

**Guidelines For**  
**Fruit, Vegetable,**  
**& Specialty Crop**  
**Marketing Orders**

U.S. DEPARTMENT OF AGRICULTURE

JANUARY 25, 1982

# **GUIDELINES FOR FRUIT, VEGETABLE, & SPECIALTY CROP MARKETING ORDERS**

The Agricultural Marketing Agreement Act of 1937 (Act) authorizes the Secretary of Agriculture to administer marketing order programs for fruits, vegetables, and specialty crops. In response to the President's Task Force on Regulatory Relief, the Secretary of Agriculture initiated an economic review of Federal marketing orders in May 1981. This review was undertaken to determine how well the programs are meeting the Administration's goals of --

- Reducing Federal government regulation;
- Maximizing producer returns through open and competitive marketing;
- Achieving more efficient allocation of resources;
- Supporting the concept of self-help programs.

The Department's economic review evaluated the impact of the numerous programs permitted through the marketing order system. After extensive analysis, the report concluded that orders have the potential to effectively stabilize supplies and prices but some may impose inefficiency on the production and marketing system.

Recognizing the inherent instability in producing and marketing agricultural commodities in general, and these crops in particular, the Secretary intends to operate marketing order programs in a manner to reduce extreme fluctuations in supplies and prices. Reducing risks to

both buyers and sellers provides producers and consumers a degree of protection against extreme losses arising from economic and natural causes.

In keeping with the Administration's objectives and those of the Act, the Secretary will require some adjustments in programs that restrict entry, limit supply, or perpetuate over-supply of commodities. The extent of Federal involvement will be consistent with the efficient use of the nation's resources in the interest of producers and the general public.

The following general guidelines will be applied to all Federal marketing orders covering fruits, vegetables, and specialty crops. These guidelines will be applied to each marketing order on a case-by-case basis, after full discussion with the industries involved

#### VOLUME CONTROL PROGRAMS

##### Producer Allotment Programs

The Department's recent economic review pointed out that producer allotment programs have the potential for limiting supply, causing underinvestment by industry, and reducing open competition by restricting entry of new producers.

While the allotment system is contrary to the general policy of this Administration, it does have a statutory basis. To balance policy goals with statutory requirements, the Secretary will carry out these programs in a manner that will eliminate barriers to entry. Where changes in existing programs are necessary, the Secretary will work with the affected industries toward gradual adjustments.

## Market Allocation Programs

The Secretary recognizes that market allocation programs can be beneficial to producers when used properly. The programs must allow individual incentive and product innovation, they should not be used to inhibit long-run market expansion or to encourage or continue chronic over-production. The Secretary intends to evaluate annually the economic situation in each industry where market allocations are proposed to ensure that regulations are designed with these objectives in mind.

The Secretary will evaluate committee recommendations as to their possible long-term effects on price differentials between markets and the percentages of production going to the different markets. This is to ensure that market adjustment and public interest concerns receive appropriate attention.

The industry must monitor the effects of continual use of annual regulations, so that regular supply and demand signals from the market are not distorted. The committees must submit, and the Secretary will consider, market allocation recommendations separately from all other features available under the program, including prorates.

## Prorates

Prorates are measures which regulate the short-term flow of a commodity to market. Specifically, the term "prorate" refers to the establishment of a maximum quantity a handler may ship during a limited time period. Recommendations for prorates that have an allocative effect will be considered separately.

This Administration believes that prorates can be a valuable tool for effective marketing serving the interests of both producers and consumers through market stabilization and extension of the season.

This type of program may be used to prevent temporary market gluts and correspondingly depressed prices by smoothing out product flow. It contributes to more efficient use of handling and distribution facilities. However, maximum effectiveness would require "perfect" market information and administration. All too often one or both of these are unattainable. Consequently, prorates should be used guardedly so as to avoid stifling individual incentive or overly restricting market supplies.

With a view toward preserving individual incentives, the Secretary is asking each industry using the prorate feature to assess its own unique problems and needs and recommend ways to best use prorate provisions consistent with these guidelines. Among the approaches that affected committees should consider:

- (1) Use of prorate only during a limited part of the season, i.e., a limited number of weeks;
- (2) Expansion of the specific time frame included in each prorate, i.e., two, three, or four week prorates instead of only weekly;
- (3) A combination of a partial season prorate and expanded time frame.

The Secretary believes that changes in the present system would permit greater intraseasonal flexibilities for individual handlers while at the same time protecting the viability of the program.

#### Reserve Pools

Reserve pools can be used to control the extreme fluctuations in supplies and prices that often plague agriculture. However, the reserve program should not result in stockpiling of certain commodities with little or no market outlet. Therefore, when an industry

committee recommends a reserve, it must clearly state the intended disposition of the reserve. This should include several alternatives including a "most likely" projection and should be revised by the committee to reflect changing supply or market conditions.

#### Shipping Holidays

Shipping holidays are intended to reduce market supply fluctuations by requiring commodity handlers to refrain from shipping a certain commodity for a short period of time. Although many marketers believe that shipping holidays aid market stability and prevent market deterioration, strong evidence to support or refute this concept has not been presented. The undetermined value of these measures raises the question of the need for government involvement. Future recommendations will therefore be carefully considered by the Department.

#### QUALITY PROVISIONS

Quality provisions are the most frequently used feature of marketing orders and are usually in the form of minimum grade and/or size regulations. This provides consumers with a high quality product, thus serving the long-term interests of producers, since a good quality image can lead to long-term market expansion. However, with crops which reflect the uncertainties of weather, quality requirements need to be flexible enough to maximize the marketing of all fruits and vegetables suitable for consumption in fresh form.

Industry should be cautioned that use of quality regulations primarily as a form of supply control is contrary to Administration policy. Therefore, the Department will continue to evaluate the use

of this feature with particular emphasis on the following three areas: (1) Whether quality controls have varied significantly from season to season or within seasons, (2) Whether the percentage of product meeting minimum quality standards has been declining, or (3) Whether the standards have been tightened over the years.

Grade and size regulations keep low quality produce from the market. Some argue that this lower quality produce would be attractive to some consumers. In view of this, industries should consider changes that would allow the marketing of the off-grade/size commodity within the local production area as well as consider the establishment of a minimum quantity exemption from the quality standard. If the industry believes that this type of approach could not or should not be followed, it should present convincing evidence to the Department. A number of existing orders already have provisions of this type.

Charitable contributions are exempted from regulation in most orders. This Administration strongly endorses the concept of charitable contributions and encourages expanded use of these provisions.

#### IMPORT REQUIREMENTS UNDER SECTION 608e

Section 608e of the Agricultural Marketing Agreement Act imposes the same quality requirements on an imported commodity as are imposed on a domestic commodity. It does not seek to limit imports but rather to ensure that low quality imports do not undermine the purpose of the Act, threatening the domestic market for U.S. crops.

U.S. policies on foreign trade must take into consideration requirements of a number of international agreements to which the United States is party. Accordingly, the Department will review any proposed marketing order legislation or regulation to ensure that its provisions and impact are compatible with the intent of Section 608e and with these international agreements.

In conducting this review, the Agricultural Marketing Service will examine all available information and will maintain close contact with other government agencies as well as industry sources. Consequently, industries are cautioned to carefully examine future recommendations to make sure that they are consistent with the spirit and intent of the law and U.S. international obligations.

#### RESEARCH AND PROMOTION

Fruit and vegetable marketing orders authorize the collection of funds for use in production and marketing research and for advertising and promotion. The Administration supports production and marketing research because it can help producers respond rapidly to acute problems that reduce yields. Research can also provide new techniques to increase yields and reduce production and marketing costs in the future. Advertising and promotion can contribute to economic efficiency by helping consumers make better informed decisions.

#### BLOC-VOTING

When referenda are conducted either on a proposed order or amendment of an existing order, the law allows a cooperative to vote for its membership. This is referred to as bloc-voting. Although this



is provided for under the statute, the Secretary strongly encourages cooperatives to refrain from bloc-voting. It is believed that individual voting will better represent the interests of the industry and will more clearly demonstrate the desires of the entire industry, both to the Department and the general public.

### ADMINISTRATIVE PROCEDURES

#### Responsibility of Committees and USDA

The Act places upon the Secretary of Agriculture the full authority to assure the proper operation of marketing orders. Marketing order committees have a responsibility to make the most informed recommendations possible in striving for this objective. Therefore, it is imperative that all market order administrative committees provide the Secretary, through the Agricultural Marketing Service, comprehensive data that provide a sound analytical basis for their recommendations. Failure of the administrative committee to provide this information in a complete and timely manner could result in delays of the seasonal implementation of provisions of a particular marketing order. At the same time, the Secretary continues to accept his responsibility for timely action.

#### COMMITTEE TENURE

The economic review suggested establishing a limit on tenure to improve representation and allow for different and more contemporary ideas. In view of this, the Secretary will require that all committee

membership be limited in tenure. The Department will work with each committee to develop an appropriate time frame. The Secretary also encourages all committee members to take a very active role in all phases of marketing order administration.

#### PERIODIC REFERENDA

Some marketing orders provide for periodic referenda but most do not. The Secretary believes these referenda are in the public interest. They provide the industry with a means to regularly reassess the value of marketing orders and keep the Department informed of the wishes of the majority of the industry. Therefore, the Secretary is requiring that periodic referenda be conducted for each order. USDA will work with each committee in development of a time frame appropriate for each order.

# CONCLUSION

The role of the Department of Agriculture is to develop and implement agricultural policies that are in the public interest. Marketing orders that are wisely constructed, appropriately utilized, and effectively administered are part of such a policy. However, as with any other program, there are possibilities for misuse. These preceding guidelines are established to assure that abuse does not occur and to provide a means of better understanding of the boundaries, both to the industry and the general public.



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

THIS LETTER WAS SENT TO ALL ADMINISTRATIVE COMMITTEE CHAIRPERSONS AND MANAGERS

10 1983

Mr. Roger M. Nixon  
Chairman, Citrus Administrative  
Committee  
2615 Derbyshire Road  
Maitland, Florida 33751

Dear Mr. Nixon:

As you know, supply control marketing orders recently underwent an intensive Executive Branch review including a airing of the subject in the White House and before the full Cabinet. I would not suggest that the outcome was reached without some initial disagreement. However, I am taking this opportunity to tell you that this review resulted in a reaffirmation of Administration support for the marketing order concept, for the policy guidelines issued last year for these programs, and the Secretary of Agriculture to administer the programs.

A year of experience operating within the policy guidelines issued in 1982 has demonstrated their value as a basis for industry-government understanding. We believe that this is an appropriate time to expand on this experience and identify more specific plans for applying these guidelines to season-long volume control programs. Our objective is to reduce constraints where possible under these programs in order to rely more fully on free market forces. To further define the marketing order guidelines the following would apply:

With regard to producer allotment programs, we intend to phase out entry barriers over the next five years. This will provide the affected industries with a reasonable amount of time to adjust their marketing practices.

For market allocation and reserve pool programs, we intend to require that primary markets have available a quantity equal to 110 percent of recent years' sales in those outlets before approving secondary market allocation or pooling. This will assure plentiful supplies for consumers and for market expansion but will retain the mechanism for dealing with burdensome supply situations.

Mr. Roger M. Nixon

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We also intend to provide for greater flexibility under prorate programs. However the principal prorate programs are in formal rulemaking under the Administrative Procedure Act and I cannot make specific judgements about changes until hearing records have been analyzed.

I believe that constructive changes such as these will make the marketing order concept even stronger. I intend to continue to use my statutory authority to administer these programs for the benefit of the American farmers and the public in general.

Sincerely,

John R. Block  
Secretary