A Marketing Order, How It Works

Guide Z-301

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A federal crop marketing order is an organizational marketing alternative that agricultural producers of specialty crops may want to consider. They are not permitted for livestock or the basic field crops. A marketing order is one way for an agriculture crop industry to seek orderly marketing of its production.

A federal marketing order sets up a mechanism for all producers of a crop in a given area to exercise control over selected aspects of the marketing of their crop and yet be exempt from antitrust prosecution. The federal law permitting marketing orders is the Agricultural Marketing Agreement Act of 1937.

Each crop marketing order is developed by and for the particular needs of the commodity group seeking the marketing order. One or all of the following provisions may be included in a crop marketing order:

1. specifying grades, size, quality, or maturity;
2. advertising, promotion, market development, and research;
3. allotting the amount each processor may handle or purchase;
4. establishing how much may be marketed during a set period;
5. establishing methods of determining surpluses and their control and disposition;
6. establishing a reserve product pool;
7. inspecting the product;
8. fixing the size, capacity, weight, dimensions, or pack of the containers used in marketing;
9. prohibiting unfair competition and unfair trade practices; and
10. requiring processors to file their selling prices and to not sell below prices filed.

Only those marketing tools included in a marketing order may be used by that commodity group. Any one tool, or a combination of tools, may be written into a marketing order.

To start a marketing order, an order proposal must be submitted, with a request for hearings on the order, to the U.S. Secretary of Agriculture. If sufficient grower support is shown, the secretary holds public hearings on the proposal. Opportunities for written comments follow the hearings. Then the secretary makes a decision whether or not to submit a proposed marketing order to a vote of all growers. The marketing order is started if two-thirds of the voting growers vote in favor of the marketing order or if those representing two-thirds of the production vote for the order. Marketing orders are ended when more than half of the growers with more than half the production vote against the order. An order may be amended through a procedure similar to that for starting the order.

A marketing order is administered by an elected board of growers and processors and a public member who is elected by the other board members. Board members, other than the public member, are elected by those they represent on a one person-one vote basis. The U.S. Secretary of Agriculture oversees board actions to make sure the board does not act beyond its authority as given in the marketing order.

Under the marketing order, it is the processors who are regulated. Assessments for operating the order are collected from processors or first handlers. However, they can pass that cost forward to buyers or deduct it in making their purchases from growers. Imports are not regulated under a marketing order.

Advantages of a marketing order include industry self-control through use of selected marketing tools. A marketing order provides a means for all growers and processors to join together for various marketing activities. A disadvantage of a marketing order is that it is compulsory for all in the defined area.

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