

Marketing

agreements and orders regulating sales have effect of law

George L. Mehren

Sales of certain farm commodities are regulated under state or federal laws.

In these regulating programs, an administrative committee representing the whole industry recommends marketing regulations which, if approved by government officers, take on the force of law. Programs must be approved by a large majority of producers and usually by handlers as well.

Marketing agreements are contracts between the United States Secretary of Agriculture or the California Director of Agriculture and handlers or producers. They bind signers only to their terms. Agreements are almost never issued without parallel orders because several decades of experience with co-operative or voluntary controls have proved that the whole industry must participate. Orders are issued by the Secretary or the Director and bind all parties.

Federal orders may govern milk and its products, bees, tobacco, soybeans, naval stores, hops, most fruits and vegetables except for canning and freezing, and four kinds of nuts. In intrastate commerce, the California Agricultural Products Marketing Act, with one effective program, authorizes orders for the same commodities if there is also an effective federal order.

The California Marketing Act of 1937 still applies to all farm products except timber. The California Agricultural Producers Marketing Act—formerly the Prorate Act—may be used to control any California crop other than figs for canning, milk and its products, and grapes grown in 13 coastal counties. Separate legislation provides for intrastate control of milk marketing through California programs. Aside from milk, which is not considered in this report, there were 27 programs operating last year under federal law and 23 under state acts. Since federal support to farm industries is now explicitly conditioned upon self-help and upon compliance by the industry with recommended production and marketing practices, there is wide interest in agreements and orders.

Administration

The Agricultural Marketing Agreement Act of 1937 had and still has three objectives: to raise and stabilize incomes to

producers; to protect consumers; and to establish and to maintain standards of quality and inspection. It cannot be used to control production. Any trade which is in or which substantially affects interstate or foreign commerce is subject to control. Orders may become effective only when handlers of at least one-half the volume have approved a parallel agreement on which hearings have been held and at least two-thirds of producers by number or volume have approved the order, and if necessary to attain the goals of the Act without approval by handlers. The Secretary must terminate the order if it ceases to contribute to the goals of the Act or upon petition of a majority of producers. Detailed requirements for receiving proposals for programs, for hearings, notice, rule-making, formulation of the order, handling of violations, disclosure of information, modification or exemption, and court review are set out in the Administrative Procedures Act and the regulations of the Department.

Agreements may contain any terms not inconsistent with the Act. Federal orders for products other than milk may: 1, limit sales in total or by grade, size or quality in any market or time period; 2, allot purchases or sales among handlers; 3, measure, equalize and dispose of surpluses; 4, establish reserve pools; 5, require inspection for quality, maturity or size. They must also provide for prohibition of unfair practices, for open price filing or for administrative terms. Applicability is limited to the smallest practicable area so that interests of growers and handlers are homogeneous, contact with committees can be maintained, inter-regional equity problems eliminated and the danger of national monopoly avoided.

Growers dominate most administrative committees, although no single faction controls any committee as a rule. Handlers are represented on many control boards. All recommendations by boards to the Secretary must be supported by reference to standards set out in the order which merely specify the general methods which the committee may use. Most programs require promulgation of an advance market policy indicating the kinds of recommendations to be used in the coming season, and analyzing the major factors affecting price.

All federal orders but one use quality

or pack regulation. Eight provide for rate of flow control. Six provide for surplus control through set-aside requirements, one for price posting and one for prohibiting unfair practices. Shipping holidays are also used. Diversion pools are used in several programs. Grade and size limitations are the major control devices, for several reasons: administration is inexpensive; advance crop estimates are not required; equity problems are not troublesome; no proration is necessary; losses on the limited grades are prevented and related grades are protected. Provision is usually made to prevent unduly heavy elimination by any individual or region.

Programs are financed by uniform assessments on the basis of an annual budget approved by the Secretary. Excess funds are prorated back to handlers. Books and records must be available to prove compliance but are not disclosed. Enforcement may be effectuated through civil suit for damages, civil injunctions and most often through fines after criminal conviction.

Usually handlers propose initiation of an order. A field representative of the Production and Marketing Administration may assist in its formulation. If findings from public hearings indicate that the goals of the Act will be forwarded, the program is submitted to growers for referendum. There is continuous opportunity for exception and opposition at all stages. Thus federal programs are initiated, formulated, approved and administered by the industry subject to the final authority of the Secretary of Agriculture.

Procedure for formulation and financing of state programs is much like that of the federal system. Rather broader goals and powers are involved. State laws

Continued on page 12

CALIFORNIA AGRICULTURE

Progress Reports of Agricultural Research, published monthly by the University of California College of Agriculture, Agricultural Experiment Station.

Harold Ellis Director
Agricultural Information
W. G. Wilde Editor and Manager

Articles in CALIFORNIA AGRICULTURE may be republished or reprinted provided no endorsement of a commercial product is stated or implied. Please credit: *California Agriculture*, published by the University of California.

CALIFORNIA AGRICULTURE will be sent free upon request to the University of California College of Agriculture, 22 Giannini Hall, Berkeley 4, California. Please allow about two weeks between your request and the arrival of your first copy.

In order that the information in CALIFORNIA AGRICULTURE may be simplified, it is sometimes necessary to use trade names of products or equipment. No endorsement of named products is intended nor is criticism implied of similar products which are not mentioned.



MARKETING

Continued from page 2

seek to prevent: marketing of excess quantities; disorderly marketing; improper preparation or grading; economic waste; and inability by agricultural producers to maintain present or to develop new markets. These are police-power laws intended to protect the purchasing power and the taxpaying ability of growers and to maintain adequate productive capacity. Administration does not greatly differ from the federal procedures. State programs are restricted to intrastate commerce, although especially where processing is involved such control is often adequate to obtain the goals of the state laws.

The California Marketing Act with 19 programs, requires approval of handlers or growers. Only groups directly affected by the regulation are represented on control boards. In addition to the powers authorized in federal orders, this Act provides for stabilization pools; marketing or processing periods or seasons; surplus or by-products pools; advertising—which is specifically prohibited in the federal law; and tree or vine removal which would be unconstitutional under federal statute.

The Agricultural Producers Marketing Act, with three programs, also authorizes most of these additional powers. A state program directly affecting only processors or producers may be effectuated after approval only by the directly affected group. Information on state programs may be obtained from the Bureau of Markets in Sacramento.

Bases for Market Control

Producers and handlers of farm products are authorized and encouraged to combine in marketing their products because some of the hazards inherent in farming often cannot be overcome by individual action.

Marketing costs are high and rigid relative to other shares of the consumer's dollar. Farm prices, and therefore incomes, may drop sharply if retail prices break either as a result of depressed buying power or of bumper yields or both. Individual producers are not responsible for either of these price depressants nor can they, acting alone, rectify their effects.

Limitation of sales to the amount which would yield desirable returns to the industry is possible only through joint action of the entire industry. There are counterbalancing disadvantages: limitation programs are hard to administer; equitable allotment is difficult; traditional outlets may be impaired; harvesting and packing methods may be affected. However, competition is not seriously affected. Production efficiency need not be lessened.

The only alternative to limitation may often be widespread bankruptcy or governmental relief, which ultimately means government control. Handlers, carriers and marketers move a smaller volume but they need suffer no out-of-pocket losses through limitation and their long-run interest may be served by maintaining productive capacity. Consumers lose by obtaining only the amount they would get were growers able precisely to control yields or precisely to adjust output to fluctuations in demand. This cost may be less than the cost of farm bankruptcy. Consumers may also benefit from the maintenance of long-run productive capacity. There are three real dangers of limitation: it may induce consumers to shift to substitute goods; it may prevent adjustment of acreage in overexpanded industries; it may induce increased production of the regulated product or its competitors. These are the dangers of using limitation as a monopoly device rather than to compensate for the inability of individual farm producers acting alone to adjust aggregate production in the occasional seasons when demand falls or yields are high or both.

Advertising, research, trade promotion, removal of trade barriers and collaboration with other governmental agencies—most of which may be done under state law only—may protect income against long-run increases in output or shifts in consumer habits. Correction of undesirable trade practices may decrease marketing costs. These techniques should not adversely affect other groups.

Regulation of distribution with no restriction upon total volume sold may benefit producers and handlers continuously without harm to other groups. Since individuals will divert to secondary channels only when primary prices fall to by-products levels, the maintenance of desirable differentials in prices among alternative channels is possible only with joint market control. Handlers of many products react simultaneously and alike to present or to expected prices, to expected shipments, and to holding costs. Thus markets may be unintentionally glutted and such gluts may spread to related markets if receivers fear that their margins may be threatened by even further price declines.

Low-grade or irregular packs may bring quick profit to a few handlers but may do serious damage to the entire market. Prevention of these occurrences by regulating flow and distribution of a crop may result in larger volumes of sales than would be gotten without regulation. The real dangers, again, are the monopolistic abuses against which the laws authorizing market control, the administrative regulations of the two Departments of Agriculture, the good sense of the control boards and the veto power residing in

government officials serve to protect consumer, handler and producer alike.

George L. Mehren is Associate Professor of Agricultural Economics, Associate Agricultural Economist in the Experiment Station, and Associate Agricultural Economist on the Giannini Foundation, Berkeley.

APRICOTS

Continued from page 11

The first picking of ripened fruit was made July 7th and the final picking was made July 14th. Randomized counts of fruit were made from each box of harvested fruit at both pickings to determine the percentage of codling moth and orange tortrix infested fruit.

The unsprayed trees within the spray plot averaged only 6% infested fruit and

Codling Moth Control on Apricots Following Spray Treatments in the 1949 Experimental Plot at Campbell

Time of application		Total fruit count	Percentage infested fruit	
April 5th	May 4th		Orange tortrix	Codling moth
2 lbs. Parathion (1)	2 lbs. Parathion	2969	0.3	2.2
3 lbs. Parathion	3 lbs. Parathion	2594	0.3	1.9
3 lbs. Methoxychlor (2)	3 lbs. Methoxychlor	3032	0.3	0.6
2 lbs. DDD (3)	2 lbs. DDD	1492	0.6	1.9
1½ lbs. DDT (4)	3 lbs. Parathion	734	0.5	1.9
1½ lbs. DDT	3 lbs. Malate	3266	1.0	0.7
1½ lbs. DDT	2 lbs. DDD	3150	0.3	1.6

- (1) Parathion—25% wettable powder.
- (2) Methoxychlor—50% wettable powder.
- (3) DDD—50% wettable powder.
- (4) DDT—50% wettable powder.

were apparently affected by the prebloom spray and the sprayed trees surrounding them. Unsprayed trees in an adjoining orchard averaged 15% wormy fruit in the first picking.

There are probably no significant differences in the percentages of infested fruit from any of the treatments shown. All treatments were also equally effective in reducing the percentage of injury from orange tortrix.

Arthur D. Borden is Lecturer in Entomology and Entomologist in the Experiment Station, Berkeley.

Harold F. Madsen is Extension Specialist in Entomology, Berkeley.

Stanley Benedict is Research Assistant in the Division of Entomology and Parasitology, Experiment Station, Berkeley.

The above progress report is based on Research Project No. 806.