the impact of marketing orders on imports, there are several points which, either through omission or misinterpretation, tend to create false impressions. For example, the report suggests that import regulations issued in conjunction with marketing orders are discriminatory -- "inconsistent and unfair" to foreign suppliers. In actuality, both the enabling legislation and the administration of marketing order regulations demonstrate considerable sensitivity to protecting the equity of foreign suppliers.

Section 8e of the Agricultural Marketing Agreement Act provides that when one of a number of specified commodities is regulated under a domestic marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as prescribed for the domestic product under the order.

We adhere completely to this congressional mandate in program administration. Most import requirements generated by marketing order actions are identical to those affecting the domestically-produced product as far as grade, size, quality, and maturity are concerned. Those which differ can withstand careful scrutiny regarding their fairness to foreign suppliers. Examination of import regulations for raisins, onions, and potatoes -- the commodities selected for study by the report's authors -- reveal discrimination only to the extent that requirements applicable to imported items are less restrictive than those for their domestic counterparts.

The report would lead one to believe that the United States has been an important outlet for imported raisins and that marketing order regulations have reduced such imports. This conclusion is based on selective import statistics showing unusually high raisin imports in 1971-72 (in reaction to drastically weather-reduced U.S. production) which even then were equal to only three percent of U.S. consumption.

The United States is, in fact, a net exporter of raisins, with imports normally accounting for less than one percent of domestic consumption. The subsequent decline in imports after 1971-72 reflected the renewed, and usual, plentiful state of domestically-grown supplies.

The reasons for rejection of most raisins failing U.S. import requirements -- which the authors omitted in their conclusions -- should be emphasized. As stated in the report's text, "--eighty-four percent failed to pass health standard minimum tolerance for [rodent] hair, stones, and insect infestation." It should be recognized that the health standards did not originate or become more stringent with the advent of marketing order requirements; rather <u>all</u> shipments are now inspected rather than the portion selected under the random sampling techniques previously employed under the procedures of the Food and Drug Administration.

With regard to onions, the report states that "marketing orders do lower exports of Mexican onions." It further states that Mexican onion imports are governed by regulations issued in conjunction with the Idaho-Eastern Oregon marketing order, rather than the Texas order, which covers a more comparable type of onion. The implication is that Mexican onions are thus unfairly treated.

The authors failed to recognize (i) that Mexican onions are marketed principally during the Idaho-Oregon marketing season, and (ii) that Texas marketing order regulations are nearly always more stringent than those affecting Idaho-Eastern Oregon and Mexican imports. Mexico, our leading supplier of imported onions, has substantially increased its penetration of the U.S. market despite the existence of the import requirements.

The authors also claim that the minimal level imports of Chilean onions in recent years is largely due to import requirements. Examination of trade statistics reveals that U.S. imports of onions from Chile in 1961-62, the first year of onion import regulation in conjunction with marketing orders, were more than double those of the previous year and the prior 5-year average. Onion imports from Chile have declined sharply since the late 1960's, reflecting factors other than U.S. import requirements; no redirection of import requirements occurred. Furthermore, to avoid any aura of injustice to distant suppliers, the Secretary has permitted a five percent decay tolerance for imported onions requiring 10 or more days in transit, while only two percent is permitted for domestic onions.

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It is important to note that import regulations issued in conjunction with marketing order programs are consistent with existing trade rules governing international commerce. Article XX of the General Agreement on Tariffs and Trade (GATT) prescribes that such measures shall not be administered in a discriminatory manner nor so as to constitute a disguised restriction on international trade. It is thus significant that in the current round of GATT multilateral trade negotiations, where all participating countries have been invited to notify the GATT of all restrictive import devices maintained by other countries, not one nation has mentioned U.S. marketing orders.

2. The Issue of Marketing Orders' Objectives and Effectiveness.

Aside from the import issue, there are a number of other contentions deserving comment. One concerns the effectiveness of marketing orders. Specifically the report concludes that: "This objective [establishment of orderly marketing conditions] has not been effectively accomplished by the use of marketing orders--." We question the validity of a general conclusion based on cursory study of only selected types of marketing order regulations and on only three of the 31 commodities covered by marketing orders on fruits, vegetables, and specialty crops. This approach reveals an unfortunate lack of understanding of marketing order objectives which begs for more comprehensive analysis.

The authors also contend that "--no appropriate guidelines have been developed to control marketing order authorizations, types of marketing controls used or import regulation." This is a debatable conclusion, inasmuch as review of the enabling legislation and its amendments reveals rather specific identification of authorizations, types of controls, and import requirements under marketing orders. Further, the extensive promulgation proceedings for development of marketing orders; i.e., public hearings, recommended decision, public comment result in defined limits of program authority.

3. The Parity Concept.

Another important but dubious conclusion of this report is that the parity price concept is outdated, no longer relevant to modern agriculture, and that USDA relies on this concept to determine the degree of regulation under marketing orders.

Application of the parity concept reaches far beyond marketing order administration. In the case of its application under marketing orders, however, the authors exaggerate parity's role. The importance of parity objectives was diluted early in the history of the enabling legislation so that orderly marketing became the primary objective. The report states that the parity formula has not been amended since 1949. It was in fact amended in 1954 and 1956. Moreover, USDA has reviewed the parity concept (and alternatives) in depth at the request of the Congress. The study (Document No. 18, 85th Congress) analyzed the concept of parity and concluded that it continues as a useful analytical device.

4. Cost to Consumers and Government.

A final questionable issue is the assertion that the marketing orders investigated by the authors have resulted in considerable costs to consumers and the U.S. Government. This issue is supported with contrived estimates of program costs. The text supports the consumer cost contention on the basis of respondents' appraisals of what potato and onion orders "were worth -- per 100 pounds" and relates this to the cost of inspection and administration. Inspection is, of course, not limited to marketing order commodities and it should be recognized that assurance of minimum quality provided by inspection is a cost offset.

It is also alleged that higher prices paid for potatoes and onions are attributable to the committees' ability to remove a percentage of the crop from the fresh market by enacting quality control regulations. The implication of "removal of the crop from the fresh market" is misleading. For potatoes, processing provides a larger outlet than fresh market and any usable supplies not meeting fresh market requirements can and usually are used in this unregulated outlet. This is normal commercial practice in or out of marketing order production areas. While the processing outlet is proportionately smaller for onions, it is a viable outlet and the same principle applies. It would be difficult to attribute objectively <u>any</u> measurable cost to consumers as the result of these programs. We also challenge the statement that government costs are considerable -- in the sense implied.

[See GAO note 1, p. 51.]

The strong bias against the marketing order concept evident throughout the draft report seems quite inappropriate for these programs of importance and benefit to producers and consumers alike.

The report tends to discredit Federal marketing orders for fruits and vegetables. Personnel of the Agricultural Marketing Service provided considerable assistance to the authors. However much of this advice appears to have been overlooked or misinterpreted and the report maintains many of the inaccuracies of the first draft.

Publication of this report in its present form would present an inaccurate and misleading portrayal of marketing orders to Congress and the public, potentially damaging to both domestic program operations and current international trade negotiations.

In view of the above we recommend that the report be given the benefit of a substantially more careful analysis so that it can be recast to present a balanced and objective appraisal of the subjects addressed. Final conclusions should await a complete study and mutual understanding of the issues.

We have compiled a list of detailed comments concerning points at issue in the report. We would be willing to work more closely with you and members of your staff in an effort to reconcile differences. We are obviously interested in developing better public understanding of the programs which we administer and will cooperate in achieving this end. [See GAO note 2.]

Sincerely,

Donald E. Wilkinson

DONALD E. WILKINSON
Administrator

GAO notes: 1. Material not related to this report has been deleted.

2. We obtained this list and revised our report where appropriate.

DEPARTMENT OF STATE
Washington, D.C. 20520

November 26, 1975

Mr. J. K. Fasick
Director
International Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Fasick:

I am replying to your letter of October 20, 1975, which forwarded copies of the draft report: "Review Of U.S. Import Restrictions--Need To Reassess Marketing Order Legislation."

The enclosed comments were prepared by the Acting Assistant Secretary for the Bureau of Economic and Business Affairs.

We appreciate having had the opportunity to review and comment upon the draft report. If I may be of further assistance, I trust you will let me know.

Sincerely,

Daniel L. Williamson
Deputy Assistant Secretary
for Budget and Finance

Enclosure:

Comments.

GAO DRAFT REPORT: "REVIEW OF U.S. IMPORT RESTRICTIONS -- NEED TO REASSESS MARKETING ORDER LEGISLATION."

The Department of State has reviewed the subject report and, pursuant to Mr. J.K. Fasik's October 20 letter to Secretary Kissinger, submits the following comments:

1. The Department has found no record of any formal complaint by either the Government of Turkey, Mexico, Canada, or Chile with regard to U.S. marketing orders on the products covered in the Report.

2. The Department believes that the Trade Act of 1974, as well as other legislation now in force, provide adequate means for protecting American farmers from unfair competition from foreign producers. The Department does not believe that marketing orders should be designed to provide such protection and does not agree that the Secretary of Agriculture should advise the Congress on "which commodities should have...import protection," as recommended on page 40 of the draft report. The Department therefore suggests deletion of the words "and import protection" from the first recommendation.

3. The Department has no objection to the other recommendations made in the draft report.

Julius L. Katz
Acting Assistant Secretary
for Economic and Business Affairs

GAO note: Page reference in this letter may not correspond to page number in the final report.

PRINCIPAL OFFICIALS OF DEPARTMENTS OF AGRICULTURE AND STATE RESPONSIBLE FOR ACTIVITIES DISCUSSED IN THIS REPORT

	Term of office From	To
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Earl L. Butz	Dec. 1971	Present
Clifford M. Hardin	Jan. 1969	Nov. 1971
ASSISTANT SECRETARY MARKETING AND CONSUMER SERVICES:		
Richard L. Feltner	Apr. 1974	Present
Clayton Yeutter	Jan. 1973	Apr. 1974
Richard E. Lyng	Mar. 1969	Jan. 1973
DEPARTMENT OF STATE		
SECRETARY OF STATE:		
Henry A. Kissinger	Sept. 1973	Present
William P. Rodgers	Jan. 1969	Sept. 1973
ASSISTANT SECRETARY INTERNATIONAL RESOURCES AND FOOD POLICY:		
Julius L. Katz	Oct. 1968	Present

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