

f USDA



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

Honorable Mark White  
Governor of Texas  
State Capitol  
Austin, Texas 78711

how much corn  
worth on  
acquire  
"acquired by fed govt  
at cost of ..."

Dear Governor White:

As you know, since President Reagan signed the Dairy and Tobacco Adjustment Act of 1983 earlier this week, we have announced an emergency feed assistance program for livestock producers whose feed harvest suffered from drought -- a program provided for in the new law.

Under the program, eligible livestock producers will be able to buy corn grading No. 4, No. 5 and Sample grade that is owned by the Commodity Credit Corporation at 75 percent of the current loan rate. There are 10.7 million bushels of CCC-owned corn of these grades located in Texas. We have streamlined eligibility requirements in order to make grain available to producers as quickly as possible. We expect producers will be able to obtain grain beginning on December 6 at locations where these grades are available. As you know, in the discussions held within the Congress, it was its intent that the Federal Government would not provide transportation costs for corn supplied under this program.

Because of the unusually dry weather throughout a large section of the country this year, the Administration has put forth extra efforts to assure that needed assistance was available to producers. These efforts included: (1) a \$9.4 billion Payment-in-Kind Program that provided grain and cotton to farmers who removed some of their acreage from production; (2) the nationwide Federal Crop Insurance Program; (3) haying and grazing in 1,281 drought-stricken counties on acreage removed from production under the Acreage Reduction and PIK programs; and (4) the FmHA Natural Disaster Emergency Loan Program. As you know, 42 Texas counties have been designated as natural disaster areas under this program.

I know that you share with me the concern for the welfare of Texas ranchers and farmers. I am confident that you and your State Agricultural Commissioner will move immediately to bring to bear the resources of State Government which are available to you to assist in the continued support of our efforts to provide assistance to producers.

With best wishes.

Sincerely,

JOHN R. BLOCK  
Secretary

OSDA  
memo

THE WHITE HOUSE  
WASHINGTON

June 21, 1983

TO: JIM BAKER  
FROM: **CRAIG L. FULLER**

- FYI
- Comment
- Action

JAB

At this point, it looks like Block is right. All Gov. White needed to know is that we were serious; then some time to fix the problem. If we have to reimpose a quarantine, it will be due to his failure to resolve the problem. (JC)



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

6/21  
Toid, Baker  
fyi  
CF ✓

JUN 16 1983

SUBJECT: USDA Brucellosis Quarantine of Texas

TO: Craig L. Fuller  
Assistant to the President  
for Cabinet Affairs

As you are aware, the U. S. Department of Agriculture attempted to impose an emergency brucellosis quarantine of Texas on June 1 to protect the cattle and dairy industries of the other states. Texas, however, obtained a federal temporary restraining order preventing the quarantine from going into effect. The court set June 16 as a hearing date to decide if USDA should be enjoined from implementing its quarantine.

After discussions with the Department of Justice, USDA has decided that an adverse court decision on June 16 would be likely. In order to enable USDA to impose a quarantine on firmer legal grounds, if the public interest requires it, we have decided to withdraw the emergency quarantine and thereby put an end to the pending lawsuit. USDA will continue to receive comments on the quarantine proposal until July 25, and will be able thereafter to impose a brucellosis quarantine if the public interest requires it.

This morning, Assistant Secretary Bill McMillan talked by phone with Texas Governor White. He informed him of the USDA/DOJ decision, and of the July 25 cut-off period for comment. McMillan again urged Governor White to try to solve this problem as soon as possible, that it was purely a Texas problem, but offered that USDA would be as cooperative as possible as White attempts to "broker" a settlement within Texas. Governor White ask McMillan and USDA to urge other states to either drop their existing quarantines against Texas, or to not impose threatened quarantines. McMillan responded that other states generally act independent of USDA, but that he would be sure that the other states were aware of USDA actions and the reasons behind them. Approximately 17 states now have imposed some degree of quarantine on importation of Texas female cattle.

*Jack*  
JOHN R. BLOCK  
Secretary

Craig -  
This problem is going to work  
out fine for us.

DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

May 23, 1983

MEMORANDUM FOR: HONORABLE JAMES A. BAKER III  
Chief of Staff and Assistant  
to the President

FROM: JOHN R. BLOCK *JRB*  
Secretary

SUBJECT: Bovine Brucellosis Problem in Texas

Bovine Brucellosis is an infectious bacterial disease of cattle that causes abortions, stillbirths and sterility. The disease can also infect humans, and is then called undulant fever.

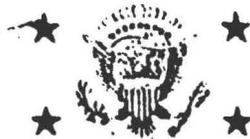
USDA and the states have been involved in a cooperative brucellosis eradication effort for many years. Under this program, the states have adopted laws and regulations to control and eradicate the disease and qualify animals for interstate movement. All the states, including Texas, have adopted such regulations, but the Texas Animal Health Commission (TAHC) is prohibited from applying their regulations to cattle owned by Mr. R. J. Nunley due to an injunction issued by a Uvalde County Court, and sustained in subsequent state litigation. Brucellosis infection has been disclosed at slaughter in cattle sold by Mr. Nunley.

It appeared until mid-April that the legislation necessary to cure the court imposed restrictions could be obtained. When the legislation appeared to be stalled, a letter from USDA was sent to the TAHC on April 18, 1983, expressing concern and the probability of a Federal quarantine if the required legislation failed. When the legislation again became stalled in the Texas Senate, a telegram was sent to the TAHC on May 16, 1983, restating the USDA responsibility to protect other States and the possibility of a Federal quarantine. Officials of other states are expecting USDA to implement measures to protect their livestock if the State of Texas does not act during the current session of their legislature. This legislative session concludes on May 30th, and unless the required legislation is passed during this session, the State of Texas would not be able to act in such a manner as to have the Federal quarantine lifted unless a special session of the legislature was called by the governor.

The issue has become heavily politicized in the state, with Texas Animal Health Commission Chairman John Armstrong and the Texas and Southwestern Cattle Raisers favoring the legislation, and former Texas Governor Dolph Briscoe and the Texas Independent Cattlemen leading the opposition.

On Wednesday, May 18, Dolph Briscoe was quoted by UPI as saying, "In my opinion, the President of the United States would not sit by, especially coming into an election year, and put a quarantine on Texas .... that would be stupid".

Unless some compromise is worked out within the Texas cattle industry and the required legislation is achieved, I will have no choice but to quarantine the State of Texas in early June.



LM  
**DEC 27 1982**

THE VICE PRESIDENT  
WASHINGTON

December 17, 1982

The Honorable Charles Pashayan, Jr.  
House of Representatives  
Washington, D.C. 20515

Dear Chip:

Thank you for your letter of November 5  
regarding marketing orders.

The enclosed memorandum should clarify  
both the intentions and the actions of the Presidential  
Task Force on Regulatory Relief in this matter.

With best wishes for a happy holiday  
season,

Sincerely,

George Bush



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

December 16, 1982

MEMORANDUM FOR THE OFFICE OF THE VICE PRESIDENT

FROM: Christopher DeMuth D  
SUBJECT: Marketing Orders

You have asked for comments on Congressman Pashayan's November 5 letter to the Vice President. The Congressman requests that the Office of Management and Budget (OMB) exempt marketing orders from review under both the President's Executive Order 12291 (Federal Regulation) and the Paperwork Reduction Act. He argues that the Administrative Procedures Act and Executive Order 10199 substantiate such an exemption, and that OMB's review is affecting the economic health of the agricultural community.

We appreciate the economic problems currently facing farmers, and we are committed to improving this situation through our broader efforts to strengthen the economy. As part of this program, we are trying to reduce regulatory burdens on the economy, including farmers, industry and the American public.

The marketing order program was one of many identified by the Task Force on Regulatory Relief for review in light of the President's regulatory strategy, outlined in Executive Order 12291. The result of that review was a set of guidelines for the operation of marketing orders which USDA issued in late 1981. These conclusions were largely based on the October 1981 report which the Congressman refers to. It is worth noting that this report reinforced our concerns about the need for some review of the program by showing evidence that economic resources were being misallocated in the operation of some of the marketing orders.

Subsequently, USDA has been working with each of the orders to bring them into compliance with the guidelines. Our role has been to advise and coordinate with the Department in this process. In addition, on a day-to-day basis we review regulations and information collection requirements generated by each order for their compliance with the Executive Order and the Paperwork Reduction Act, respectively. These reviews have rarely interfered with the operation of any order. In the case of our Paperwork Act reviews, we have carefully reviewed each information collection activity in view of its utility to the specific marketing order program being implemented. In no case have we used our Paperwork Act review as a rationale for substantive change in any order. At this point, all paperwork from marketing orders is authorized and approved by OMB.

We believe that the primary responsibility for administering the Agricultural Marketing Agreement Act continues to be and ought to reside with the Secretary of Agriculture. The authority to issue regulations under that statute was delegated by the President to the Secretary of Agriculture under the E.O. 10199. As a result of our marketing order reviews, we see no need to modify or amplify the provisions contained in E.O. 10199.

CHARLES PASHAYAN, JR.

17TH DISTRICT, CALIFORNIA

129 CANNON BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-3341



COMMITTEE ON  
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AFFAIRS

COMMITTEE ON  
POST OFFICE AND CIVIL  
SERVICE

CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES

October 4, 1982

The Honorable George Bush  
Vice President  
The White House  
Washington, D. C.

Dear Mr. Vice President:

I am writing you as head of the President's Task Force on Regulatory Relief to seek your assistance in exempting from Executive Order 12291 regulations promulgated for fruit, vegetable, and specialty crops, as authorized by the Agricultural Marketing Agreement Act of 1937.

Under the aegis of the U.S. Department of Agriculture and in full response to E.O. 12291 "A Review of Federal Marketing Orders For Fruits, Vegetables, and Specialty Crops: Economic Efficiency and Welfare Implications" was prepared.

The authors of the Report saw fit to emphasize, "Unlike many government regulations imposed upon unwilling industries, marketing orders are promulgated only upon favorable vote by two-thirds or three-fourths in some cases, of the producers in the production area. They can be eliminated by a simple majority vote of the producers."

That Report of October 15, 1981, led Secretary of Agriculture John Block to issue to all marketing order groups "Guidelines For Fruit, Vegetable, and Specialty Crop Marketing Orders" on January 25, 1982. The Secretary stated, "These new guidelines have been established to prevent abuse, and for both industry and the general public to have a better understanding of what orders should and should not do."

Recently, more than a dozen Members of Congress, myself included, asked Secretary Block for full Congressional consultation in advance of any "possible policy

PLEASE REPLY TO:

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HANFORD, CALIFORNIA 93230  
(209) 582-2896

HOME OFFICE, TULARE COUNTY  
3746 WEST MINERAL KING, SUITE  
VISALIA, CALIFORNIA 93291  
(209) 627-2700

The Honorable George Bush  
October 4, 1982  
Page Two

change regarding agricultural marketing orders as they relate to new entrants and output restraints."

In the joint letter the Members of Congress noted, "It appears to us that continued executive and Congressional oversight of the marketing order program at USDA has resulted in an orderly marketing situation wherein producers bring supply in line with demand while assuring adequate supplies for the consuming public. In addition, interference with this program during this period of low farm income and commodity prices would exacerbate a precarious financial condition in the farm sector."

It is my view that because each marketing order is promulgated under formal provisions of the Administrative Procedure Act they are exempt from E.O. 12291. In many cases, however, the operation of the seasonal regulations are being frustrated by the Office of Management and Budget. A case in point is the widely reported rejection of the reserve pool request of the tart cherry growers in the upper Midwest.

The Department of Justice, on June 22, 1982, prepared for Boyden Gray, your Counsel, a Memorandum regarding the Paperwork Reduction Act of 1980. On Page 42 of that Memorandum it is stated, "Section 3518(e) provides that 'nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices...' This provision evidently distinguishes between the 'substantive policies and programs of the departments, agencies and offices,' which are not to be affected by the Act, and the procedural requirements governing paperwork imposed by the Act...This fact sheds doubt on an interpretation of the Act that would effectively shift, without any clearly expressed intent to do so, a measure of substantive control over rule-making from an agency to OMB."

For these well defined reasons I ask that you carefully consider my request to exempt from E.O. 12291 those fruit, vegetable and specialty crop marketing orders that have been reviewed by the Secretary of Agriculture and are reviewed thoroughly by the Department of Agriculture in its discharge of duties as stated in 7 U.S.C. 602 in which the Congress

The Honorable George Bush  
October 4, 1982  
Page Three

has assigned specific responsibilities to the Secretary of Agriculture.

I should call to your attention 7 U.S.C. 602(5), which states, "Through the exercise of the power conferred upon the Secretary of Agriculture under this chapter, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of such commodity and be in the public interest, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of said sections." This has been the law of the land for nearly fifty years.

I feel it would be in the best interests of this Administration and those self-regulating marketing order groups that Executive Order 10199, issued December 22, 1950, be reaffirmed. It states: "By virtue of the authority vested in me by the Act of August 8, 1950, Public Law 673, 81st Congress (sections 301-303 of Title 3), I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law may be necessary to carry out the powers vested in him by Agricultural Marketing Agreement Act of 1937, as amended."

Your serious and thoughtful consideration in this will be appreciated by all concerned.

Sincerely yours,



Member of Congress

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INVESTIGATIONS

MAJORITY WHIP-AT-LARGE

DEMOCRATIC STEERING AND  
POLICY COMMITTEE

TONY COELHO  
15TH DISTRICT, CALIFORNIA



Congress of the United States

House of Representatives

Washington, D.C. 20515

June 30, 1982

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(209) 383-4488

FEDERAL BUILDING  
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MODOesto, CALIFORNIA 95254  
(209) 527-1814

*Call Ford*

*WTHM*

*Original  
for reply*

Honorable John Block  
Secretary  
U.S. Department of Agriculture  
Washington, D.C. 20250

*105 - C99058*  
*McMillan*  
*EXES. CLERK & REG - CWR*

82 JUL 9 P12:36

Dear Mr. Secretary:

I am extremely concerned about the current attack on marketing order programs by the Office of Management and Budget under the auspices of a review emanating from the Paperwork Reduction Act. Under the guise of reducing "burdens" on growers operating under marketing orders, OMB is making yet another attempt to circumvent the intent of these programs.

As you are well aware, marketing orders are requested by the growers of a commodity themselves; programs are not imposed as other Federal programs. Any paperwork requirements are imposed by the industry itself in order to develop the information necessary to its continued efficient operation. Review under the Paperwork Reduction Act should be inapplicable under these circumstances.

With historic opposition to the Federal marketing order concept, OMB is now viewing the Paperwork Reduction Act as another weapon in their arsenal to eliminate these programs. This OMB involvement is clearly contrary to the intent of Congress in its delegation of authority to the U.S. Department of Agriculture to establish and administer Federal marketing orders under the Marketing Agreement Act of 1937. In addition, their actions are contrary to the Paperwork Reduction Act, which stated that the Act was not to impact the authority of OMB over substantive policies and programs of departments, agencies and offices. The Senate Government Affairs Committee stated the "...The committee does not intend that 'regulatory reform' issues which go beyond the scope of information management and burden be assigned to the office...". Requiring a line by line justification for information on marketing order information collection forms will clearly overstep the authority of OMB and involved review of the substantive requirements of the industry programs.

Honorable John Block

6/30/82

Page Two

To quote from a letter to the Marketing Field Offices of U.S.D.A. from the Deputy Director of Fruit and Vegetable Division, "As a recent condition for approval of forms for several orders, OMB required U.S.D.A. to consider inspection and certification costs under marketing orders as part of the reporting burden on industry. This has greatly increased the amount of burden.... Similar huge increases are in store for all other programs where inspection is required, unless OMB's position on this matter is changed.

"The implications of the burden increase are serious... If a 25 percent cutback applies to a programs' total burden and inspection is part of that burden, many marketing order programs could not operate effectively." (Emphasis added.)

I am certainly disappointed that this Administration, which has repeatedly pledged to operate in a forthright and honest manner is now allowing "nameless bureaucrats" to circumvent the process, and accomplish--through the back door--what they have been unable to do directly. If it is indeed the intent of the Administration to do away with marketing orders, it would certainly appear more appropriate that such a proposal be brought before the Congress, wherein lies the responsibility for authorization of the marketing order programs. I am certain that oversight hearings to discuss the Administration's intent in this regard could be scheduled.

The time is now for you to state your intentions to represent the best interests of agriculture and to support this time-tested program of orderly marketing that has benefited growers and consumers alike. The time is now to take a stand against this subversion of the marketing order programs by the Office of Management and Budget. You may be sure that the grower community would support your efforts in this regard and that I am willing to assist in achievement of this end.

I would appreciate your thoughtful consideration of these points, Secretary Block, and I will look forward to your earliest possible response.

Sincerely,



TONY COELHO  
MEMBER OF CONGRESS



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# Congress of the United States

## House of Representatives

Washington, D.C. 20515

August 17, 1981

RESOURCES  
AND  
REGISTRATION  
TY WHIP-AT-LARGE  
TIC STEERING AND  
TY COMMITTEE

The Honorable John R. Block  
Secretary of Agriculture  
U.S. Department of Agriculture  
Washington, D. C. 20250

Dear Mr. Secretary:

As you know, many specialty crops in my state of California are marketed with the assistance of federal marketing orders. Thousands of growers throughout California have found over the years that marketing orders have been an effective means of marketing their crops. Several of the marketing orders contain a provision for controlling the volume of the product that goes to market at any one time. Such provisions help to maintain much needed stability in the marketplace, both as to price and supply. This benefits both the grower and the consumer.

I am extremely concerned over reports that the Department is planning to eliminate volume control provisions from all of the federal marketing orders. Apparently this process has already begun as proven by the Department's failure to adopt recent recommendations of the California Almond Board. As with all provisions of the orders, the volume control provisions have been instituted and used at the behest of the growers themselves. A decision to eliminate these provisions is tantamount to telling thousands of growers that the Department of Agriculture in Washington knows better than the grower himself how to run his business.

Furthermore, I am aware that your Department is currently preparing a report on marketing orders to submit to the President's Task Force on Regulatory Reform. It has been indicated that OMB, whose career civil servants have long opposed marketing orders, is telling the Department how to structure its report and what conclusions to reach. Thus, it appears that the Task Force report will be biased regardless of the facts. Certainly a negative report from the Task Force will confirm these reports since previous studies on marketing orders, including the recent GAO Report on the Navel Orange Marketing Order, have reached positive conclusions with regard to the purpose and effect of marketing orders.

August 17, 1981

I would greatly appreciate your clarification of this situation. What is the Department's intentions with regard to the volume provisions of federal marketing orders? Is a decision to eliminate the volume provision from the orders imminent?

I look forward to a prompt reply as many California growers are extremely concerned that their government refuses to listen to them on this matter of vital importance to their livelihood and economic well-being.

Sincerely,

Handwritten signature of Tony Coelho in cursive script.

TONY COELHO  
MEMBER OF CONGRESS

TONY COELHO  
15TH DISTRICT, CALIFORNIA

COMMITTEE ON AGRICULTURE

SUBCOMMITTEES:

COTTON

DAIRY AND POULTRY

FORESTS

COMMITTEE ON VETERANS'  
AFFAIRS

SUBCOMMITTEES:

COMPENSATION, PENSION,  
INSURANCE AND MEMORIAL  
AFFAIRS

MEDICAL FACILITIES AND BENEFITS



Congress of the United States

House of Representatives

Washington, D.C. 20515

March 31, 1981

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(209) 527-1914

Mr. David Stockman  
Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Stockman:

It has come to my attention that the Office of Management and Budget, under the pretext of Executive Order 12291, is once again launching an investigation into agricultural marketing orders. I strongly protest this action.

Authorization for these orders is provided under the Agricultural Marketing Act of 1937 and they are administered by the Secretary of Agriculture. The quality of commodities and the quantity marketed are governed by the orders, as is the standardization of containers, research and development projects, unfair trade practices, and statistical programs for agricultural marketing. Their purpose is to assure orderly marketing procedures for agricultural products.

Over the past few years marketing orders have been investigated to one degree or another by the Federal Trade Commission, the Department of Justice, the Department of Agriculture, the Office of Management and Budget, and the Cost of Living Council. Further investigation is unwarranted. Marketing orders have served both agriculture and consumers and have played an important role in helping to balance our trade deficit. We implore you to reconsider any investigation of marketing orders under the 1937 law.

Your serious attention to this request, Mr. Stockman, is greatly appreciated.

Sincerely,

*T. Coelho*

TONY COELHO  
MEMBER OF CONGRESS

**SID MORRISON**  
4TH DISTRICT, WASHINGTON



**COMMITTEE ON AGRICULTURE**

**SUBCOMMITTEES:**  
**FORESTS, FAMILY FARMS AND ENERGY**  
**CONSERVATION, CREDIT AND**  
**RURAL DEVELOPMENT**

**WASHINGTON OFFICE:**  
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**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

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**WASHINGTON STATE TOLL FREE**  
**1-800-572-8601**

April 6, 1983

Ms. Karen Darling  
Marketing and Inspection Services  
242-E Administration Building  
Department of Agriculture  
Washington, D. C. 20250

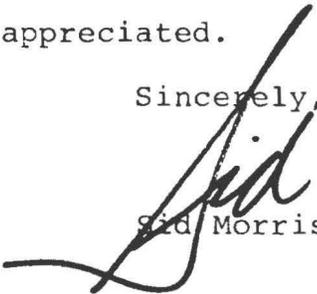
Dear Karen:

I wanted you to have a copy of my letter to White House Congressional Liaison, per their request.

This letter represents the political aspects of the Cabinet Council's confrontation on Friday over marketing orders, particularly as it relates to hops and spearmint oil.

Your help is greatly appreciated.

Sincerely,

  
Sid Morrison

SM/daf

Enclosure

SID MORRISON  
4TH DISTRICT, WASHINGTON

COMMITTEE ON AGRICULTURE

SUBCOMMITTEES:

FORESTS, FAMILY FARMS AND ENERGY  
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RURAL DEVELOPMENT

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**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

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WASHINGTON STATE TOLL FREE  
1-800-572-8601

April 4, 1983

Honorable B. Oglesby  
Deputy Assistant to the President  
for Legislative Affairs  
The White House  
Washington, D. C. 20500

Dear "B":

The Agricultural Marketing Agreement Act of 1937 may have extended more authority than some of our political philosophies can accept, but the current refusal by OMB to approve the "new direction" regulations requested by two specialty crops, hops and spearmint oil, is devastating to a number of Republican congressmen.

By "new direction" I mean that OMB and USDA worked out new guidelines in 1981 that would apply to marketing orders. With much effort, these guidelines have been met, and the industry requested regulations approved by USDA move these two allotment type marketing orders in a positive, open-market direction, a move that can't be made overnight. OMB now stands in the way because of a philosophical disagreement.

Congress, in 1937, recognized specialty crops and included them as a category under the law. Hops and spearmint oil are, indeed, special and unique. Both are used as flavorings in very small quantities, hence there is virtually no impact on beer drinkers whether the hop price is \$5.00 per pound, as it was two years ago, or 30¢ as it is now. The marketing order program has helped stabilize production and, to some extent, world price, and has done it without taxpayer or consumer expense.

OMB wants to let the marketplace dictate, a laudable goal, but I submit that there is a very limited marketplace for these two commodities. The United States is down to eight major brewers producing 80 percent of America's beer. Mint oil faces a similar contest between hundreds

Hon. B. Oglesby  
Page Two  
April 4, 1983

of small farmers and a handful of giant manufacturers. The new, proposed regulations provide for entry into the industry of new growers even though more growers have become involved under the 1966 hop marketing order than in the unstable preceding decades.

Both crops are grown in the Northwest states and compete worldwide. The hops industry recently took on potential competition from Europe, expanding production by 30 percent and reclaimed dominance where many other subsidized U.S. farm products can't compete.

Politically, OMB's position is most destructive to me, Denny Smith from Oregon, and Larry Craig of Idaho. Our hundreds of farmers, bankers, suppliers and support communities can't understand why these orders have been approved through both Republican and Democrat administrations, but now are unacceptable. They also can't understand why they can meet the tough guidelines established by USDA (and OMB) and now be held up by OMB where there is no access or information. This gets serious when it is translated into the several hundreds of millions of dollars worth of jobs and income these two crops bring annually to just my congressional district. My unemployment is in the 20 percent range now -- it is not the time to play philosophical games.

I ask your support in urging the immediate approval of 1983 regulations as requested by the hop and spearmint oil industry, and recommended by the USDA.

Sincerely,



Sid Morrison

Karen

LAW OFFICES  
**BOGLE & GATES**

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ROBERT W. GRAHAM, P.S.  
CHARLES F. OSBORN, P.S.  
MAX KAMINOFF, P.S.  
J. TYLER HULL, P.S.  
ARTHUR G. GRUNKE, P.S.  
RONALD E. MCKINSTRY, P.S.  
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PLEASE REPLY TO SEATTLE OFFICE

FILE NO.:

April 5, 1983

William McMillan  
Assistant Secretary of Agriculture  
14th St. & Independence Ave. S.W.  
Washington, D.C. 20250

Dear Mr. McMillan:

I have enclosed a copy of my letter to David Stockman which I would appreciate discussing with you.

Very truly yours,

Robert W. Graham

Encls.

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PLEASE REPLY TO SEATTLE OFFICE

FILE NO.:

March 30, 1983

Honorable David A. Stockman  
U.S. Office of Management & Budget  
Executive Office Building  
Washington, D.C. 20503

Dear Mr. Stockman:

I represent numerous growers, financial institutions and others interested in the problems currently being addressed under the hops and mint marketing orders in this area.

As a worker in the Republican vineyard for many years and as one who has long toiled for the economic welfare of this Northwest region, I write as one who has some appreciation of the free enterprise system and the appropriate role of well-managed government. For what interest it may be, I list a few of the credentials upon which the foregoing observation is predicated: service for several years on the Republican National Finance Committee and currently the State Finance Committee as well as the Presidential Task Force; membership on the District Export Council and last year's presidency of the Seattle Chamber of Commerce; four years of service as a Public Member of the Administrative Conference of the United States and over twenty years of service on the Judicial Conference of the Ninth Circuit Court of Appeals.

Against that background, I hope you will accept as credible--and sincere--my observation that the handling by your office (and others) of the current controversy relating to the Hops Marketing Order has not been well-managed.

Honorable David A. Stockman  
March 30, 1983  
Pg. 2

It is my understanding that under the terms of that Order, which was duly issued and approved by the Secretary of Agriculture pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, the Secretary is required to establish the "salable percentage" for growers for the 1983 growing season prior to April 1. I am advised that the Secretary has proposed such allotment figures for 1983 in accordance with the provisions of the Marketing Order and has found that such "salable percentage" figures and other proposals made by the Secretary meet all the criteria suggested in the policy guidelines outlined in the Report of the Task Force on Regulatory Review. So far as I am advised, the Secretary submitted these proposals to your office "for comment" some weeks ago and he has fully complied with all provisions of Executive Order 12291.

I am told that your office (pursuant to what authority remains unclear--and clarification of which I would appreciate) refuses to permit the statutorily required publication of the 1983 "salable percentages" in the Federal Register and has requested a review of the proposals by a "Cabinet Council" (whose authority to thwart a statutorily promulgated marketing order is also unclear)--which is scheduled to meet sometime in April.

I submit that this is unsound management and unsound government.

1. If the marketing structure for hops--or any other commodity for which marketing orders have lawfully been promulgated--is to be altered, I think it is irresponsible to do so at the 11th hour when the growing season is literally upon the growers. Nature does not wait for the resolution of conflicts between government agencies.

One year ago hop growers were confronted with precisely the same controversy between your office and the Department of Agriculture. Intercession by Senator Gorton and Representative Morrison (two effective Republican members of our Congressional delegation) apparently forestalled the restructuring of the industry advocated by representatives of your office. I suggest that the Administration can and must resolve its policy differences prior to the advent of the growing season.

2. Some would urge that the economic philosophy of marketing orders is unsound, but I suggest that this is a question for Congress to resolve and not your office.

## BOGLE & GATES

Honorable David A. Stockman  
March 30, 1983  
Pg. 3

Under successive Administrations, the marketing of certain specialty crops has been regulated under duly promulgated marketing orders pursuant to Congressional authority. Abuses have arisen and mistakes, I'm sure, have been made. Reforms and improvements deserve to be made, but the failure to promulgate 1983 "salable percentages" is tantamount to repealing the Hops Marketing Order. This you must not do without a great deal more concern for the consequences than has been evident.

Rightly or wrongly, over time, the transfer of allotments has been recognized and provided for, and growers have in fact, invested millions of dollars in the acquisition of "hop base" for their farms--and a farmer could neither grow nor sell hops without it. This may have been unfortunate and unsound, but millions have been invested to acquire hop base in this state and financial institutions in this area have loaned more millions in reliance upon those assets as security. To wipe out those assets with the stroke of a pen--or the lack of one--is disastrous economically and it is disastrous politically.

3. Your office is apparently taking the same position under the spearmint marketing order and is refusing to approve salable percentages under that order.

There are approximately 1 million pounds of spearmint oil in the "reserve pool" under that order which will be free to hit the market on July 1 if salable percentages are not timely promulgated under that order. That amount is nearly 70% of the annual demand for the product. If you really want to throw agriculture into a tailspin in this part of the country, you couldn't pick a better way to do it. I respectfully suggest you should get some of your staff out into the mint fields to find out what the world of reality is like.

4. Finally, I am puzzled at the seeming total lack of consistency by your office. Growers in this state have recently filed application for the establishment of a peppermint marketing order, and I am informed that the Department of Agriculture has approved the application and hearings have been authorized. So far as I am aware, your office has voiced no objection to the establishment of the peppermint marketing order pursuant to the hearing process and presumably it will be published shortly. How is it that the publication of the salable percentages under the hops and spearmint orders

BOGLE & GATES

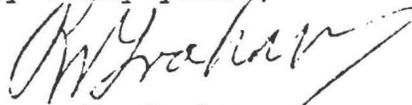
Honorable David A. Stockman  
March 30, 1983  
Pg. 4

pursuant to Department of Agriculture findings triggers opposition? You must be aware that failure to publish salable percentages effectively repeals the orders for the coming season and will throw the marketing of those commodities into chaos.

I urge you to withdraw your opposition to the publication of the salable percentages for the 1983 season by the Secretary of Agriculture under the hops and spearmint orders and to constructively address the problems which you perceive to exist in the marketing of these commodities.

I would be pleased to work with you in whatever way I can be of assistance.

Very truly yours,



Robert W. Graham

cc: Hon. Slade Gorton  
Hon. Sid Morrison  
Hon. George Bush  
Hon. John R. Block  
Hon. James G. Watt  
Hon. Malcolm Baldrige

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# United States Senate

COMMITTEE ON  
AGRICULTURE, NUTRITION, AND FORESTRY  
WASHINGTON, D.C. 20510

August 17, 1982

Honorable John R. Block  
Secretary of Agriculture  
Washington, D.C. 20250

Dear Mr. Secretary:

We urge you to take such steps as may be necessary, including consultations with the President, to ensure that the marketing order program is operated in accordance with the Agricultural Marketing Agreement Act of 1937.

It is clear from the declaration of policy in the 1937 Act that the Secretary of Agriculture is required to administer the marketing order program for the benefit of both farmers and consumers. Under the Act, marketing orders are intended to establish and maintain orderly marketing conditions for agricultural commodities moving in or affecting interstate or foreign commerce. The purpose of the orders is to assure equitable returns to producers while providing adequate supplies at more stable prices to consumers.

Marketing orders differ from other agricultural adjustment measures in a number of significant respects. Orders are generally initiated by a particular agricultural industry. Handlers in each industry bear the local costs of administering the program. The development of the program generally involves active group participation, with resultant interest and emphasis placed upon furthering agricultural enterprise.

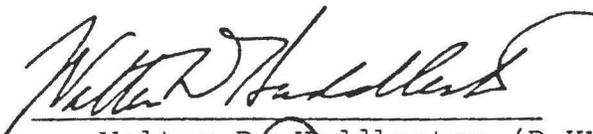
Historically, Secretaries of Agriculture have developed marketing orders, consistent with their statutory obligation to consumers, as a self-help program for farmers. This approach has worked well to assure that the producers of a particular surplus commodity work together to bring supply in line with demand, thereby preventing sharp fluctuations in prices.

Honorable John R. Block  
August 16, 1982  
Page Two

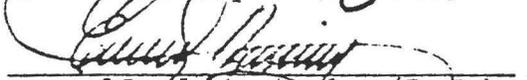
We are highly concerned with reports in the press that the Department has been hampered in its efforts to operate the marketing order program in accordance with historical policy.

Any change in that policy should not be considered in the absence of Congressional review and authorization.

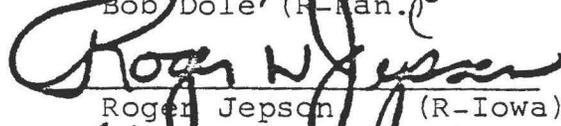
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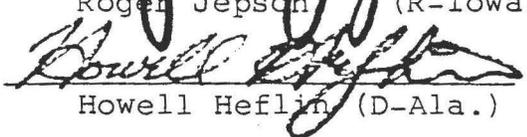
  
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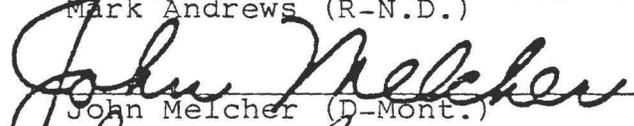
  
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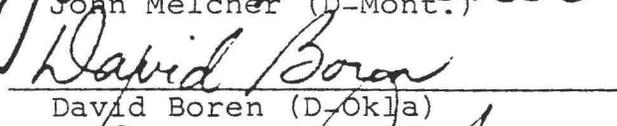
  
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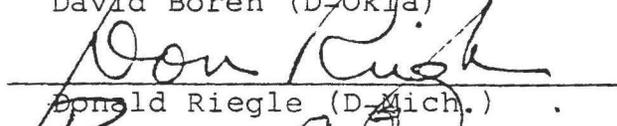
  
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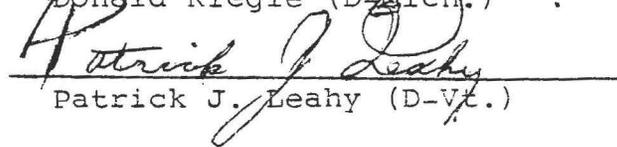
  
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# United States Senate

WASHINGTON, D.C. 20510

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INDIAN AFFAIRS

March 4, 1982

55-878638  
Mr. McMillan  
EXECUTIVE SEC. S-ROOM  
CONE

The Honorable John R. Block  
Secretary of Agriculture  
Department of Agriculture  
Washington, D.C. 20250

82 MAR 8 A 9:19

Dear ~~Mr.~~ <sup>John</sup> Secretary:

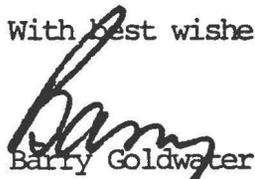
As you may know, I have long been a defender of the marketing order system as applied to fruits and vegetables. In my State of Arizona, it has benefited the citrus industry substantially.

The purpose of this letter is to inquire about the guidelines for marketing orders which your Department issued on January 25, 1982. It is my understanding that the guidelines are without any precedent in the history of the marketing order program. Industry leaders inform me the program traditionally has worked as a system in which the industries involved suggest rules, which they must follow, to the Secretary, and then after his agreement, industry has an opportunity to vote its approval or rejection of those rules.

The rules are mandatory once adopted, but they are approved by the industry itself, not forced upon the industry by the government. I must assume that you wish to continue this historic practice and do not intend to impose the guidelines on growers and shippers without at least first obtaining their ratification in an industry-wide vote. Clearly, the issuance of a totally new set of "mandatory" guidelines would conflict with the Administration's efforts to decrease the regulatory burden of the private sector.

It would be much appreciated if you would confirm for me that the guidelines are voluntary. I would like to pass this information on to my constituents in the industry.

With best wishes,

  
Barry Goldwater

OMARSINO  
CALIFORNIA

ORN BUILDING  
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225-3601

REGIONAL WHIP, PLAINS AND  
WESTERN STATES

# Congress of the United States

## House of Representatives

Washington, D.C. 20515

September 21, 1981

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The Honorable John R. Block  
Secretary  
United States Department of Agriculture  
Washington, D.C. 20250

Dear Mr. Secretary:

As a Californian, many of my farm constituency is governed by federal marketing orders. Marketing orders have proven to be a successful tool for thousands of citrus, almond, raisen, prune and walnut growers in California for many, many years.

The farmers themselves have initiated these orders and seek to be governed be these regulations in order to market their crops in the most efficient and orderly manner possible. At the same time, consumers benefit from a stable supply of products at reasonably stable prices. Unlike farmers of feed grain and other field crops who seek costly federal assistance in the form of target prices, loan guarantees and other such programs, California specialty crops governed by marketing orders result in little expense to the federal government.

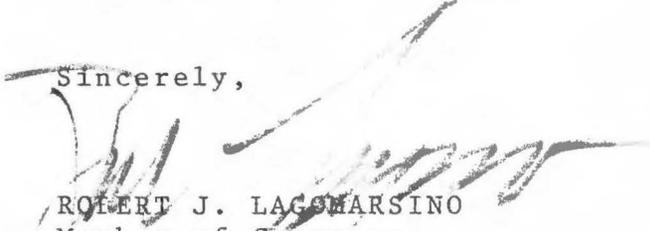
I am deeply disturbed by reports that the President's Task Force on Regulatory Relief is predisposed in a negative manner towards marketing orders. I am aware that your Department is in charge of preparing a report on this subject for the Task Force. However, I am told that OMB is telling your Department how to bias this report. In addition, I noted the article in Friday's newspaper which states that OMB has asked you to report on the paperwork that marketing orders generate.

Farmers in California feel that the marketing orders are essential to the maintenance of their economic well being. This is particularly true of volume control provisions contained in many of the orders.

The Administration's criticism of this system is causing grave political problems in California, both for the Administration and we Republican Congressman. I urge you and your colleagues at USDA to stand up firmly for California farmers against the entrenched bureaucracy at OMB. Failure to do so could be disastrous both economically and politically in California.

I look forward to hearing from you soon that a favorable report is forthcoming on the necessity for, and effectiveness of, federal marketing orders for fruits and vegetables.

Sincerely,



ROBERT J. LAGOMARSINO  
Member of Congress

RJL;klm

**WILLIAM M. THOMAS**

18TH DISTRICT, CALIFORNIA

COMMITTEE ON AGRICULTURE

SUBCOMMITTEES:

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## Congress of the United States

### House of Representatives

Washington, D.C.

October 2, 1981

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ADMINISTRATIVE ASSISTANT

CATHERINE M. SWAJIAN

The Honorable George Bush  
Vice President  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. Vice President:

As you know, your Task Force on regulatory review and a USDA study group are currently examining the possible economic impacts of agricultural marketing orders. Because marketing orders play a significant role in California's agriculture industry, there are certain aspects of this review I wish to bring to your attention.

Marketing orders cost the federal government virtually nothing. Unlike many field crops, producers of fruits, nuts and vegetables have not sought and do not receive price supports in the form of loans or deficiency payments. The orders do provide certain economies of scale for smaller farmers who would otherwise be unable to engage in competitive activities such as promotional advertising. These farmers, who have strongly supported California Republicans, are now afraid that the marketing order review signals the beginning of farm policies that threaten small producers.

I hope you will be extremely wary of recommendations from OMB bureaucrats who are critical of, and who have never favored marketing orders. The tensions generated by the review call for an objective decision on marketing orders, one I believe you are better suited to make than OMB personnel with no allegiance to the President or yourself.

It is my understanding that you have asked the Department of Agriculture to prepare a report for you on marketing orders. I would greatly appreciate receiving a copy of what is submitted as soon as it is available. If your review of the evidence supports marketing orders, I hope this information will be quickly conveyed to California's farmers.

Best regards

A handwritten signature in cursive script that reads "William M. Thomas".

WILLIAM M. THOMAS  
Member of Congress

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House of Representatives  
Washington, D.C. 20515

September 24, 1981

President Ronald Reagan  
The White House  
Washington, D.C. 20500

44-14815-1  
JMS  
EXEC. CORR. & REC.  
Due 11-2  
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Dear Mr. President:

I am deeply disturbed over reports concerning the Administration's position regarding federal marketing orders for fruits and vegetables. There are some important considerations which I hope are not being overlooked.

As a Member of Congress, I am supportive of efforts by the President's Task Force on Regulatory Relief to eliminate counter-productive federal regulations. As a grower, with "hands on" experience in formulating marketing orders, I am convinced that over the long run they work for both producer and consumer alike. Marketing orders for fruits and vegetables are initiated at the local level and are a form of industry self-regulation. There is an important distinction between federal regulations promulgated by Washington bureaucrats and regulations established and agreed to by industry. Recognition of this difference is essential when considering regulatory reform.

Such crops as almonds, walnuts, prunes, raisins, and citrus are all governed by federal marketing orders, and all contain various forms of volume controls which in the past have made it possible for the small family farmer to stay in business. These farmers do not understand why officials in Washington are threatening to eliminate a regulation designed at the local level which has worked successfully for many, many years. Farmers are hearing that the Task Force's report will be influenced by OMB career bureaucrats who have long opposed marketing orders and who have no allegiance to the current Administration. Although USDA has been assigned the job of reviewing marketing orders, there is every indication that OMB is dictating what is to be written.

As you are well aware, Minority Members of the California delegation are faced with grave problems in light of the current redistricting picture. In addition, farm prices will probably be down this year. It is important that the situation not be further aggravated through the elimination of a successful program which costs the federal government nothing.

President Ronald Reagan  
September 24, 1981  
Page 2

I urge you to support continuation of marketing orders for fruits and vegetables, including volume control provisions. I would also appreciate an advance copy of the recommendations of the Task Force with regard to marketing orders. This is an important matter to California and to the Administration on which we must work together to resolve.

Sincerely,

  
GENE CHAPPIE  
Member of Congress

GC:Fh

cc: Vice President George Bush  
Secretary of Agriculture John R. Block  
Veronica Haggart

CLAUSEN  
REPRESENTATIVE IN CONGRESS  
DISTRICT, CALIFORNIA  
REDWOOD EMPIRE DISTRICT"

COMMITTEE:  
PUBLIC WORKS AND  
TRANSPORTATION

COMMITTEE:  
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Congress of the United States  
House of Representatives  
Washington, D.C. 20515

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September 28, 1981

The Honorable John R. Block  
Secretary of Agriculture  
United States Department of Agriculture  
Washington, D.C. 20250

5-A33235  
AGENCY *ams*  
EXEC. DIR. & REC.  
*conc*  
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Dear Mr. Secretary,

Farmers of many California specialty crops including almonds, walnuts, prunes, raisins and citrus have successfully used a form of industry self regulation, federal marketing orders, to market their crops over the years. The marketing order is run by the growers themselves and has provided a necessary tool for growers to market their crops in an orderly manner.

Currently, these marketing orders are being scrutinized by your agency at the request of the President's Task Force on Regulatory Relief. In particular, the provisions of these orders which regulate volume seem to be marked for special attention and criticism. There seems to be a great misunderstanding with regard to the benefits which these volume control provisions provide. As you are well aware, without these provisions, the steady flow of produce to the consumer would be interrupted resulting in economic chaos in the marketplace.

When your Department issues its final report on marketing orders and volume control provisions, I trust that it will recommend their retention. This is a most important matter to many small farmers in my district and in all of California. I would appreciate being apprised of the status of this report as well as receiving a draft as soon as it is available.

Sincerely,

*Don Clausen*  
DON H. CLAUSEN  
Representative in Congress

DHC:d

VICTOR ATIYEH  
GOVERNOR



MAR 2 4 1983

*Miller*  
*File*

*WTM*  
*Check Reader*  
*DS*

OFFICE OF THE GOVERNOR  
STATE CAPITOL  
SALEM, OREGON 97310

February 16, 1983

Bill Guthrie  
Route 1, Box 1292  
Prineville, OR 97754

Thank you for your letter suggesting a way to help some Oregon Farmers.

I have informed the Oregon Department of Agriculture concerning your thoughts on a Federal Marketing Order for peppermint oil. As you know, proponents of a marketing order for peppermint oil have drafted a proposal and USDA is presently asking for comments. A copy of the USDA announcement is enclosed.

There are presently 13 marketing orders in the northwest, and eight commodities are covered in the State of Oregon. Growers of these commodities feel they benefit from the programs and, as stated in your letter, through marketing orders farmers are trying to control production at no expense to government. They deserve much credit for their efforts.

My office and the Oregon Department of Agriculture strongly support the concept of marketing orders and, in our opinion, peppermint growers would benefit from the same.

Sincerely,  
  
Victor Atiyeh  
Governor

VA/ew  
Enclosure

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## Florida Fruit & Vegetable Association

a non-profit co-operative association



July 24, 1981

The Honorable C. W. McMillan, Assistant Secretary  
Marketing and Transportation Services  
United States Department of Agriculture  
Independence & 14th Streets, S. W.  
Washington, D. C. 20250

Dear Mr. ~~Secretary~~: *B:11*

This letter refers to our conversation at the Cattlemen's convention regarding Federal marketing orders. We understand this subject is receiving considerable attention, not only from the standpoint of the President's Regulatory Task Force's review of fruit and vegetable marketing orders, but a review of the benefits and/or detriments of these orders, including recommendations regarding the future of marketing orders.

I am enclosing a memorandum that discusses in some detail the history and objectives of marketing orders as we construe the subject at the Florida Fruit & Vegetable Association. We related the extent to which Florida is involved in several marketing orders regulating fresh fruits and vegetables. Of course, we take every opportunity to restate the reasons for having marketing orders in the first place, and the purpose of the law creating marketing orders.

We also emphasize at every opportunity that marketing orders were created because individual producers and handlers wanted them; that these individuals believed and still believe that a marketing order is beneficial to the health of their businesses, contributes stability in the market place, and therefore benefits consumers by providing quality produce at reasonable prices. Certainly this season in Florida contradicts the statements of critics that a marketing order is a license for price fixing. The intent, of course, is to prevent an unstable market which would result in dramatic swings in prices, and therefore create an uncertain picture for consumers and producers as well.

The Honorable C. W. McMillan  
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Page 2

We also suggest that in enacting legislation establishing marketing orders, the Congress determined disruptions in the orderly exchange of commodities in interstate commerce impair the purchasing power of farmers, and destroy the value of agricultural assets. Accordingly, Congress then empowered the Secretary of Agriculture to establish and maintain orderly marketing conditions for agricultural commodities in interstate commerce. Significantly, Congress at the same time was concerned with protecting consumers' interests by requiring the Secretary of Agriculture to monitor price levels and consumptive demand to insure prices which are in the public interest.

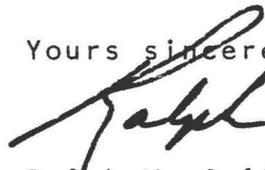
Furthermore, among the more important advantages of marketing orders are the fair and voluntarily adopted regulation of the marketing of commodities, including quality inspection, market research and development projects, as well as the collection and sharing of market information. In our opinion, without marketing orders, the regulation of production and marketing of commodities would result in less stringent standards than are now in place, thereby creating disorderly markets and high prices for consumers.

We recognize as well criticisms in some quarters about the cost of administration of marketing orders. It might very well be that considerable reductions in direct Government participation and the implementation of orders could be made. We believe it would be quite possible to establish a day to day administration of orders at the local level in a manner that would minimize activities at the Washington level, and at the same time be acceptable under the law, thereby reducing the Governmental cost of the programs.

After reviewing this report and the attachments, if you would like any further comments from me or from the staff of the Association, we would be pleased to receive your request.

I look forward to seeing you again soon. In the meantime, I'm as close as your telephone.

Yours sincerely,



Ralph W. Cellon, Jr.  
President

RWC:lc  
Enclosures

cc to: Mr. James T. Duncan  
Secretary-Treasurer & General Manager

# AGRICULTURE MARKETING AGREEMENT ACT OF 1937

## FEDERAL MARKETING ORDERS

### HISTORY

The Federal Marketing Agreement and Order Program for fresh fruit and vegetable commodities came into being from provisions of the Agricultural Adjustment Act of 1933. Following a court decision that the AAA of 1933 was unconstitutional, Congress lifted certain sections of the Act and affirmed the validity of the revised sections which became the Agricultural Marketing Agreement Act of 1937. The AAA of 1933 was judged as an attempt to control the production of agricultural commodities rather than a marketing tool to help growers achieve market power.

Federal Marketing Agreement and Order Programs are authorized under the Agricultural Marketing Agreement Act of 1937. The act permits the Secretary of Agriculture to enter into agreements with respect to any agricultural commodity and to issue orders with respect to the marketing of certain commodities. The commodities to which these orders may be applied are enumerated in the Act and include all fresh fruits and vegetables. With the exception of asparagus, the program is not available for other vegetables for processing.

Marketing Agreements and Orders are types of regulations involving all producers and handlers of the specified commodity who enter into this program for their mutual benefit. The regulatory effect of the program is restricted to the handler or shipper. It does not apply to the grower as a grower. Federal Agreement and Order programs are restricted to the control of interstate commerce and only those transactions that enter interstate commerce or which directly burden, affect or obstruct interstate commerce. The language "or which directly burden, affect or obstruct interstate commerce" may permit the regulation of certain types of intrastate shipments. Under the Federal regulation handlers who enter into Agreements with the Secretary of Agriculture are exempt from the provisions of the anti-trust laws.

The Marketing Agreement and the Marketing Order are essentially identical documents but the scope of their application may be different. A Marketing Agreement is merely a contract between handlers in a particular industry and the Secretary of Agriculture. It affects no one other than those who sign the agreement. A Marketing Order is a document issued by the Secretary of Agriculture, which makes the terms of

the entire program effective on all handlers in the industry within the area covered by the order irrespective of whether they sign a marketing agreement. The Marketing Order then is the instrument which binds all handlers and is looked upon for enforcement.

No Federal Marketing Order can be issued unless it is approved by at least two-thirds of the producers of the particular commodity within the area covered by the order. This means that a two-thirds majority of those participating in a referendum on the question, not necessarily two-thirds of the entire number of producers, must indicate that they want the Secretary of Agriculture to restrict the marketing of the commodity they grow in the manner proposed. In addition to this, handlers of at least 50 percent of the volume of the commodity covered by the agreement must sign the Marketing Agreement. In other words, the Act requires both producer and handler approval before the Order can be issued. If it is determined that the producers are in favor of the Marketing Order but handlers fail or refuse to sign the agreement, the Marketing Order may be issued if the Secretary determines that it is the only practical means of advancing the interests of producers. The Depart-

ment of Agriculture as a matter of fact, has encouraged the institution of both Marketing Agreement and Marketing Order programs to accomplish this purpose. Experience has indicated that it is necessary to have the help and willing cooperation of handlers before the program can be operated with maximum effectiveness. The application of the program is limited to the smallest practical producing area; which, depending upon circumstances, may be a State, a group of States or a part of a State.

#### FUNCTIONS OF FEDERAL MARKETING AGREEMENTS

The purpose or policy of the Marketing Agreement and Order program is to establish and maintain such orderly marketing conditions as will establish prices to producers at the parity price level. There is no guarantee that the parity price will be obtained but rather parity represents the maximum extent to which the Marketing Agreement and Order programs may be employed to influence prices. However, the program does not act to keep prices from rising above parity; rather, operations under the program may be suspended during periods of higher prices and resumed when prices decline to or below the parity level. For the purposes of maintaining certain minimum standards of quality and maturity, operations of this aspect of

the program may be continued even though prices may rise above the parity level.

Federal Marketing Agreement and Order programs are designed to accomplish one or more of five particular functions. In the Fruit and Vegetable industry the most common type of regulation is that of regulating the quality that may be shipped. Under this method of regulation the quality of the product which is shipped to market is regulated by grade or size or both.

In establishing a federal marketing agreement and order program for vegetables provision is made for a committee of growers, handlers or both, to administer the terms of the agreement and order. Membership of the committee are nominated by growers and handlers, usually by means of industry elections. On the basis of this industry preference and other available information members are subsequently appointed by the Secretary of Agriculture. The Agreement and Order terms and conditions specify the term of office, powers, duties and obligations of the Committee. The cost of the program administration is financed by means of assessments upon handlers. The administrative committee prepares a budget each year and on the basis of this budget proposes a rate of assessment to be imposed upon

handlers and submits these as recommendations to the Secretary of Agriculture. The Secretary then establishes the total amount of money which the committee may expend and also fixes the rate of assessment in terms of so much per package, truck lot or carload which the particular handler ships during the marketing year. The committee is responsible for collecting the assessments from handlers, has custody of all funds and is responsible for all expenditures. Annual audits are made of the committee's books and records.

The committee is required to recommend to the Secretary of Agriculture the appropriate regulations of shipments in accordance with the terms of the industry's marketing agreement and order program. These regulations are based upon the committee's analysis of market conditions. On the basis of these recommendations and other information available to the Secretary the appropriate Order is issued by the Secretary of Agriculture. This procedure permits the representatives of the industry to devise the type of program and its own specific regulations which they believe most desirable. The Order issued by the Secretary of Agriculture has the force and effect of law. The programs may be suspended or remain inoperative from time to time if conditions warrant.

Enforcement of the terms and conditions of the agreement and order primarily is the responsibility of the Department of Agriculture. However, it is the duty of the administrative committee to investigate and report complaints and/or violations. These reports of violations are referred to the Department of Justice for prosecution. The Department of Justice may institute civil action to obtain an injunction of further violation of the Order, it may bring criminal action against a violator and if the person is convicted he may be fined not less than \$50.00 nor more than \$500.00 for each offense; and The Department of Justice may file a civil suit to obtain damages from a person who violated the order. Under the latter action, if convicted, damages in the amount of three times the value of the product shipped in violation may be levied.

#### ESTABLISHING FEDERAL MARKETING AGREEMENTS

The procedure for instituting a Marketing Agreement and Order program is somewhat tedious. The first and most important step is for the industry concerned to develop a proposed program which has the support of the growers and handlers involved. Once this is

done they may request the Secretary of Agriculture for a public hearing on the specific proposal. This request for hearing should be signed by members of organizations representing a majority of the industry; 15 days notice of the hearing must be given and all growers notified. The hearing is conducted by a member of the Board of Examiners and follows a formal procedure in which all evidence and testimony is taken under oath and cross examination is permitted. The hearing is held at one or more places in the producing area at points convenient to producers and handlers. Any action and each proposal in the proposed marketing agreement and order must be supported by evidence taken at the hearing. It is highly important then that a great amount of study and care be given to the preparation of the proposed marketing agreement and order and in presenting information at the public hearing.

At the conclusion of the hearing the Department of Agriculture reviews the information obtained at the hearing and prepares a recommended decision which outlines the issues developed at the hearing and contains the specific terms of the marketing agreement and order as revised on the basis of the evidence presented at the hearing. This is published and interested parties then are given an opportunity

to file exceptions to the Department's recommended decision. After expiration of the appropriate time for filing exceptions, the program is again analyzed and the decision of the Secretary is published. This represents the conclusion of the Department of Agriculture relative to the marketing agreement and the marketing order to be issued is approved by growers and handlers.

It is on the basis of this decision of the Secretary that the proposal is submitted to producers for referendum action and copies of the marketing agreement are submitted to handlers for signature. After the growers and handlers approve the program the agreement is signed by the Secretary and the order issued in final form. After this has been done the industry then is in a position to begin operations under the program. The administrative committee is selected, its rules and regulations are formulated, recommendations for its budget and rate of assessment and the regulations which the committee deems desirable are formulated and these are submitted to the Secretary for approval. The Department provides assistance and supervision throughout the development and operation of program as may be necessary.

The marketing order can be terminated if there is no longer any use, or desire, for the program. The Secretary can terminate the program at any time he finds it no longer effectuates the purposes of the act. The Secretary is required to terminate the program whenever a majority of the growers who produce at least one-half of the production requests its termination. Marketing agreements and marketing orders are industry programs developed and operated by the industry for its own benefit.

#### BENEFITS TO PRODUCERS AND CONSUMERS

Federal Marketing Orders for fresh fruits and vegetable commodities help producers market their perishable crops in a manner that insures a stable, orderly supply of good quality produce. Growers initiate and design them with cooperation from USDA. Each program - dealing with a crop grown in a specific area - is tailor made to address the industry's particular marketing problems.

Written into nearly all the order programs are minimum quality requirements backed up by Federal - State inspection. This keeps the less acceptable qualities and less desirable sizes of a commodity off the market. In other words, the customers'

preference goes to market, and the poorly shaped overripe, shriveled, or damage commodity stays off the market. It costs money to harvest and market wasted products, and much of that cost would be paid by consumers.

Vocal protest of some consumer groups proclaim that marketing orders deny consumers the opportunity to buy less desirable commodities at cheaper prices and therefore should be eliminated. The bottom line in this dialogue clearly reveals that those most vocal represent a very small minority of the buying public, while the majority still buy on quality and visual appearance.

These are seven (7) Federal Marketing Order programs for fresh fruit and vegetables operating in the State of Florida. These are:

1. M.O. 905 - Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida.
2. M.O. 911 - Limes Grown in Florida
3. M.O. 912 - Indian River Grapefruit
4. M.O. 913 - Florida Interior Grapefruit
5. M.O. 915 - Avocados Grown in South Florida
6. M.O. 966 - Tomatoes Grown in Florida
7. M.O. 967 - Celery Grown in Florida

All of the order programs have broad support throughout the industry. They were designed by the industry to overcome the problems that they perceive as marketing problems, they are justified in public hearings, voted in by two thirds of the handlers and paid for by the industry. Basically, they are self help programs that Congress decided a long time ago that producers needed in order to establish and maintain an orderly marketing situation for agricultural commodities of highly perishable crops sold in interstate commerce. Through these programs, Congress believes producers will receive prices more closely related to parity than those left exposed to the large market power that is against them.

In summary, FFVA has been and still is a Champion of the Federal Marketing Order program for its members who are in and operating under these orders. FFVA was instrumental in their beginning and will strive to keep them functioning so long as the members declare their support for the programs.



# California Farm Bureau Federation

1601 Exposition Boulevard • Sacramento, CA 95815 • Telephone (916) 924-4000

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August 13, 1982

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The Honorable John R. Block  
Secretary of Agriculture  
U.S. Department of Agriculture  
14th St. and Independence Ave., S.W.  
Washington, D.C. 20250

Dear Secretary Block:

On behalf of the California Farm Bureau Federation (CFBF), the state's largest farm organization representing over 97,000 member families, I would like to express our grave concern about the future of federal marketing orders. We are particularly concerned that you are allowing the Office of Management and Budget (OMB), through their activities under the Paperwork Reduction Act, to usurp your authority as Secretary of Agriculture under the Marketing Act of 1937 to administer the federal marketing orders.

It has become apparent to the agricultural community that OMB's Office of Information & Regulatory Affairs intends to use the Paperwork Reduction Act to cut back and possibly dismantle federal marketing orders, although the Act specifically states that it does not increase OMB's authority to "affect in any way the substantive policies and programs of departments and agencies." You do have the authority to accept or reject the OMB's recommendations.

Marketing orders have been shown to perform a useful function to society both in promoting adequate grower returns and providing a stable long term supply of quality product to the consumer. Information gathering plays a critical and vital part in the administration of a marketing order. Should OMB's OIRA continue its attempt to dismantle these essential marketing tools for agriculture, this most important sector of the economy will be so

damaged that any hope for economic recovery will be lost. It is time, Mr. Secretary, for you to stand up on behalf of agriculture.

Sincerely,



HENRY J. VOSS  
President

HJV:kl

Enclosure

cc: David A. Stockman, Director  
Office of Management and Budget  
E. Kika De La Garza, Chairman  
Committee on Agriculture  
U.S. House of Representatives  
Jesse Helms, Chairman  
U.S. Senate Committee on Agriculture,  
Nutrition and Forestry  
California Congressional Delegation

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California Farm Bureau Federation  
1601 Exposition Boulevard  
Sacramento, CA 95815  
Phone: 916/924-4000

August 17, 1982

Farm Bureau Speedline Message For:

The Honorable John R. Block  
Secretary of Agriculture  
Washington D.C 20250

Dear Secretary Block:

The following letter was sent to David A. Stockman, Director of the Office of Management and Budget on August 16, 1982.

Dear Mr. Stockman:

On behalf of the California Farm Bureau Federation, the state's largest general farm organization representing over 97,000 member families, I would like to express our grave concern about the role that the Office of Management and Budget has chosen to play in federal marketing order administration.

It has become apparent to the agricultural community that OMB's Office of Information & Regulatory Affairs intends to use the Paperwork Reduction Act to cut back and possibly dismantle federal marketing orders. Although the Act specifically states that it does not increase OMB's authority to "affect in any way the substantive policies and programs of departments and agencies," OIRA has interpreted it as a license to be judge, jury, and executioner for marketing order programs. OIRA's stated intentions to bureaucratically sabotage marketing orders also raises the question of how this action "assists the President in his program to develop and maintain effective government," which is supposedly one of the main purposes of OMB. The Office of Management and Budget should be working toward efficient administration of federal marketing orders, not their demise.

The implementation of the Paperwork Reduction Act as interpreted by OIRA is causing more problems than the actual paperwork involved ever did. The clearance process for information collection activities of marketing orders is placing an immense burden on USDA staff, marketing order managers, administrative committee members, and even the regulated parties. It is, in effect, preventing them from fulfilling other responsibilities. Although reorganization and streamlining operations can take considerable time and effort, the process can be extremely beneficial if the main goal is to improve a program's effectiveness. The fact that OMB has such a publicly negative attitude toward marketing orders suggests that constructive reorganization may not be the true goal.

... involved in a marketing order is voluntary, imposed by handlers on themselves for proper administration of the order. I question whether marketing order activities should be subject to the Paperwork Reduction Act at all. The regulated entities requested marketing order administration should also be the agency with the choice to eliminate or alter specific activities - not a government agency. It would seem more appropriate for OIRA to invest its resources on behalf of the "general public," which has no control over the reporting requirements placed upon it.

Marketing orders have been shown to perform a useful function to society in promoting adequate grower returns and providing a stable long-term supply of quality product to the consumer. Information gathering plays a critical and vital part in the administration of a marketing order. Anything that impinges on this function is contrary to the performance of the marketing order and the stated goals.

Should your office continue its attempt to dismantle these essential marketing tools for agriculture, this most important sector of the economy will be so damaged that any hope for economic recovery will be lost.

Sincerely,

HENRY J. VOSS  
President

HJV:mk

cc: E. Kika De La Garza, Chairman  
Committee on Agriculture  
U. S. House of Representatives  
Jesse Helms, Chairman  
U. S. Senate  
Committee on Agriculture  
Nutrition & Forestry  
California Congressional Delegation