The Olive Oil Commission of California's 2014 Grade and Labeling Standards: Analysis & Implications

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ABOUT THE AUTHOR

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Prior to leaving government service, Ambassador Siddiqui worked in the Obama Administration as the Chief Agricultural Negotiator in the Office of the U.S. Trade Representative (USTR) from 2010 to 2014.

From 2001 to 2009, Dr. Siddiqui was Vice President for Science & Regulatory Affairs at CropLife America, a trade association in Washington, DC. His eight years in the private sector were preceded by a series of senior-level positions in the Clinton Administration at the U.S. Department of Agriculture (USDA), including Deputy Undersecretary, Undersecretary for Marketing & Regulatory Programs, and Senior Trade Adviser to the Secretary of Agriculture.

Before joining USDA in 1997, Dr. Siddiqui spent more than twenty years in California state government, serving as Director of the Division of Plant Industry at the California Department of Food and Agriculture and in various other technical and managerial capacities within the agency.

Dr. Siddiqui earned M.S. and Ph.D. degrees in plant pathology from the University of Illinois at Champaign-Urbana. He received his B.S. (Hon's) degree in plant protection from the G.B. Pant University of Agriculture & Technology, Pantnagar, India. His writings include a book on plant parasitic nematodes and more than 30 scientific papers in national and international journals. In 2011, he was awarded the Doctor of Science (Honorary) Degree by his alma mater at Pantnagar.

EXECUTIVE SUMMARY[1]

California Governor Jerry Brown signed Senate Bill 250 on September 24, 2013, which became effective January 1, 2014. It authorized the establishment of the Olive Oil Commission of California (OOCC) to conduct and contract research and to adopt mandatory grade and labeling standards for olive oil produced by California processors handling 5,000 or more gallons of olive oil annually. The OOCC forwarded its recommendations for adoption of the proposed grade and labeling standards to the California Department of Food and Agriculture (CDFA) on June 3, 2014. After a public hearing on July 15, CDFA approved the OOCC recommended grade and labeling standards with minor modifications and issued an order for the 2014-2015 marketing season by making the standards effective September 26, 2014 and expiring on June 30, 2015, unless amended.

Since the grade and labeling information about olive oil is important to help consumers in making informed purchasing decisions, most countries have adopted voluntary standards. More than 95% of the olive oil sold around the world follows the grade and labeling standards developed by the International Olive Council, an intergovernmental body. While the U.S. is not a member of the IOC, the U.S. grade and labeling standards, revised on October 25, 2010, with a few exceptions follow the IOC standards for quality and purity. Since the problems of adulteration and mislabeling in the olive oil industry are real, the answer lies in addressing them through national and international cooperation and coordination among olive oil producers and regulators and not by adopting a patchwork of state standards.

Our review and analysis of (i) the enabling legislation and the California Marketing Act of 1937, (ii) development of the grade and labeling standards by the OOCC, (iii) adoption by the CDFA under the two laws, and (iv) its comparison with the U.S. and international standards for quality and purity, indicate that:

- While the OOCC and CDFA procedurally acted within the above referenced laws, there was an inexplicable rush to develop and adopt these highly technical regulations in less than four months.
- The quality and purity requirements under the mandatory standard adopted by the OOCC are not consistent with the international, national, and even the California Health and Safety Code's current requirements for olive oil grades, manufacturing and marketing.
- Since national and international grade and labeling standards for olive oil are voluntary, CDFA has the authority under the enabling legislations to adopt different standards for olive oil as long these standards apply only to olive oil produced from olives grown in California and not to olive oil produced elsewhere and sold in California.
- The enabling OOCC legislation was deftly crafted to avoid potential opposition and legal challenges from small-size olive oil producers in California and from other states and countries selling their olive oil in California. However, the OOCC standard does not prevent the alleged adulteration of olive oil sold in the U.S., which the proponents claim to be a major problem.
- As compared to state marketing orders, which operate under the California Marketing Act of 1937, commissions are created by the California Legislature at the request of specific commodity groups. Accordingly, the OOCC's mandate could be changed by the Legislature. As a result, there is a need to be vigilant to prevent the current OOCC grade and labeling requirements being applied in the future to all olive oil sold in California without regard to its origin and to monitor similar efforts at the national level.

[1] *This report was funded by a grant from the North American Olive Oil Association (NAOOA).*

INTRODUCTION TO CALIFORNIA'S OLIVE OIL INDUSTRY

California agricultural producers have been growing olives in the San Joaquin and Sacramento Valleys for more than 150 years. While most of the olive production during this period has been for canning and table use, some olive oil was produced from surplus and culled olives. Demand for olive oils soared since the 1990's due to increased awareness about the beneficial health benefits of olive oil as the richest source of mono-unsaturated fats among cooking oils, while being low in saturated fats. According to the 2013 U.S. International Trade Commission's Report on Olive Oil, it is estimated that the U.S. consumption of olive oil increased by over 650% during the last three decades.

In 2012, California grew approximately 44,000 acres of olives, with 50% of the acreage for canning and about 46% for olive oil. These numbers reflect a decision by California growers to plant large olive orchards dedicated to produce olive oil. California's Mediterranean-like climate is well suited to olive and olive oil production. Olive trees do well in poor soils and require less water than most annual and perennial crops. Most importantly, drought conditions and ensuing shortages in water allocation in recent years have resulted in California growers seeking to consider alternative crops that require less water. With the aid of mechanical harvesting of olives with modified grape harvesters and super high density/medium density olive tree plantings, California olive acreage has increased significantly in recent years. As a result, according to the Agricultural Issues Center, University of California, olive production for olive oil in California increased from 5,000 tons of olives in 1999 to 74,000 tons of olives in 2012.

Despite the increase in olive oil production, California supplies less than 3% of olive oil consumed in the U.S. and the rest of the demand being met by olive oil imported largely from the European and Mediterranean countries.

BACKGROUND ON THE INTERNATIONAL, FEDERAL & STATE REGULATORY FRAMEWORK

In recent years, large-scale olive oil producers in California have complained about the confusion in olive oil grades and standards and alleged fraud about the purity of imported olive oil. As early as 2004, the California Olive Oil Council (COOC) petitioned the USDA's Agricultural Marketing Service to review the U.S. standards for grades of olive oil, which were established in March 1948. After nearly six years of review and rulemaking, the revised U.S. Standards for Grade of Olive Oil and Olive-Pomace Oil were published in April 2010 and became effective in October 2010. With few exceptions, the revised U.S. standards for grades of olive oil are in line with the IOC standards for quality and purity of olive oil. Since IOC is an intergovernmental organization and influences over 95% of the world's olive oil standard setting, it made perfect sense to harmonize the U.S. standards with other olive oil producing countries.

In 2008, the California Legislature passed SB 634 led by Senator Pat Wiggins, which was signed into law by Governor Schwarzenegger on September 30 and became effective January 1, 2009. It established grade and labeling standards for olive oils, as defined under the California Health and Safety Code (CHSC): Olive Oil Grades, Manufacturing and Marketing: Division 104, Part 6, Chapter 9, Sections 112875-112880. It is interesting to note that the legislation was supported and hailed by the California olive oil industry as a positive step towards improving quality control of olive oil sold in California.

Furthermore, the CHSC standards for grade and labeling generally conformed to the international standards for olive oil. However, a segment of the California olive oil producers/handlers was still not satisfied with the state and federal standards for grades and labeling since they were voluntary and lacked enforcement requirements. In addition to engaging in a negative media campaign about imported oil being adulterated and mislabeled, they reached out to members of Congress, the California Legislature, and Federal and State officials. They pushed for an investigation of the alleged fraud associated with imported olive oil and to enact enforceable quality and purity standards. On September 12, 2012, House Ways & Means Committee Chairman Dave Camp (R-MI) asked the U.S. International Trade Commission (USITC) to investigate the olive oil issue and report back to Congress. Accordingly, USITC Report # 4419, entitled "Olive Oil: Conditions of Competition between U.S. and Major Foreign Supplier Industries" was published in August 2013. One of its findings stated that "broad and mostly unenforced standards lead to adulterated and mislabeled product, weakening the competitiveness of U.S.-produced olive oil in the U.S. market."

During the 2014 Farm Bill debate, an effort, although unsuccessful, was made to add olive oil to Section 8e of the Agricultural Marketing Agreement Act of 1937. Had this effort succeeded, it would have authorized USDA to require each lot of imported olive oil to be tested to meet the same grade quality and purity standards as U.S. domestic standards, provided U.S. olive oil producers were to vote favorably to establish a federal marketing order and to establish mandatory standards for U.S. produced olive oil. Such testing of imported olive oil at the port of entry would be costly and yet not solve the adulteration of olive oil after entry into the U.S.

At the state level, after many years of lobbying, large-scale olive oil producers in California were successful in convincing State Senator Lois Wolk to introduce SB 250, which ultimately authorized the establishment of the Olive Oil Commission of California (OOCC). The bill was rushed through both chambers of the California Legislature, signed into law by Governor Jerry Brown on September 24, 2013 and became effective on January 1, 2014. As required under the OOCC enabling legislation and the California Marketing Act of 1937, a referendum of olive producers/handlers was conducted by the CDFA in early 2014. The OOCC was established and held its first meeting on May 8, whereby it appointed the Grade and Labeling Standards Committee to develop standards for olive oil produced in California. The Committee completed its assignment with an inexplicable speed and submitted a 14-page document of highly technical/scientific standards to the commission within 25 days of its formation. On June 3, 2014, the OOCC approved by unanimous vote the olive oil standards recommended by the Committee. In accordance with the California Marketing Act of 1937, the CDFA noticed on June 6 and held a public hearing on the proposed "Grade and Labeling Standards for Olive oil, Refined Olive Oil, Olive-Pomace Oil" on July 15, 2014. Eighty three (83) witnesses, representing various segments of the state, and national and international olive oil industry interests provided oral and/or written testimony.

Based on the recommendations of the OOCC and findings of the CDFA regarding the proposed olive oil grade and labeling standards, as considered at the public hearing, an order was issued by the CDFA to make the olive oil standards (with minor modifications) effective September 26, 2014 for the 2014-15 marketing season with an expiration date on June 30, 2015, unless amended.

HISTORY OF MARKETING ORDERS AND COMMISSIONS IN CALIFORNIA

California is known for its extensive use of mandated marketing programs (marketing orders, marketing agreements, councils, and commissions) in the U.S. These marketing programs are primarily established to promote and differentiate California agricultural products from others in quality, size and other attributes. California consistently leads the nation in being the number one agricultural state with an aggregate farm gate value of $44.7 billion in 2012, according to the CDFA.

In addition to the nine Federal marketing orders (for almonds, canned olives, dates, desert grapes, kiwifruit, pistachios, raisins, prunes and walnuts), in operation in the state, California currently has 27 state marketing orders, 3 marketing agreements, 3 councils and 19 commissions for commodities ranging from alfalfa to wine grapes (Attachment I). Current activities of each and the year established are summarized in Attachment II. Based on a close review of the current quality control activities of the 19 commissions, it is clear that the OOCC's mandate to subject olive oil to a battery of chemical analysis is the most technically challenging and expensive requirement as compared to the testing of fresh fruits and vegetables for color, size and sugar contents etc. required by the other commissions.

As authorized under the California Marketing Act of 1937, marketing orders and marketing agreements were originally established for quantity (volume) control, quality (size, grade, maturity, etc.) control, promotion and research. However, in recent decades, marketing orders/agreements have focused on quality control, promotion and funding research. While marketing orders and marketing agreements are established under the authority of the California Marketing Act of 1937 and operate under the supervision of the CDFA, each commission is an independent entity as each is authorized by specific legislation.

It is important to note that all marketing orders, agreements, councils and commissions are self-supporting and are funded by assessments collected from producers and/or handlers that directly benefit from these marketing programs. No state General Funds are used to support these marketing programs. However, both marketing orders/agreements and commissions use the police power of the state to assess and collect funds from producers/handlers to operate the mandated commodity program. In addition, CDFA is charged with the oversight and auditing responsibilities to assure that each marketing program is operating in accordance with the California Marketing Act of 1937 and the legislative intent for the benefit of producers/handlers and consumers at large.

In recent years, many commodity groups in California have shown preference for commissions over marketing orders/agreements since they provide more autonomy, freedom to operate, manage and lobby. Commissions have more autonomy as to who and where they contract with for research as compared to the marketing orders/agreements, which are required to fund research to state universities and research institutions. But producers/handlers seeking to form a commission have to lobby members of the California legislature to sponsor and pass specific legislation to create a commission. Attachment III provides a comparison between marketing orders, agreements, councils and

commissions as to their statutory authority, scope of activity, procedures to establish and amend, their relationship with CDFA and other functions.

THE COMMISSION'S STANDARD REPRESENTS A PUSH TO GAIN A COMPETITIVE EDGE

While the OOCC standard deviates considerably from the IOC and USDA grade and labeling standards, it was developed and recommended by the OOCC and approved by CDFA under the authorities granted pursuant to SB 250 and the California Marketing Act of 1937. The standard affects only about 100 medium-sized and large-scale California producers/handlers, who process 5,000 or more gallons of olive oil from California produced olives annually. In other words, about 600 small-scale olive producers/handlers will not be affected by the new standard and not required to pay the assessment. Hence, opposing voices to the new standard have been muted.

Once the standard is fully implemented, it is expected to benefit large-scale producers/handlers, who have been behind this effort, to differentiate their product from other olive oils, especially those imported from other countries. While the OOCC's testing regime will only test oils pre-distribution, the results will likely be compared to highly-publicized reports of imported olive oils which were tested off-the-shelf. As some quality parameters of extra virgin olive oils are known to change over time, it is misleading to compare pre-distribution and off-the-shelf testing results. Long-term vision of the proponents of this effort is to build on the California name brand, using the appeal of mandatory testing, to increase their share of the U.S. domestic market and even to export to other countries.

Although scientific justification for the new standard to require analysis for the DAG and PPP tests and sensory assessment for virgin oil and other categories of olive oils is weak, the proponents are expected to use these new testing requirements as a marketing tool to further tout the high quality of California olive oils. Since the OOCC law is now implemented, it is likely to be used as a platform for further changes in expanding the scope of the law in coming years, including promotion of the California brands.

THE COMMISSION'S STANDARD AND FEDERAL & INTERNATIONAL NORMS

The OOCC standard is an outlier as it is neither based on international (IOC and CODEX) standards nor on national standards (USDA) and even deviates from state requirements for olive oil under the California Health and Safety Code. The standard is not a permanent but a "seasonal order" issued by the CDFA for the 2014-15 marketing season and will expire on June 30, 2015, unless amended. The definition of "handler" in the standard is significantly broader than defined in the California Marketing Act of 1937, but is consistent with the OOCC enabling legislation.

Since the standard does not cover all olives grown for olive oil in California and the current assessment rate is only $0.16/gallon, the OOCC will not have enough funds to run a credible chemical analysis and sensory assessment program for all categories of olive oils. It is estimated that the OOCC would be collecting about $400,000 under the current assessments rate. Traditionally, a typical California commission spends about one third on administration, one third on research and the remaining one third on program activities such as grading, chemical tests, etc. Based on the above unofficial estimates,

there would be enough funds to pay for sampling, shipping and chemical tests for about 100 samples per year.

Not counting the IOC accredited laboratory in the U.S. which is owned by an olive oil importer, there is no internationally accredited chemical analysis laboratory in the U.S to perform all of the quality and purity tests required by the new standard. Likewise, there is no internationally accredited sensory assessment panel in the U.S. at this time. Therefore, all of the samples will be drawn by CDFA inspectors and sent to a laboratory in New South Wales, Australia, for chemical and sensory analysis, which will be costly and time-consuming.

The standard has a three year transition period before it is fully implemented. It raises serious questions, such as which standard (CHSC or OOCC) applies to producers/handlers processing 5,000 gallons or more of olive oil annually during this transition.

THE COMMISSION'S GOALS & ACTIONS AND THE CALIFORNIA MARKETING ACT

It is clear from the enabling legislation that the OOCC's primary mandate is to conduct and contract olive oil research [Article 4, Section 79851 (k)] and, with the approval of the CDFA, to adopt and amend olive oil grade and labeling standards (Article 9, Section 79901). The OOCC must also comply with the California Marketing Act of 1937 [Chapter 1 (commencing with Section 58601) of Part 2 of Division 21].

Based on the actions of the OOCC and CDFA since the enabling legislation came into effect on January 1, 2014, it appears the actions of the commission so far are consistent with the OOCC legislation and the California Marketing Act of 1937. Procedurally, as required under the laws, CDFA noticed and held the producer/handler referendum, OOCC established the Grade and Labeling Standards Committee at it first meeting on May 8, 2014 and unanimously approved the standards for California olive oil as recommended by the committee at its June 3, 2014 meeting. Although CDFA Secretary is authorized under the Marketing Act to issue a seasonal order in certain situations without holding a public hearing, CDFA decided to issue a notice of public hearing on June 6 and held the public hearing on July 15, 2014 to receive comments from all interested parties on the proposed grade and labeling standards. As required, an order was approved on September 17, establishing grade and labeling standards and inspection requirements for olive oil processed in California from olives produced in California for the 2014-2015 marketing season, becoming effective September 26, 2014 and expiring on June 30, 2015, unless amended. The order specifically identified seven goals for the commission that are enumerated in the enabling legislation and the California Marketing Act of 1937. It also made several changes in the food ingredient labeling requirement and purity parameters requirements of the proposed grading and labeling standards recommended by the OOCC: (a) Section 11.3.7 of the OOCC proposed standard requiring food ingredient labeling of olive oil in processed food was determined to be outside the scope of the Marketing Act of 1937 and, therefore, was deleted from the final standard; and (b) Several purity parameters were deleted from Tables 2, 3 and 4 of the proposed standard, as they were less stringent than the current requirements under the CHSC.

While it is premature to judge whether the commission's actions are fully in line with all of the stated goals of the enabling legislation, it is clear that the commission and CDFA have rushed to implement the legislation by establishing the grade and labeling standards, specifying quality and purity parameters, and listing methods of analysis for olive oil produced in California in less than four months. However, it remains to be seen how successful the OOCC will be in meeting its goals of: "(a) ensuring the quality of oil produced from olives in California; (b) enhancing the continued growth of olive oil production through greater consumer and trade confidence in the consistent, high quality of California olive oils; (c) providing the producers, handlers, buyers and consumers of California olive oil with reliable and trustworthy information concerning the quality and grade of the product; and (d) conducting and contracting olive oil research."

POTENTIAL CONFLICT BETWEEN THE STANDARD & GLOBAL TRADE RULES

The U.S. standards for grades of olive oil are voluntary for use by producers, suppliers, buyers and consumers of olive oil nationally. The U.S. standards for olive oil were first issued on March 22, 1948 and further amended on October 25, 2010 under the authority of the Agricultural Marketing Act of 1946 [Secs 203, 205, 60 Sta. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624)]. In contrast, the OOCC standard is mandatory and covers only California producers/handlers processing 5,000 gallons or more of olive oil annually from olives grown in California. Secondly, the OOCC standard is more stringent than the U.S. standard for a number of quality parameters for olive oil, especially its additional testing requirements for Pyropheophytins (PPP), Diacylglycerols (DAG) and requiring sensory assessment not only for extra virgin, but other grades of California produced olive oil.

Based on an in-depth review of the IOC, U.S. and California grade and labeling standards for olive oil, it is evident that the OOCC standards are not in line with the international, national and not even with California's current grade standards for olive oil set under the California Health and Safety Code, Division 104, Part 6, Chapter 9, Section 112875 et seq., January 2013. Indeed, it is ironic that the U.S. standards for olive oil were updated and amended in 2010 after a petition was filed with USDA's Agricultural Marketing Service by the California Olive Oil Council in 2004.

The OOCC standard does not require olive oil produced outside of California to meet these quality and purity parameters and instead is required to meet the CHSC standards. If the U.S. standards for olive oil were mandatory, an argument for federal preemption against the OOCC standard could be made. Likewise, the international standards for olive oil set by the IOC are also voluntary. Hence, it would be difficult to prove that the OOCC standard is in violation of either the national or international standard.

However, there is a disconnect between the U.S. stated policy of promoting adherence to international standards and harmonization of technical regulations based on science and the recent developments related to olive oil grade and labeling in California. Both the Office of the U.S. Trade Representative (USTR) and USDA have been strong advocates of promoting adoption of science-based technical regulations at the World Trade Organization (WTO) and at other international fora, such as the

International Organization for Standardization (ISO), Codex Alimentarius Commission, World Organization for Animal Health (OIE), and International Plant Protection Convention (IPPC).

WTO's Agreement on Technical Barriers to Trade (TBT), which covers technical regulations and standards, including packaging, marking and labeling, requires that technical regulations and standards do not create unnecessary barriers to trade. For example, the TBT Article 2.1 requires that "member countries accord imported products no less favorable treatment than that accorded to the domestic products." TBT Article 2.2 requires that "member countries' technical regulations shall not be more trade restrictive than necessary to fulfill a legitimate objective." TBT Article 3.1 specifically mentions that local governments and non-governmental bodies within the member country's territory ensure compliance with the sections mentioned under Article 2. If the OOCC were to amend its grade and labeling standards in the future to mandate imported olive oil to meet its standards, the foregoing TBT articles would be helpful in challenging OOCC's trade restrictive requirements.

THE COMMISSION'S STANDARD FAILS TO ADDRESS THE ADULTERATION ISSUE

Since about 97% of all olive oil consumed in the U.S. is imported, it makes sense for domestic and imported olive oil producers and regulators to find a science-based solution to detect adulteration or substitution of olive oil with cheaper seed oils, using analytical tests. While proponents of the OOCC claim to be concerned about the adulteration in imported olive oil, they have failed to find a national solution to the adulteration and mislabeling issue. It is ironic that the OOCC standard regulates only a portion of olive oil produced in California and exempts imported olive oil produced in other states and countries. It raises serious questions about the real intent behind the OOCC enabling legislation and the rush to implement it in record time. Furthermore, it was deftly crafted to minimize potential opposition and legal challenges from the following groups:

a. By providing exception to producers/handlers of California olive oil processing less than 5,000 gallons of olive oil, potential opposition from small-scale olive oil producers was literally silenced. According to the CDFA sources, out of approximately 700 olive producers in California, about 600 fall below the 5,000 gallon olive oil annual production threshold. The same is true for the 60 or so handlers in California, as about 75% of them will be below the annual 5,000 gallon threshold. Therefore, the mandatory OOCC standard will not apply to about 75% to 85% of processors/handlers in California and they will still be covered under the CHSC standard for olive oil.
b. Since the OOCC standard mandates compliance by only a segment of California olive oil producers and does not apply to imported olive oil, the commission has avoided any potential legal challenges from those involved in the imported olive oil business.

Since about 97% of all olive oil consumed annually in the U.S. is imported, any effort by the OOCC to mandate compliance with its grade and labeling standard on imported olive oil sold in California should likely be vigorously opposed by olive oil importers and the exporting countries. Moreover, if such a standard was adopted, it would further raise doubts about the U.S commitment to its international trade obligations in the WTO. If the OOCC were to require olive oil produced in other states (Arizona,

Florida, Georgia, Hawaii, Oregon, and Texas) and sold in California to meet its mandatory standard, it would constitute interference with interstate commerce and thus could be challenged under the Commerce Clause.

CONCLUSION

California olive oil interests instrumental in the passage of the OOCC enabling legislation and adoption of the grading and labeling standards last year were keenly aware of the potential opposition and legal challenges and, therefore decided not to require the standards' application to all olive oil sold in California, neither to olive oil produced in other states and nor to olive oil imported from other countries. If the narrow scope of the OOCC's current mandatory standard stays intact in coming years, it would help large-scale California olive oil producers/handlers to differentiate their product from imported olive oil and benefit them economically but would not address the adulteration of olive oil which they claim to be a problem in California and nationally. Therefore, any effort at the federal level by proponents of the OOCC standard to impose the same mandatory standard to both domestic and imported olive oil, should require a comprehensive, science-based solution supported by all producers, importers, and regulators of olive oil. In order to maintain consumer confidence in the quality of imported and domestic olive oil and to avoid onerous mandatory standards, the following actions are recommended:

1. Monitor the implementation of the OOCC's standard and lobbying activities of its supporters in the California Legislature and U.S. Congress;
2. Work with key members of the California Legislature and U.S. Congress to counter the misinformation about imported olive oil being disseminated by the proponents of the OOCC standard;
3. Meet regularly with USTR, USDA, FDA and Department of Commerce officials to emphasize the importance of applying harmonized and science-based international standards to all food products, including olive oil, traded internationally;
4. Work with the trade officials of olive oil exporting countries, especially the EU, to remind U.S. trade officials about their WTO trade commitments under the TBT Agreement as each member country (including political sub-divisions) are required not to impose technical regulations and standards which are more trade restrictive than necessary to fulfill a legitimate objective;
5. Build consumer confidence in the quality and purity of imported olive oil by advocating for a Quality Assurance Program (QAP) based on a national standard rather than a patchwork of state standards. It could be along the lines of the National Organic Program, delegating the sampling and testing of both domestic and imported olive oil at origin by certifiers trained and accredited by USDA's Agricultural Marketing Service for a fee.

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CURRENT CALIFORNIA MARKETING PROGRAMS – 52

Attachment I

	Marketing Orders - 27		Agreements - 3		Councils - 3		Commissions – 19
1	Alfalfa Seed Research	1	California Grown	1	Beef	1	Apple
2	Artichoke	2	Leafy Green Handler	2	Dairy	2	Asparagus
3	Dry Bean	3	Winegrape Inspection	3	Salmon	3	Avocado
4	Cantaloupe					4	Blueberry
5	Fresh Carrot					5	Cut Flower
6	Celery Research					6	Date
7	Cherry Marketing & Research					7	Grape Rootstock Improvement
8	Citrus Nursery					8	Olive Oil
9	Citrus Research					9	Pepper
10	Dried Fig					10	Rice
11	Garlic & Onion Dehydrator					11	Sea Urchin
12	Garlic & Onion Research					12	Sheep
13	Leafy Greens Research					13	Strawberry
14	Melon Research					14	Table Grape
15	Milk Processor					15	Walnut
16	Manufacturing Milk					16	Wheat
17	Market Milk					17	Winegrape - Lake County
18	Cling Peach Grower					18	Winegrape - Lodi
19	Pear					19	Winegrape - Sonoma
20	Pistachio Research						
21	Dried Plum						
22	Potato						
23	Raisin Marketing						
24	Rice Research						
25	Wild Rice						
26	Processing Strawberry						
27	Processing Tomato						

Updated: April 28, 2014

Source: CDFA

Attachment II

CALIFORNIA MARKETING PROGRAMS

PROGRAM	CURRENT ACTIVITIES	YEAR ESTABLISHED
Alfalfa Seed Production	Research	1973
Apple Commission	Promotion, Research	1994
Artichokes – Globe	Promotion	1960
Asparagus Commission	Promotion, Research	1990
Avocado Commission	Promotion, Research	1978
Dry Bean	Promotion, Research	1970
Beef Council	Promotion, Research	1957
Blueberry Commission	Promotion, Research	2009
Buy California	Promotion	2001
Cantaloupe	Promotion, Quality Standards, Good Agricultural Practices	1988
Fresh Carrot	Promotion, Research	1987
Celery	Research	1976
Cherry	Promotion, Research	1993
Citrus	Research	1968
Citrus Nursery	Research, Education	2005
Dairy Council	Promotion, Education, Research	1945
Date Commission	Promotion, Research	1995
Dried Figs	Promotion, Research, Quality Standards, Substandard Pools	1944
Cut Flower Commission	Promotion, Research, shipping methods	1990
Garlic & Onion Dehydrators	Quality Standards	1999
Garlic & Onion	Research	2005
Grape Rootstock Commission	Research	1993
Table Grape Commission	Promotion, Research	1968
Leafy Green Products	Inspection, Unfair Trade Practices	2007
Leafy Greens Research	Research	1973
Melon	Research	1972
Fluid Milk and Dairy Products	Promotion	1993
Manufacturing Milk and Dairy Products	Promotion, Research	1970
Market Milk and Dairy Products	Promotion, Research	1969
Olive Oil Commission of California	Research, Grade and Labeling Standards	2014

Program	CURRENT ACTIVITIES	YEAR ESTABLISHED
Processing Cling Peaches	Promotion, Research	1996
Pear	Promotion, Research, Quality Standards	1992
Pepper Commission	Research	1988
Pistachio Research	Research	2007
Potato	Research	1974
Dried Plum (Prune)	Promotion, Research	1947
Raisin	Promotion, Research	1998
Rice Commission	Promotion	1999
Rice Research	Research, Weather Data Dissemination	1969
Salmon Council	Promotion, Research	1989
Sea Urchin Commission	Promotion, Research	2004
Sheep Commission	Promotion	1999
Strawberries – Processing	Research, Quality Standards, Unfair Trade Practices	1960
Strawberry Commission	Promotion, Research	1994
Tomato – Processing	Quality Standards	1987
Walnut Commission	Promotion	1987
Wheat Commission	Promotion, Research	1983
Wild Rice	Promotion, Research	1986
Winegrape Inspection	Inspection	2005
Lake County Winegrape Commission	Promotion, Research	1991
Lodi-Woodbridge Winegrape Commission	Promotion, Research	1991
Sonoma County Winegrape Commission	Promotion, Research	2006

Source: CDFA

CALIFORNIA MARKETING ORDERS & AGREEMENTS, COUNCILS, AND COMMISSIONS: COMPARISON OF AUTHORITIES

	MARKETING ORDER or AGREEMENT	COUNCIL	COMMISSION
This document is a broad summary only. Please refer to the California Marketing Act or the respective council or commission laws for details.			
STATUTORY AUTHORITY FOR CREATION	Under general enabling authority provided in the California Marketing Act of 1937 and implemented administratively by the Department of Food and Agriculture.	Through commodity specific legislation.	Through commodity specific legislation.
SCOPE OF ACTIVITIES	Promotion, advertising, education, production research, quality standards, inspection and supply control.* * No marketing order currently utilizes supply control authority.	Promotion, advertising, education, marketing research, and research. Subject to CDFA's approval, any council may petition to adopt and administer any activity authorized by the California Marketing Act.	Promotion, advertising, education, marketing research, and production research. Subject to CDFA's approval, any commission may petition to adopt and administer any activity authorized by the California Marketing Act.
PROCEDURE TO ESTABLISH	A. Industry prepares preliminary draft of order. B. If deemed appropriate by CDFA, CDFA conducts public hearing. C. CDFA conducts industry vote if hearing testimony demonstrates that proposed marketing order may benefit the industry. D. If industry meets specified voting requirements, CDFA orders the marketing order into effect.	A. Industry drafts proposed statute and seeks approval through legislative process. B. If proposed legislation is enacted, CDFA conducts industry vote. C. If industry meets specified voting requirements, CDFA gives notice of favorable vote and certifies council.	A. Industry drafts proposed statute and seeks approval through legislative process. B. If proposed legislation is enacted, CDFA conducts industry vote. C. If industry meets specified voting requirements, CDFA gives notice of favorable vote and certifies commission.
AMENDMENTS	Major amendments must be developed in the same manner as the original order. CDFA may make minor amendments upon recommendation of a Board ***only*** for clarification or administrative purposes.	Same procedure as establishing the original council law. However, an industry vote generally is not required. In general, councils have authority to adopt their own rules and regulations and make minor adjustments without returning to the legislature.	Same procedure as establishing the original commission law. However, an industry vote generally is not required. In general, commissions have authority to adopt their own rules and regulations and make minor adjustments without returning to the legislature.
PROGRAM AUTHORITY AND ROLE OF THE DEPARTMENT	Marketing order and agreement Boards are advisory to CDFA. All actions of an Advisory Board are subject to CDFA's approval.	Councils are advisory to CDFA. All actions of a Council are subject to CDFA's approval.	In general, commissions are not advisory to CDFA. However, CDFA has authority in most cases to issue cease and desist orders in response to commission actions that CDFA deems to be not in the public interest. For many commissions, CDFA must concur with the annual budget and activities statement. CDFA has a non-voting ex-officio member position on most commissions.

Source: CDFA

CALIFORNIA MARKETING ORDERS & AGREEMENTS, COUNCILS, AND COMMISSIONS: COMPARISON OF AUTHORITIES

	MARKETING ORDER or AGREEMENT	COUNCIL	COMMISSION
MEMBERSHIP AND SELECTION PROCESS	Advisory Board may consist of producers and handlers, depending upon who is affected, and may have one public member. Industry peers recommend individuals through a nomination process, and CDFA appoints members from among those nominated.	Generally the same as marketing orders and agreements.	Commissions may consist of producers and handlers, depending upon who is affected, and may be required to have one public member that is appointed by CDFA (from nominees recommended by the commission). With exception of one commission, industry members are elected directly by industry peers and are not appointed by CDFA.
CONTINUATION	A public hearing is required at least once every five years. Some marketing orders and agreements have referenda, rather than hearings, to meet the continuation requirement.	In general, an industry hearing is required at least once every five years. However the Dairy Council requires a public hearing at least once every four years, while the Beef Council has no specified periodic re-approval requirement.	Re-approval requirements and intervals vary from commission to commission. In general, an industry vote or hearing is required at least once every five years.
TERMINATION	A. Advisory Board may recommend that a budget and assessment rate not be established, in effect suspending the Board. CDFA may terminate a marketing order after three years if it has received no recommended budget and assessment rate. B. CDFA may conduct a public hearing if it receives a petition supported by at least 25% of producers or handlers that are directly affected and who produce or handle at least 25% of the volume. If questions exist as to the effectiveness of the marketing order, CDFA conducts an industry vote to determine whether the marketing order or agreement shall continue. C. CDFA must terminate a marketing order if it receives a petition supported by at least 51% of producers or handlers that are directly affected and who produce or handle at least 51% of the volume.	In general, councils can be terminated only during the continuation process. **Note:** Termination of the Beef Council shall be submitted to an industry vote if CDFA or the Council determines that the Council is not effective. In addition, producers may petition for a vote of the industry.	Generally as follows: A. By a 2/3 vote, a commission may recommend that CDFA conduct an industry vote for termination. B. CDFA conducts an industry vote for termination if it receives a petition supported by 20% of the affected producers or handlers who account for 20% of the volume. C. CDFA terminates a commission directly if it receives a petition supported by 51% of the affected producers or handlers who account for 51% of the volume.
NON-COMPLIANCE PENALTIES	Criminal and civil	Similar	Similar

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