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## Fruit and Vegetable Marketing Orders

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In response to farmers' demands for higher prices during the Depression, Congress enacted legislation in 1937 authorizing marketing orders for certain commodities, giving growers unprecedented market power. Because orders may impede individual free choice on how to market output, opinions vary widely about the desirability of such orders as a marketing institution.

Most farmers who grow commodities covered by orders support them. However, some growers dislike them, and most consumers never heard of them. Yet marketing orders regulate the quantity or quality of nearly all fresh citrus, about 60 percent of domestically produced tree nuts, and many other fruit, vegetable, and specialty commodities consumed in the United States. Other than some USDA administrative expenses, direct outlays are paid for by the affected industry and do not show up in the Federal budget, so marketing orders have been called "farm programs you don't see" (*see box*).

Federal marketing orders are producer-operated programs aimed at raising grower prices and incomes by regulating product marketing. Federal orders are also used for fluid milk, but they are administered differently than for fruits and vegetables.

Marketing orders are sometimes controversial because they may have adverse, as well as beneficial, effects on growers and consumers. For instance, some producers claim that the California-Arizona citrus orders fail to enhance their incomes and create inequities among growers by being less restrictive

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### Marketing Orders Hold Little Promise for Major Field Crops

Could marketing orders substitute for Federal price and income support programs covering the major field crops? The idea has considerable appeal because marketing orders involve no direct outlays from the U.S. Treasury. Besides, most producers covered by orders appear satisfied with the program.

However, in most cases, overcoming the organizational and administrative problems in establishing orders for various field crops would be extremely difficult. Most marketing order crops are grown by relatively few producers within defined geographic areas, whereas field crop production occurs over wide areas of the country and involves many producers. The diverse production and marketing conditions for field crops would make it difficult to develop regulations that most growers would agree to.

Supply management regulations appear most likely to measurably

improve grower prices, but only when an industry can isolate its market from other suppliers. Because of specialized production regions and short marketing seasons for many perishable commodities, it is generally easier to isolate markets for horticultural crops than for the major field crops.

Field crop producers in other countries compete directly with U.S. producers through world trade. High tariffs or nontariff barriers would be needed to restrict imports. Furthermore, if prices rose within the United States, grain users could circumvent the marketing restrictions by producing their own grain and selling it in a different form. Feedlot operators, for example, could grow their own corn and market it through fed cattle.

In short, despite their benefits for producers of many specialty crops, marketing orders do not appear to offer a workable alternative to the current price and income support programs for major field crops.

for those who sell in export markets. Orders may be rejected or terminated for lack of industry support. In August 1988, strawberry producers rejected a proposed order calling for mandatory assessments to fund research and promotion activities. The Secretary of Agriculture terminated orders for hops, tart cherries, and Florida Indian River grapefruit after producers voted not to continue them. Meanwhile, the Secretary approved new orders for Texas-New

Mexico potatoes and Vidalia onions in 1989 after growers voted in favor of them.

Consumers benefit directly from the quality standards provided by orders, such as those for Florida and Texas citrus that require fruit to meet minimum ripeness requirements. On the other hand, orders that regulate the flow of product to market, such as those for California-Arizona citrus, can potentially uphold retail prices when supplies are large.

## Orders Emerged from Co-op Movement

Marketing orders grew out of a 1930's farmers' cooperative movement aimed at combating low prices and chaotic marketing conditions. Fruit and vegetable cooperatives tried to raise prices by voluntarily cutting sales and setting quality standards. Most attempts failed because nonparticipating producers and handlers benefited from the higher prices without restricting marketings or observing the quality standards.

As a result, those that participated paid the full cost of holding products off the market without receiving proportional benefits. This inequity, known as the "free rider" problem, in part, led to Federal marketing order and agreement programs enacted in the Agricultural Marketing Agreement Act of 1937. The stated purpose is to provide "orderly marketing," establish parity prices for producers, and provide an orderly intraseasonal flow of product to market, while protecting consumer interests. The Act has been amended several times to include additional commodities and activities.

Growers can request that the Secretary of Agriculture establish a marketing order on their behalf. The Secretary establishes an order on the basis of evidence presented at a public hearing and on approval by two-thirds of the producers involved (three-fourths for California citrus fruits). Orders occasionally regulate marketing in several States (a cranberry order covers production in 10 States from Massachusetts to Washington), but more commonly apply only to production in a limited geographic area, such as a group of States, one State, or a portion of a State (one order covers peaches grown only in Mesa County, Colorado). The law limits marketing

orders to the smallest practical area. Sometimes they cover most of a commodity sold during a specific period of the marketing year. For example, the California-Arizona Valencia order covers most of the fresh oranges marketed during the summer.

After they are approved, orders are managed by administrative committees composed of growers or both growers and handlers. Sometimes, a consumer representative is also a member. These committees recommend marketing regulations to the Secretary. USDA reviews recommendations and frequently requests modifications to better carry out the intent of the 1937 Act. If the Secretary accepts a recommendation, USDA issues the necessary regulations, which are binding on all handlers in the areas designated. Handlers are individuals or firms who sell the product and move it into commercial marketing channels. Handlers generally pack and ship the commodity and, in some instances, arrange for picking.

The Secretary can suspend or terminate an order if it obstructs or fails to support the declared policy of the Act. The Secretary must cancel an order when growers controlling at least half of the production and those representing a majority vote against it. Some marketing orders require periodic referenda, in which growers vote on whether to continue the order. USDA encourages all administrative committees to hold such referenda periodically. The Secretary is required to protect the public's interest by not taking actions that cause prices to rise too fast or too high.

Each order is tailored to the special problems of the particular commodity for which it applies. Some orders regulate the maximum amount that handlers may sell in certain markets (supply management); some specify minimum size, qual-

ity, or both; and others provide for collecting assessments to support product advertising and production and marketing research. Most orders provide for several of these activities. Currently there are 45 Federal marketing orders for horticultural crops. In addition, numerous State marketing orders and agreements provide support for research and promotion and quality and packaging standards. For instance, the dancing raisins and California fresh strawberry promotions are supported by State commissions.

## Managing Supply

Marketing order legislation allows four types of supply management regulations that may help growers secure higher prices: producer allotments, market allocations, reserve pools, and market flow controls (*tables 1 and 2*).

*Producer allotment orders*, the most restrictive type of supply management, have caused vigorous debates among farmers. Intended to prevent price-depressing market gluts, these orders set the maximum amount of a product that can be sold in specific markets on behalf of growers. Allotments are normally assigned to growers based on historical sales.

When allotments restrict sales, they take on a value of their own. Growers desiring to expand production or establish themselves as new producers must lease or purchase allotments from existing growers in order to sell their output. New growers complain this unnecessarily raises their costs and gives established producers an unfair advantage. Public hearing records suggest that high allotment values may have contributed to the Secretary's suspension of marketing allotments for hops. All of the remaining allotment orders—cranberries, Florida celery, and spearmint oil—provide for

**Table 1. Supply Management Is an Important Part of the Marketing Orders for Dried Fruits and Nuts**

Commodity and order	Supply management provisions					Quality provisions		Market support activities		
	Producer allotments	Market allocations	Reserve pools	Prorates	Shipping holidays	Minimum grade	Minimum size	Production and marketing research	Advertising and promotion	Package standardization
<b>Vegetables</b>										
Idaho-East Oregon potatoes						X	X			X
Washington potatoes						X	X			
South Oregon-North California potatoes						X	X	X	X	
Colorado potatoes						X	X	X	X	X
Maine potatoes						X	X			X
Virginia-North Carolina potatoes						X	X			
Texas-New Mexico potatoes <sup>1</sup>						X	X	X	X	X
Idaho-East Oregon onions					X	X	X	X	X	X
South Texas onions					X	X	X	X	X	X
Vidalia onions								X	X	
Rio Grande Valley, Texas tomatoes <sup>1</sup>						X	X	X	X	X
Florida tomatoes						X	X	X	X	X
Florida celery	X			X	X	X	X	X	X	X
South Texas lettuce				X	X	X	X	X	X	X
Texas melons						X	X	X	X	X
<b>Dried fruits, nuts, and specialty crops</b>										
California almonds		X	X			X		X	X	
Oregon-Washington hazelnuts		X				X	X			
Pacific Coast walnuts		X	X			X	X	X	X	
Far West spearmint oil	X		X					X	X	
California dates		X				X	X	X	X	X
California raisins		X	X			X	X	X	X	
California prunes			X			X	X	X	X	X

<sup>1</sup>Order only, no marketing agreement.

**Table 2. Most Fruit Marketing Orders Authorize Quality Control Provisions**

Commodity and order	Supply management provisions					Quality provision		Market support activities		
	Producer allotments	Market allocations	Reserve pools	Prorates	Shipping holidays	Minimum grade	Minimum size	Production and marketing research	Advertising and promotion	Package standardization
Florida citrus					X	X	X			X
Texas oranges and grapefruit <sup>1</sup>						X	X	X	X	X
California-Arizona navel oranges <sup>2</sup>				X			X	X	X	
California-Arizona Valencia oranges <sup>2</sup>				X			X	X	X	
California-Arizona lemons <sup>2</sup>				X			X	X	X	
Florida limes				X	X	X	X	X	X	X
Florida avocados					X	X	X	X	X	X
California nectarines						X	X	X	X	X
California pears, plums, peaches						X	X	X	X	X
Georgia peaches						X	X			
Colorado peaches						X	X	X	X	
California kiwi fruit						X	X			X
Washington peaches						X	X	X	X	X
Washington apricots						X	X	X	X	X
Washington sweet cherries						X	X	X	X	X
Washington-Oregon fresh prunes						X	X	X	X	X
California dessert grapes					X	X	X	X	X	X
California Tokay grapes				X	X	X	X	X	X	X
Pacific Coast winter pears						X	X	X	X	
Hawaii papayas						X	X	X	X	X
Cranberries (10 states) <sup>3</sup>	X	X								
Washington-Oregon Bartlett pears						X	X	X	X	X
California olives						X	X	X	X	

<sup>1</sup>Restricting handler deliveries is specifically prohibited. <sup>2</sup>Order only, no marketing agreement. <sup>3</sup>Grade and size specifications apply only to restricted portion of crop.



assigning some allotments to new and existing growers each season.

On the other hand, those who favor allotment orders point out that assigning marketing rights effectively prevents price-depressing market gluts and reduces the likelihood of costly crop abandonment by enabling growers to more easily plan their scale of production. However, allotments may raise consumer prices if they effectively reduce marketings.

Allotments in the cranberry order have never been used. Although allotments are set for the other two commodities, Florida celery and spearmint oil, their effectiveness in raising prices may be limited. Any attempt on the part of Florida celery growers to raise prices by reducing sales would likely be thwarted by increased marketings of California celery. Similarly, growth in imports and expanded domestic production in non-order States would likely counter high spearmint oil prices caused by market order restrictions.

*Market allocations*, a second type of supply management, specify the proportion of output handlers can sell in certain markets. Such orders may raise producers' returns when supplies are diverted from a price-sensitive primary market (usually the fresh or domestic segments) to a less price-sensitive secondary market (usually processing or export segments).

Although they are generally less contentious than the allotment orders, market allocation orders also have detractors. Opponents charge that market allocations raise consumer prices and lead to excessive production. Proponents claim strategic allocation during years of abundant production can prevent drastic cuts in growers' average prices. In addition, allocations permit an industry with many

small producers to develop marketing strategies, such as assuring buyers a reliable supply at steady prices and developing markets for new products. The almond order helped that industry develop exports and new products, such as almond butter.

A third kind of supply control, *reserve pools*, helps farmers stabilize prices and quantities across seasons by storing supplies during bountiful years for sale during short-crop years. Many perennial tree crops, almonds being one example, frequently produce a copious crop one season and a meager harvest the next. Consequently, prices may fall so low during abundant years that some production is abandoned, while years with short supplies mean sky-high prices.

Reserve pools set aside part of an excessively large crop so it can be sold when market conditions improve. Pool contents typically are sold in succeeding marketing periods; however, they may be exported or disposed of through nonfood uses, such as livestock feed. Because pools can provide greater year-to-year price and supply stability, they may bene-

fit both growers and consumers. Also, by assuring processors a steady supply of raw product, the industry can better develop new markets. Yet, reserve pools can backfire on growers. If their trees produce a bounteous crop during the subsequent year, growers may have to sell the previous year's reserve at a loss. This may have been a contributing factor in the vote by growers to discontinue the order for tart cherries.

*Market flow controls*, the fourth type of supply management, are directed at the problems that occur when shippers, making independent decisions, create short-term gluts and shortages and cause volatile prices. This volatility creates difficulty for retailers in planning promotions and raises their costs. Coordinating industry sales reduces the risks of alternating high and low prices and facilitates retail planning of product promotions.

Some commodities like oranges and grapefruit can be stored on the tree and harvested as needed for sale over an extended period. Market flow provisions smooth out shipments over the season and help alleviate price flip-flops. There are two kinds of market flow provisions, prorates and shipping holidays.

Prorates specify the maximum quantity a handler may ship to the regulated market during a specified period, usually a week. If used during all or nearly all the season, prorates may have the effect of market allocation—limiting sales and raising prices in the regulated market and causing some product to be diverted to a secondary market (*see box*).

The California-Arizona fresh citrus industry uses prorates extensively, but their use is controversial. Proponents claim the prorates reduce weekly price volatility and therefore are generally beneficial for both producers and consumers. Opponents argue that prorates unduly

### Marketing Navel Oranges

To better understand how fruit and vegetable marketing orders operate, consider the following example.

Farmer Peterson grows navel oranges in California's San Joaquin Valley and contracts with a packer-handler, Oranges, Inc., to harvest, grade, pack, and market the fruit. Oranges, Inc., deducts a handling charge and pays Peterson what is left of the proceeds.

Navel oranges are excellent eating, so Oranges, Inc., likes to sell most of the crop in the fresh market, fetching the highest return. Small, scarred, or misshapen oranges that do not meet fresh market standards are sold to a processor, who turns them into juice concentrate. Since navel oranges do not make good juice concentrate, processors pay a lower price for them.

Because Peterson's farm is in California, Oranges, Inc., must abide by the regulations of the Federal order for California-Arizona navel oranges. Under the order, the Navel Orange Administrative Committee, subject to USDA review and approval, determines the maximum weekly quantities that may be sold in the fresh domestic market (the industry's prorate) during a portion of the season. The Committee takes into account the expected supply and demand for oranges and recom-

mends a prorate to avoid market gluts and excessively low prices. While the initial determination is made at the beginning of the season, prorates are decided and set on a weekly basis. Oranges, Inc.'s share of the prorate is proportional to the share of total industry production that it has under contract with growers like Peterson.

Oranges, Inc., sells as many of its oranges in the fresh domestic market as its share of the prorate permits. The remainder may be held for later sale, exported, sold for processing, or donated to charitable organizations. Peterson receives an average of Oranges, Inc.'s returns from all sales.

Experience has demonstrated that a glut of oranges depresses the fresh price more than an equal amount of oranges, if diverted, would reduce processing prices. Hence, if the order causes some oranges to be diverted to processing (most likely during a large-crop year), Peterson's returns would rise. If this happens, consumers pay higher prices for fresh oranges.

However, there may be some benefits to consumers that offset potentially higher prices. Prorates may even out supplies over the season, resulting in smaller week-to-week swings in prices and quantities marketed. Greater stability probably lowers marketing costs and eventually retail prices.

restrict decisions by individual handlers. Furthermore, opponents say that by diverting shipments to secondary markets, prorates are used to raise prices and may cause overinvestment in citrus production.

Shipping holidays, a weaker form of market flow control, temporarily prohibit commercial sales by handlers. This limits supply buildups in market channels during periods of limited trade activity, such as the week between Christmas and New Year's. For example, the Florida citrus industry sometimes uses shipping holidays to clear market channels of unsold fruit following the pre-Christmas volume peak.

### Quality Controls Improve Product Image

Farmers and consumers generally benefit from quality assurance. When consumers are spared the expense and disappointment of unexpectedly purchasing inferior-quality products, they likely will purchase more in the future, thereby expanding demand. Growers then benefit from improved sales. In addition, reduced losses from spoilage and consumer rejection lowers marketing costs and may simultaneously raise producer returns and hold down retail prices.

Voluntary programs to improve quality have generally been unsuccessful. One reason is that nonparticipating producers have reaped short-term benefits by selling inferior products at high prices. As a result, consumers buying the inferior goods perceived a drop in the product's overall quality and consequently purchased less. Hence, participating growers, unable to realize the full benefits of their efforts, abandoned the programs.

Quality control orders establish minimum grade, size, and maturity requirements, which usually are enforced through mandatory Federal inspection paid for by handlers. Quality standards enable an industry to establish a positive product image by assuring buyers of a mature and desirable product. Standards for Florida and Texas citrus, for example, prevent handlers from shipping attractive, but immature oranges and grapefruit.

Quality standards also are sometimes controversial. The kiwi fruit order, for example, has a "shape-of-fruit" standard, which some people claim excludes good, wholesome fruit from the market. Proponents, on the other hand, argue that mis-

shapen fruit creates a poor image among consumers and thereby limits sales. Minimum quality regulations also may cause some people to forgo purchases. Some buyers might have preferred to purchase a lower priced, below-standard product, such as small or misshapen fruit.

### **Funding Market Support Activities**

Some orders facilitate joint industry action to fund research and product promotion and establish package and container standards. These provisions are referred to as market support activities. Production and marketing research and commodity promotion require a large expenditure to be effective. Yet they are a relatively small part of total costs if spread over all producers.

However, voluntary research and promotion efforts in industries made up of many small growers generally have failed for the same reason that cooperative efforts to enhance prices by regulating quantity or quality have failed—nonparticipating producers benefit from the voluntary program without bearing any of the cost. Because compliance is mandatory, marketing orders enable industries consisting of many farmers and handlers to spread the cost

of joint research and promotion uniformly. For example, handlers of California pears, plums, and fresh peaches are assessed fees for industry promotion in proportion to the volume sold.

Package and container standards assure buyers of shipment consistency and may reduce marketing costs. For example, the Florida tomato order requires that tomatoes be shipped in new boxes holding either 20 or 25 pounds net weight.

Market support regulations, as with supply management and quality controls, have not been spared controversy. The raisin, filbert, almond, and olive orders authorize programs that permit handlers who brand advertise to obtain credit for advertising expenditures, thereby reducing or eliminating their pro rata assessments for joint promotion programs. Opponents claim that the brand advertisers benefit from the industry advertising program without paying. The brand advertisers, on the other hand, argue that their advertising expands total demand and benefits the industry as well as themselves. Presently, only the almond order has an active program of crediting brand advertising.



### If Farmers Gain, Who Pays?

If orders raise farm prices, and that is one of the law's stated purposes, who pays the cost? There is not always a clear-cut answer.

When an order helps correct a genuine market failure, such as eliminating immature but attractive-looking fruit from the market, everyone gains. Similarly, everyone probably benefits if a regulation reduces extreme volume and price swings from week to week, thereby reducing marketing costs. Some of the savings probably are passed on to both growers and consumers.

Joint funding for research and promotion tends to promote efficiency, which generally benefits both consumers and producers. Industry-supported research and some advertising also benefit consumers, as well as producers, by providing market information.

On the other hand, growers may be the only gainers from regulations that enforce quality standards for cosmetic

attributes, such as size or shape, and certain groups of consumers may lose. For example, regulations that prohibit the sale of smaller or misshapen products penalize those buyers willing to purchase such items at a lower price.

The short-term effects of marketing orders may be different from the long-term effects. Controls such as market allocations—which, for example, divert output from the fresh domestic market to processing or export—may raise average farm prices in the short term and cause consumers to pay higher prices. However, elevated prices likely will cause farmers to expand capacity in the longer term, which may benefit consumers by providing insurance against shortages and extremely high prices during years with relatively small crops. ■

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