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## Federal Market Orders: Present and Potential Uses

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FEDERAL MARKET ORDERS:  
PRESENT AND POTENTIAL USES

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The marketing order approach involves the establishment of "ground rules" under which marketing must take place. Such ground rules include acceptable marketing practices, terms and conditions of sale, and prices. Marketing orders are based on evidence presented to the Secretary of Agriculture. Once made effective, orders are binding on those regulated. The orders may thus be characterized as rules covering producer and handler, 1/ activities which have the force of law behind them. Marketing orders may alter market power so as to improve producers' bargaining position.

Approaches of marketing orders have been of two types -- those emphasizing price, as for milk, and those emphasizing supply

and demand manipulation, as for fruits and vegetables. Federal orders cannot regulate producers of agricultural commodities directly, but operation of these orders can affect them considerably. Orders achieve their objectives by the regulation of handlers. 2/

PRESENT MARKETING ORDERS

Commodities Covered. -- As presently written, the Agricultural Marketing Act of 1937 and its amendments (hereinafter called Act) limits the number of commodities that can be regulated by Federal marketing orders. The following commodities can be regulated by marketing orders, subject to certain exceptions and restrictions:

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Certainly all are aware that now is a time of considerable re-thinking about ways of solving farmers' many problems. In a recent release some of the pertinent issues which surround the farmer's effort to obtain greater bargaining power in the market place were discussed (Group Bargaining Power for Farmers, Mimeo EC-214, April 1961). In this discussion one of the techniques suggested for obtaining greater bargaining power was the use of Federal or state marketing orders.

Currently there is considerable discussion over the degree of success the Federal marketing order approach has had and whether it should be expanded to cover additional products. These fundamental issues are the subject of this discussion. Study of these issues by farmers, who must be the ultimate decision-makers, should put them in a more informed position to evaluate the market order approach.

Helpful suggestions for this mimeo were made by P. L. Farris, H. L. Moore and John Porter.

1/ As used here, a handler is any marketing agency which purchases farm commodities for processing and distribution, or otherwise handles farm commodities in the marketing chain between farmer and consumer.

2/ For details of how orders are instituted and administered and for order provisions see Appendix.

- 1. Milk
- 2. Tobacco
- 3. Hops
- 4. Peanuts
- 5. Honeybees 3/
- 6. Naval stores 4/
- 7. Fresh vegetables 5/
- 8. Fresh fruits 6/
- 9. Turkeys and turkey hatching eggs
- 10. Filberts, almonds, pecans and walnuts

In 1961, soybeans were deleted from the list of eligible commodities. Turkeys, turkey hatching eggs, peanuts, cherries and cranberries for canning and freezing and apples both canning and freezing in certain states were added.

Scope of Orders. - Market orders have rapidly expanded in the 1950's in terms of the number of orders and the quantity of products covered. There are presently 42 individual fruit and vegetable orders and 82 milk orders, for a total of 124 Federal marketing orders. Cash receipts to farmers from sales of commodities regulated under

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3/ But not the products of honeybees.

4/ But not the products of naval stores other than refined or partially refined oleoresin.

5/ Only asparagus can be regulated for canning or freezing.

6/ Orders cannot be used for apples in areas other than in Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts and Connecticut, and do not include fruits for canning and freezing other than olives, grapefruit, cherries, cranberries and apples produced in the states named above except Washington, Oregon and Idaho. Although the above fruits intended for canning and freezing purposes are subject to regulation, the products thereof are not.

the 124 orders now in effect are expected to total \$5 billion in 1961, or about 15 percent of total farm income. 7/ About 150,000 producers participate in the fruit and vegetable orders, and the farm value of such products covered will amount to about 33 percent of all cash receipts to farmers from these crops in 1961. These orders are found mostly in the West. About 175,000 producers and 2,200 handlers participate in Federal milk orders under which 45 percent of all milk sold at wholesale is marketed. The milk orders are concentrated largely in the heavily populated areas of the Eastern seaboard and the Midwest.

In addition to Federal marketing orders, numerous state marketing orders are in operation. Currently, 15 states either have general enabling legislation for the establishment of marketing orders or have legislation covering particular products. 8/ In addition, 12 states have legislation authorizing regulation of milk marketing. In general, state orders have the same objectives as Federal orders, but can regulate marketings only in the individual state. State orders often provide a means of collecting money for advertising and promotion while such activities are prohibited as part of Federal orders.

Objectives

There is lack of agreement on the objectives of marketing orders. One possible reason for this is that different people would like to get different results from orders. Another reason is that the purposes of the Act establishing orders are rather broad. Thus, the objectives of marketing orders have been modified from time to time by the

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7/ Wall Street Journal, XLII, No. 12, Oct. 31, 1961, p.1.

8/ Hoos, Sidney, Nov. 1957. "The Contribution of Marketing Agreements and Orders to the Stability and Level of Farm Income," Policy for Commercial Agriculture, Joint Economics Committee, 85th Congress, p. 318.

administering agency as changes in economic conditions have taken place. 9/

The following purposes of marketing orders are mentioned in the Act:

1. To establish parity prices to farmers through maintenance of orderly marketing. 10/
2. To protect the interest of the consumer.
3. To establish standards of quality and maturity and grading and inspection requirements.
4. To provide for an orderly flow of supply to market to avoid unreasonable fluctuations in supplies and prices.

In spite of legal and economic limits to the price and income improvements possible under present marketing orders, farmers probably consider only the price effects of marketing orders to be the most important.

#### Techniques Used to Achieve Order Objectives

Generally speaking, the technique of simply restricting total supplies in order to increase producer prices and incomes has not been used in marketing orders. As previously noted, the power to regulate agri-

9/ Dairy Division, Oct. 1956. Federal Milk Marketing Orders, Their Establishment, Terms and Operations, Misc. Pub. 732, USDA, p. 8; and Stelly, Randall, July 1960. Marketing Milk under Federal Orders in Texas, Texas Agric. Exper. Sta. Bulletin 959, p. 4.

10/ Orderly marketing is defined as the maintenance of price structure and marketing conditions that are conducive to the uninterrupted flow of product to market in the desired quantity and pattern. It provides for economic efficiency in marketing.

cultural producers directly is not granted under marketing orders. The objective of improved producer incomes, however, has been approached through several other techniques. These might be classified as follows:

1. Developing more acceptable trade practices and enforcing compliance. In both the fruit and vegetable and the milk marketing orders continual efforts are underway to establish rules of business operation which eliminate doubtful or unethical business practices among the parties to the order.
2. Developing more acceptable products. Especially in fruits and vegetables, emphasis has been placed on policing quality standards, uniformity of packs and packaging, establishing brands for differentiating the product, and the like. Sometimes minimal quality is established and products below this minimum are not salable.
3. Developing promotion and advertising approaches with the purpose of increasing consumer demands. Paid advertising and promotion are not permitted under Federal orders, but it is a major activity under many of the state marketing orders. Research and market development activities, however, are permitted under Federal orders.
4. Developing regulations to smooth out the flow of products, both seasonally within the year and from one year to the next. For both milk and fruits and vegetables, regulations have been evolved which attempt to reduce the wildly fluctuating levels of supplies which sometimes develop.
5. Establishment of import quotas. When a commodity becomes regulated under a marketing order, limitations may be imposed on importations of that commodity into the country.
6. Splitting the market of a product into parts and controlling the amounts offered

for each use so that greatest total returns can be secured. The market of many commodities is often made up of "pieces" which can be separated one from the other. Some of these "partial outlets" are highly sensitive to price changes, others are not. <sup>11/</sup> In the case of milk, the product can be used as fluid milk, for butter, for cheese, for ice cream and for other dairy products. The amount of fluid milk used is generally considered relatively insensitive to price changes. The milk marketing order therefore sets a high price for this use and a lower price for the other uses. In walnuts, the product can be sold either "in-shell" or "shelled-out." The "in-shell" market is less price-sensitive, so amounts that are sold for these uses are restricted, pushing the price up. The excess amounts are then put into the "shelled" uses where larger amounts can be moved with a little price reduction.

This process of splitting a market into separate segments and using separate prices or volumes for each (also known as price discrimination) is widely attempted under market orders. Some of the many splits attempted are:

(a) Into different uses --such as milk and walnuts.

(b) Into different qualities --used widely in fruits.

(c) Into different places such as areas of the country, domestic and foreign-- used in fresh fruits and vegetables.

If the markets can be effectively separated so that buyers cannot or will not jump into another sector to secure their supplies, and if the markets are significantly

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<sup>11/</sup> Where the outlet or customer is sensitive to price changes, demand is said to be elastic, and where it is not, demand is inelastic.

different in their reaction to price level, then total returns may be greater from this approach.

#### Conditions Associated with Successful Orders

Experience under the marketing orders has given some guides as to what factors contribute to successful operation of the orders. These factors can be broadly grouped into three classifications: (a) those affecting demand, (b) those affecting supply, and (c) those affecting administration of the orders.

The following demand factors are conducive to successful orders:

1. There are no unregulated products which are close substitutes for the regulated commodity. The availability of unregulated commodities would mean that buyers could substitute other products and price enhancement would be very difficult.

2. There are two or more buyers or outlets for the product which are substantially different in their reaction to price changes. Thus, there is the possibility of at least temporarily raising income through multiple pricing schemes.

The following supply factors are conducive to successful orders:

1. Production is concentrated in a compact area or in the hands of relatively few producers, and the production of the commodity under consideration is quite specialized. Control of production is made easier under these circumstances. In addition, administration of the order is facilitated.

2. Regulated products are perishable. This factor makes control of supply easier by eliminating the opportunity for handlers storing and entering the market later so as to affect price adversely.

3. High capital investment is required in the industry. This means getting in or out

of the industry in response to short-run changes in prices is difficult.

The following factors facilitate administration of the orders:

1. There is a "funnel" in the marketing channel through which the regulated commodity must flow. A restriction in a link in the marketing chain where there is a small number of large firms to be directly regulated makes administration easier and less costly.

2. A background of successful cooperative marketing and desire for "self-help" exist. Large, cohesive cooperative organizations can furnish the organizational and communications effort with producers needed to make orders work.

At the market regulation point, the raw product must be homogeneous or enough alike to permit shifting freely from one to another of the various uses.

#### Evaluation of Marketing Order Results

The range of activities found in marketing orders makes any generalization difficult, if not dangerous. Each order must be judged individually since orders use different techniques and are written so that their impact on producers, handlers and consumers is quite diverse. However, certain observations concerning results can be made on the basis of past performance.

1. Market orders are probably more successful in creating orderly marketing conditions than in achieving any other objective. Such conditions tend to stabilize and slightly increase prices and incomes and improve economic efficiency in marketing.

2. Modest price and income improvements may be achieved by price discrimination and product differentiation. Volume regulations applied to handlers may further enhance prices and income. Such improve-

ments may be more evident in the short run than in the longer run, particularly if excess production is encouraged or if consumers substitute other commodities.

3. Within limits, market power can be transferred from processors to producers by market orders. Orders may prove quite valuable to producers in bargaining for terms of sale, especially the many important other-than-price features. The long-run effects of changes in market power differ among orders and are not always desirable. For example, marketing margins may be higher, product selling expenditures higher, and the number of marketing firms reduced.

4. A by-product of market orders is improved market communication and information, which provides producers and processors a better basis for decision-making. Consumers benefit from more nearly perfect knowledge concerning grades and standards. Also, the audit functions carried on under orders assure accurate accounting to producers.

5. Elimination or restrictions of lower quality grades may not be in the interest of either consumers or producers. People with low incomes may desire the lower grades and associated lower costs, but be prohibited from such purchases by the operation of an order. The loss of sales in the lower quality grades may or may not reduce total producer income. Of course, quality restrictions affect producers selling different grades of produce differently.

#### POTENTIAL EXPANSION OF MARKETING ORDERS

Marketing orders might be expanded in several dimensions. First, higher price and income goals could be sought for commodities presently eligible for regulation. Second, the Act could be changed to authorize establishment of marketing orders of the present form for additional commodities.

### Expansion of Objectives and Techniques

Producers probably would place priority on setting higher price and income objectives for orders. Practices such as price discrimination, product differentiation, and volume regulation have the effect of raising price and income, particularly in the short run. More severe application of these techniques for presently regulated commodities might further raise price and income in a limited way, but for practical purposes, only volume control of the kind restricting total marketings offers much real potential. Restrictions on total marketings could take the form of producer marketing quotas, but use of this technique would require amending the Act. Present orders can regulate handlers but not producers. Price and income benefits are more evident from this technique in the immediate future than in the long-run.

A second objective which might be expanded concerns stabilizing prices and incomes within the season and from year to year. The mechanics are readily available at present to achieve some level of stability. Many of the present orders do a good job in achieving this objective. Fruit and vegetable orders and milk orders both can effectively influence seasonal price patterns. Fruit and vegetable orders can achieve a measure of price and income stability from year to year by use of volume restrictions. Pricing practices under milk orders also achieve a degree of year-to-year price stability. But, price and income stability may not be achieved simultaneously. For example, stable prices but variable production can lead to highly variable income. Complete price and income stability is not a desirable objective inasmuch as desired seasonal production patterns would not be achieved and necessary adjustments would not be made.

A third broad objective concerning market information and communication

(grades, standards, and quality) and protection of the consumer interest should be mentioned. Objectives of this nature are probably achieved to an adequate degree for commodities under orders.

Dairy Products. - Milk and the system of marketing portray characteristics that enhance its regulation within the framework of marketing orders. Classified pricing has improved producer prices and income and other provisions of the orders have contributed to stability and orderly marketing. The price objectives of the orders have been modest and limited to gains from classified pricing, with the absence of supply control. Wider differentials between class prices, with uniform prices to producers, would probably create problems. This system has worked because:

1. There are no close substitutes for milk.
2. Unregulated sources cannot compete on an unregulated basis.
3. The various uses of milk exhibit greatly different price elasticities of demand and generally are not interchangeable among use classifications established.
4. Distinctly different markets prevail and production is generally concentrated in an area around the market.
5. Regulated products (market milk) are perishable and relatively homogeneous.
6. Entry and exit of producers does not take place quickly and substantial responses to price changes take place slowly.
7. There are strong cooperatives to institute and guide the program, as well as generally good industry support and cooperation.

About two-thirds of all fluid milk consumed off-farm is currently regulated by

Federal milk orders. A considerable volume of the remaining milk is regulated by state milk orders. Prices among milk markets are interrelated, so that prices in completely unregulated markets are affected by prices in regulated markets. For these reasons, the price and income benefits to producers of regulating the remaining fluid sales by Federal orders will not be as great as gains in the past. Regulation of the more sparsely populated areas would be more difficult and costly.

Differences in price elasticities of demand among non-fluid dairy products regulated as a part of the total fluid market have not been exploited fully. The main reason for this is that components of non-fluid products can come from many sources. Thus, effective price discrimination would involve strict regulation of substitutes. The adverse effects of this approach would probably outweigh any gain. Under existing objectives and techniques, present orders provide about the maximum gains possible to producers in terms of price and income. Present orders price milk so as to encourage desired seasonal production and result in a measure of price stability.

If producers desire more ambitious price and income objectives, marketing orders could be used in conjunction with a supply control program or a modified compensatory price program. Use of such techniques would require changes in legislation. Milk marketing may be amenable to these approaches.

Producers in some markets have used the orders as a base from which to bargain for premiums over order prices. Such activities create certain problems, such as stimulation of production and maintenance of control by government of the program for which it has responsibility. Gains may soon disappear with higher production.

The Federal order machinery provides a method of handling advertising, promotion, and product research programs are currently

undertaken by dairy organizations operating outside of the orders. If these or similar activities are to be placed within the scope of Federal orders, changes must be made in the Act. This would change the currently voluntary support of such programs to compulsory check-off systems.

#### Expansion of Commodities Covered

The possibilities of using marketing orders to regulate the marketing of commodities not now authorized are examined. Particular attention is paid to characteristics of commodities considered and the present structure of marketing relative to those factors which seem associated with successful current market order programs.

Broilers. -- In terms of factors associated with successful Federal orders, broilers are characterized as follows:

1. Broilers have close unregulated substitutes in consumption.
2. The economic market for broilers is nation-wide. Products of one producing area cannot be effectively separated from those of other areas.
3. There are not several products of broilers with different elasticities of demand.
4. Production is concentrated in relatively compact but widely dispersed production areas.
5. Broilers are relatively perishable although frozen storage is possible.
6. Broiler production is a specialized and relatively large scale operation; however, entry and exit in the industry is relatively easy. Adjustments to price changes can be made in a relatively short time by producers.



7. Producer organizations that institute and guide the program are not particularly strong or unified in their actions.

Thus, broilers portray the characteristics associated with successful orders in only a moderate way.

If modest price objectives are sought and the primary interest is in stabilizing prices, creating orderly marketing conditions, or expanding demand, some success might be obtained if the order was put into effect on a nation-wide basis. Product advertisement and promotion may be used to secure modest price gains, if such techniques were made permissive. Price advantages may accrue from regulation of quality through grading and standardization.

A Federal order would not eliminate the relative cost advantages one area has over another or make broiler production equally attractive among regions.

Of course, in setting price objectives, short and long run consumption response must be considered, inasmuch as other meats substitute for broilers. Modest price enhancement or stability might be possible from regulation of the volume of broilers entering normal market channels. If higher price objectives were sought, volume restrictions on production units would be needed in the order. Use of this technique would require amendment of the Act.

Several of the factors which seem to be associated with successful marketing orders are satisfied in the case of broilers. It seems possible that orders might be used to secure modest price improvements and to stabilize and improve marketing conditions. The results of seeking high price goals through orders are less certain.

Hogs. --In terms of factors associated with success in Federal orders, hogs are characterized as follows:

1. Hogs have close substitutes in both production and consumption.

2. The economic market for hogs is nation-wide. Products of one area cannot be effectively separated from those of another area.

3. The different products of hogs generally do not have different price elasticities of demand or cannot be substituted in such a way as to use price discrimination.

4. Production is not concentrated in compact areas. Hogs are grown commercially in much of the United States.

5. Products range from perishable to storable, but most end products are semi-perishable.

6. Entry and exit of producers can take place in a relatively short period of time, less than one year. Hogs can be produced efficiently on a rather small scale, and responses to expected price changes can be made quickly by feeding to heavier or lighter weights.

7. Cooperatives or producer organizations market only a minor part of the hog crop. There is little history of successful marketing programs.

Thus, there is a general absence of factors associated with successful orders. To raise price by restricting total supplies would be possible only through a nationwide order. Hogs are produced in every state, hence restricting marketings in one would create an incentive for increases in another.

To raise the income of hog producers by reducing marketings would be difficult. There are many close substitutes for pork. Consumers would be expected to substitute other meats for pork as the price of pork increased relative to other meats.

To smooth out the flow of hogs to market would require modification of seasonal price differentials to farmers, such as has been done in the dairy industry. To get agreement concerning equitable differentials for various hog producing areas under even a "Corn Belt order" would be no easy matter.

Pork, unlike milk or walnuts, cannot be divided readily into various end products for the purpose of price discrimination. The various end products can be substituted readily for one another. Production and marketing of pork has not yet reached the stage where hogs can be split into quality groups distinct enough so that consumers recognize the quality classifications. However, the lean pork program might be a step in this direction.

Although trade practices could probably be improved, present regulatory agencies are already effective in handling many kinds of undesirable practices. Cooperative marketing agencies have been set up and most farmers have several good alternative markets at which to sell their hogs. More acceptable products could undoubtedly be developed at a faster rate if additional funds were allocated for research and development. More money spent for promotion and advertising under a marketing order (if the Act were amended to make this permissible) might result in some increased consumption of pork, but it would probably be at the expense of beef which is also produced by many of the same farmers that raise hogs.

If producers sought high price objectives by means of producer marketing quotas, the chances of improved income would be doubtful unless such activity was part of a comprehensive supply management program which included other livestock commodities that substitute for pork in the diet.

The regulation of hog marketing through Federal orders does not appear very promising. The commodity and market reflect few characteristics which appear conducive to successful order results.

Other Commodity Potentials. -- The degree to which certain other commodities possess characteristics associated with successful order operation is shown in Table 1. The wide differences in commodity characteristics illustrate the need for critical analysis in the process of considering the institution of an order. These differences in commodity characteristics also indicate the extent to which the several techniques can be used in regulating marketing. Whether an order can actually be used with success depends on many factors including what it must accomplish to be called successful, producer support, and quality of administration. Of course, some of the commodities shown in Table 1 are under other programs which may be more effective than orders in achieving order objectives.

#### SUMMARY AND CONCLUSIONS

Each of the present orders is highly specific in its provisions and application and therefore must be judged individually. But experience with the present Federal orders suggests that many of them have achieved some success in:

1. Creating more orderly marketing conditions and stabilizing prices
2. Providing modest price and income improvements for producers and some increase in consumer prices
3. Transferring market power from processors to producers
4. Improving market communications and information
5. Improving grades and standards.

If orders are applied without attention to long-run consequences, several undesirable effects may occur, such as loss of market or development of burdensome surpluses. Market orders, as presently conceived, are not a cure-all for every problem facing agriculture. Thus, successful present order pro-

grams require the intelligent use of authorized techniques, applied on a selective basis.

The application of marketing orders on an expanded scale using presently authorized techniques was examined for dairy products and the application of orders to broilers and hog marketing analyzed. Some further bene-

fits of expanding orders for dairy products are possible; however, the greatest relative benefits have already been achieved. Broiler marketing is characterized by several of the factors associated with successful orders. Application of marketing orders to hogs poses many problems and does not appear promising. There appear to be several

Table 1. Degree to which specified commodities exhibit characteristics associated with successful orders.

Characteristic	Milk	Broilers	Hogs	Eggs	Turkeys	Wool	Lamb	Beef	Cotton	Corn	Wheat	Rice	Soybeans	Oats	Peanuts	Tobacco	Kinas trees	Sugar beets
No unregulated substitutes	M	L	L	H	L	L	L	L	L	L	M	M	L	L	M	H	H	L
End uses of markets with different price elasticity	H	L	L	M	L	L	L	L	M	M	H	H	M	L	H	M	L	L
Concentrated and compact production area	H	M	L	L	M	M	L	L	M	L	L	H	L	L	H	M	M	M
Perishable regulated products	H	H	H	M	H	L	H	H	L	L	L	L	L	L	L	L	H	H
Short-run adjustments in production are difficult	M	L	L	L	L	H	M	M	M	L	M	M	L	L	M	M	M	M
Homogeneous products	H	H	L	H	H	M	M	L	M	H	M	H	H	H	M	M	M	H
Background of successful cooperative marketing	H	L	L	M	M	H	M	L	M	L	M	M	L	L	M	H	M	M
Degree to which commodity exhibits characteristics related to successful orders (composite)	H	M	L	M	M	M	M	L	M	L	M	H	L	L	H	H	M	M

H= high. M=medium. L=low.

other commodities for which the market order approach merits further study.

It has been proposed that the Act be amended to authorize the use of producer marketing quotas. This type of quota has been suggested for use with comprehensive and limited supply control programs. Federal orders could become an integral part and be used as a mechanism to expedite such programs. It should be recognized, however, that the use of producer marketing quotas substantially alters the scope, impact and degree of regulation of present orders. In fact, an order with producer marketing quotas may bear little resemblance to present orders without producer quotas. An order with producer marketing quotas would directly regulate the activities of producers. Such is not now the case. But, if substantial price objectives are sought, producer volume restrictions will be necessary.

The effect of producer marketing quotas on net farm income in the short and long run would vary greatly among commodities and would depend upon cost reductions associated with reduced production and consumer purchases in response to price changes. After careful consideration, producers of beef may conclude that volume restrictions offer little in the way of improved income, while producers of corn favor volume restrictions. But these two producers may be the same person and even if not, one part of the feed-livestock complex of agriculture cannot be considered in isolation.

The application of marketing orders using presently authorized techniques should be on a selective basis if maximal gains from marketing orders are to be obtained. Unlimited use of marketing orders without regard to peculiarities of commodities or markets covered could have detrimental effects for the commodity regulated as well as the overall order program. The application of marketing orders with producer marketing quotas is an even more basic issue and re-

quires careful study and analysis in evaluating its potential results in general, and for specific commodities.

## APPENDIX

### Operation of Marketing Orders

A marketing agreement is a contract entered into by the Secretary of Agriculture and handlers of a particular commodity. <sup>1/</sup> The agreement is a voluntary arrangement covering a specific commodity marketed or produced in a particular area, but binding on those handlers who sign it.

A marketing order is a legal instrument issued by the Secretary of Agriculture specifying terms and conditions of marketing particular commodities in a given area. Unlike agreements, a marketing order is binding upon all handlers of the commodity in the specified area. Orders have been used with agreements because, historically, complete voluntary industry compliance has not been obtained. Many of the programs could not be established without complete industry acceptance in the area covered. <sup>2/</sup> There are currently no agreements in effect without complementary marketing orders.

Institution of Orders. - There are two general kinds of marketing orders, those establishing prices directly that regulate the marketing of milk and those that manipulate supply and demand conditions which are used to regulate the marketing of fruits, vegetables, and other commodities for which orders are permissible. These two types of orders have the same basic objectives and are established in the same way. They differ in the way they are administered and in the practices followed.

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<sup>1/</sup> Henderson, H. W., April 1957, Price Programs, Agric. Info. 135, USDA p.36.

<sup>2/</sup> Hoos, op. cit., p. 318.

In instituting an order the following steps are involved:

1. Request for action -- Although the Secretary of Agriculture may initiate action, this step is usually taken by interested cooperatives. The request usually comes after intensive industry study of the problems involved. Usually, a proposed marketing order accompanies the request for Federal participation.

2. Preliminary investigation--Market- ing specialists meet with industry personnel and make a preliminary investigation of marketing conditions to determine whether a marketing order appears appropriate.

3. Public hearing--After due notice, a public hearing is held where all interested parties can testify on all relevant aspects of the proposed order.

4. Briefs --Interested parties are afforded the opportunity to file written briefs and proposed findings and conclusions within a specified period after the close of the hearing.

5. Recommended decision - A recommended decision is filed and published in the Federal Register by the USDA. It contains the terms of the proposed order based on evidence presented at the hearing.

6. Exceptions - Interested parties file exception to the recommended decision.

7. Final decision - The Secretary of Agriculture issues the terms and provisions of the marketing order in the final decision.

8. Handler and producer approval - The proposed marketing order is submitted for approval by producers and execution by handlers.

9. Issuance of order - If sufficient producers approve the marketing order, the

Secretary issues the order to become effective on a specified date. 3/

The procedures for amending an order are basically the same as above.

The Secretary must terminate the order whenever (1) the order or the provisions no longer effectuate the declared policy of the Act or (2) more than half of the producers associated with the order request termination.

Administration of Orders. - Administration costs connected with the operation of both Federal orders are financed by assessments upon handlers. In the case of milk orders, the Secretary appoints a market administrator to administer the terms of the order for each market. The market administrator has a staff to assist him in (1) administering the terms of the order, (2) receiving, investigating, and reporting to the Secretary complaints of violations, (3) recommending amendments to the orders, and (4) making rules and regulations to effectuate the terms of provisions of the order. 4/

The terms of Federal orders for fruits, vegetables, and other commodities are administered by a committee of growers, handlers, or both. Members of the committee are normally nominated by growers and handlers and appointed by the Secretary. Their term of office, powers, duties and obligations are stated in the order. The committee prepares a proposed annual budget and rate of assessment for the approval of the Secretary. The committee is then responsible (1) for the expenditure of all money collected and for keeping appropriate records

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3/ For additional details see Swantz, Alexander, 1952. Economic Effects of Federal Regulation of the Minneapolis-St. Paul Fluid Milk Market, Marketing Research Report No. 11, USDA; Henderson, op. cit., pp. 37-38; Dairy Division, op. cit., pp.10-17; and Marketing Agreements for Fruits and Vegetables, May 1958. A.M.S. -230, USDA, pp.5-7.

4/ Dairy Division, op. cit., p. 34.

and making audits, (2) for making recommendations relative to shipments, (3) for analyzing crop and market conditions and recommending appropriate regulations, (4) for investigating alleged violations of the order and making inspections, and (5) for conducting other activities necessary for the smooth operation of the order.

The administration of both types of orders can be characterized as being responsive to changes in local conditions. The Secretary has close contact with the operations of each order through the market administrators or committees. Some of the success of the market order program may be due to the local administration feature. Producers and handlers know with whom to discuss their problems and can get prompt decisions.

Enforcement of Orders. -- Enforcement of the provisions of an order can be taken in three forms: (1) civil action requiring compliance by injunction, (2) civil action for forfeitures, and (3) criminal action with fines ranging from \$50 to \$500 for each day of violation. In addition, criminal or civil action can be taken in cases dealing with fraud, falsified records, contempt of injunctions and the like. <sup>5/</sup>

Order Provisions. -- Milk marketing orders and orders for fruits and vegetables contain different provisions to achieve their objectives and hence are discussed separately. The techniques employed by marketing orders to achieve certain results were not radical de-

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<sup>5/</sup> The Act and orders issued under it have stood under many legal tests and are firmly established by the courts. For a comprehensive review of court cases concerning the Act see Foelsch, G.G. and Cook, H.L., Jan. 1957. An Analysis of Federal Court Decisions Relating to the Marketing of Fluid Milk, Wisconsin Agric. Exp. Sta. Bull. 200.

partures from industry practices at the time orders were first instituted. In fact, orders were merely extensions of current practices with the force of law.

Milk Marketing Orders -- Marketing orders for milk regulate handlers who make sales in a specified marketing area. Handlers who are regulated by the order are required to pay established prices according to the classification or use made of milk received. Producers receive a blend or uniform price for their milk based either on the utilization of milk in the various classes for the market as a whole or for the handler to whom they ship. Two of the key devices used in milk marketing orders are:

1. Classified pricing plan - The classified price plan is a system under which handlers are required to pay for milk according to the use made of such milk. The system involves charging different prices among different buyers or outlets for the same product. The classified pricing systems attempt to equalize product costs among handlers.

2. Equalization pool - Milk marketing orders specify two systems of pooling returns among producers. One system, individual handler pooling, provides for the distribution of producer returns on the basis of the utilization of the buying handler. The other system, marketwide pooling, is more prevalent and provides for the distribution of producer returns on the basis of the utilization of milk in the market. Under both systems of pooling, the objective is to equalize returns among producers regardless of how their individual milk is used, subject to adjustments for location, butterfat test, volume and seasonality of production. Thus, while handlers pay for milk on the basis of the use made of milk or pay according to a multiple price scheme, producers receive a blend of the handler class prices or a uniform price.

The techniques used in milk marketing orders fall largely under the purposes of the Act dealing with price enhancement, orderly marketing, and maintenance of an adequate milk supply. It seems likely that milk marketing orders have enhanced prices slightly and encouraged more than adequate supplies in terms of market needs. Spencer and Christensen estimated that state and Federal milk marketing orders in the New York milkshed raised producer prices about 5 percent, resulted in increased production of 5 percent, and curtailed fluid sales 1.5 percent. 6/ These orders have done much to stabilize milk markets.

Fruit and Vegetable Orders --Marketing orders for fruits, vegetables and commodities other than milk may contain one or more of the following types of regulatory activities: 7/

1. Regulation of quality --Specification of grade, size, quality or maturity of product are used in marketing commodities so as to reflect consumer taste and preferences. This activity is clearly specified in the consumer protection and orderly marketing purposes of the Act. If such standards are not used for restrictive purposes, they may benefit both producers and consumers.

6/ Spencer, Leland, and Christensen, S. K. Sept. 1954. The Fixing of Producer Prices and Resale Prices, Bull. A.E. 962, Department of Agricultural Economics, Cornell University, pp.5-6.

7/ As outlined in Henderson, op. cit., pp. 39-40.

2. Regulation of quantity --The quantity of products which handlers may market during specified time is established. Volume regulations may take the form of (1) limiting the total amount shipped during a season, (2) limiting the amount marketed through a particular outlet, and (3) regulating the rate of flow to market through the season. These activities fall primarily under the orderly marketing and price enhancement purposes of the Act. Volume regulations aimed at smoothing out the flow of products to market dampen wild price fluctuations within the season and such market coordination is probably beneficial to both producers and consumers. Volume restrictions on handlers which limit total marketing during the season are covered by the price enhancing purposes of the Act. These regulations can enhance price and incomes subject to economic and legal limitations.

3. Reserve pools --This involves establishing reserve pools for products and equitably distributing the returns from the sale of such products. It falls under the orderly marketing purposes of the Act.

4. Distribution of returns --The extent of surplus is determined and a method provided for the burden of surplus disposition being equalized among producers and handlers, which enhances orderly marketing.

Thus, each of the activities which are permissible under fruit and vegetable orders attempts to achieve one or more of the objectives of the Act.