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Federal Regulation of Fruit and Vegetable

Part I. The General Study

by

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In early 1977, the Economic Research Service initiated a study of the impact of Federal regulations affecting production, processing and distribution of fruits and vegetables. Impetus for the study came from a resource reallocation scheme in ERS for fiscal 1977 which redirected research manpower and dollars according to perceived emerging issues. Christened the "five percent plan," it involved the ERS divisions pooling 5 percent of their resources and then "bidding" for these pooled resources by submitting research proposals. A proposal for a general study of regulations as they affect agriculture ranked high on the list of researchable emerging issues. A commodity approach was recommended with fruits and vegetables ultimately selected as a prototype subsector. The focus of the study was narrowed to Federal regulatory activity because of the large number and diversity of state and local regulations, particularly in the produce industry. Four SMY's and \$100,000 were initially allocated to the project. In addition, program areas in ERS not directly assigned a part in the study but having an interest in regulatory activity were encouraged to informally participate. This paper will be followed by a discussion of a complementary ERS study of this type.

Areas of Emphasis

Progress to date has been limited due to temporary reassessments of some of the principal staff. What has been done and planned research for the next 18 months falls into three general areas:

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1. Inventory of applicable Federal regulations. This involves an agency-by-agency review of regulations affecting fruits and vegetables, making heavy use of the U.S. Code (USC) and the Code of Federal Regulations (CFR). The U.S. Code outlines the Congressional Acts giving statutory authority for establishment of regulations, and provides some indication of legislative intent. Additional background material on historical perspectives and judicial interpretation for some of the more important Acts is sought from legislative hearing records and material published by the regulatory agencies. The Code of Federal Regulations provides the specific details of regulations resulting from the Acts. This phase of the project also includes a review of the body of theory applicable to regulations, which will be discussed further below.

The regulation inventory will be descriptive in nature, with some evaluation in terms of current relevance, orientation, and incidence. Regulations will also be categorized according to their probable degree of consumer price enhancement. This categorization will be largely subjective, aided by informal interviews with fruit and vegetable growers, packers, processors and distributors.

Following this inventory and cursory evaluation, regulations judged to be of particular importance from the standpoint of price elevation will be selected for more in-depth analysis. Attempts will be made to measure both direct and indirect costs

to selected market participants associated with these regulations, and to determine the extent to which regulatory costs are passed forward as consumer price increases.

Ultimately, recommendations will be made concerning how elimination or specified modifications of existing regulations would affect fruit and vegetable production, marketing practices and institutions, and consumer prices.

2. Food Health and Safety Regulations. FDA regulations have been singled out for separate analysis because of specialized researcher interest. Following a general review of FDA regulatory activity, this phase of the study will involve an assessment of alternative compliance methods. Attempts will be made to estimate current and future impacts of food safety regulations on processing costs, prices, resource use, and human health and medical costs.
3. Evaluation of Federal Marketing Orders for Fruits and Vegetables. Federal marketing orders are receiving special attention in the overall study because of their heavy incidence in fruit and vegetable marketing and, more importantly, because of recent charges by the Anti-Trust Division of the Justice Department and the Federal Trade Commission that certain supply control provisions in orders are anti-competitive. One methodologically-oriented study is ongoing and another is planned. The ongoing study is in the form of a Ph.D. dissertation at the University of California partially funded through the project. The thesis will explore the use of optimal control models with alternative welfare weighting

schemes to simulate production and marketing decisions for market diversion and allocative orders. Empirical application is limited to the California almond order, but general results will apply to a number of similar orders (walnuts, filberts, tart cherries, cranberries, etc.)

A second study will deal with the problem of quantifying supply response for perennial crops with long marketing order histories. The specific question to be addressed concerns the supply-increasing effect of orders--how does price stabilization affect long-run production decisions? Flow-to-market orders (e.g., California- Arizona citrus) will initially be used for empirical tests. A linear programming approach incorporating risk aversion (via Hazell, Simmons and Pomerada) is contemplated at this time.

Problems and Recommendations for Research in Regulations

Economic analysis of regulations and regulatory activity is not straightforward research. Some of the more important sources of frustration are noted below.

Nature of "data"

Conventional agricultural economists in the law library are analogous to fish out of water (or perhaps bulls in the china shop). Background material written in stylized "legalese" is frequently difficult to interpret. The study of regulations seems like a fruitful area for interdisciplinary research, or at least involvement of lawyers or law students.

Nature of Theory

The last 10 years have produced a wealth of theoretical and empirical literature on the impact of rate-establishment and anti-trust regulations,

particularly since initiation of the Bell Journal. Most of this theoretical work is based on, or builds upon classical price theory. In contrast, the general theory of regulatory activity (i.e., why and how regulations become established) is relatively abstract and ill-defined. Stigler has done some work in this area, defining regulation supply and demand conditions. But only a weak basis for formulating hypotheses exists. An important question seems to be whether regulations are an economic or political phenomenon -- is our existing theory adequate to permit forecasts concerning evolving regulatory activity?

Methodological Approaches to Studying Regulations

Even though regulations may be political instruments, the economist's role in assisting policy-makers by assessing alternative forms of regulation is certainly still vital. But I question the adequacy of our analytical tool box, specifically the use of benefit-cost analysis. Regulatory costs are at least conceptually measurable (regulatory bureau budgets, compliance costs, etc.), but benefits are frequently immeasurable or at best, nebulous (environmental quality, human life and welfare, price and supply stability).

For the purpose of generating discussion, let me suggest that very often, any measurement of benefits is normative, and requires inappropriate value judgements on the part of researchers. Perhaps we should explicitly recognize benefit-quantification as a political process requiring welfare assessment and weighting beyond our professional scope. I do not believe this would be "copping out;" we would still be responsible for identifying the nature of regulatory benefits, particularly less-obvious secondary and tertiary gains. But perhaps our major thrust should be on calculating costs, to ensure that the policy establishment is well acquainted with the price of regulations.