



Agricultural and Resource Policy Report

Colorado State University

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October/No. 98-01

Swine Policy Decision Points

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“There are two things you don’t want to see made: sausage and legislation”

Iowa legislator

“Public policy tools can encourage or discourage behavior.”

“There is nothing necessarily attractive about the status quo.”

“The larger the scale, the greater the degree of uniformity in policy and the more local, the greater potential for flexibility.”

“Colorado’s guiding policy principles are: locally-led, voluntary, and incentive-based.”

Introduction

Recent changes and challenges in the swine industry have resulted in a number of new federal and state level legislative initiatives. The appropriate role and scale of policy, the available economic policy tools, the features of successful policies, and common components of state and federal swine policies in the United States are discussed in this paper.

Appropriate Role of Public Policy

Governments act on behalf of their constituents to influence individual behavior toward social objectives. Of course, failure to act is a *de facto* policy decision. Past policies are partially responsible for our current human and natural environment and our future is dependent upon decisions we make today; there is nothing necessarily good or bad about the *status quo*. There are winners and losers from each and every policy intervention. Government intervention through policy is justified under two conditions: when the public costs of private action exceed the private costs of that action; or when the public benefits of public action exceed the private costs of that action. In the former, the private individual (e.g., person or business) is said to impose an *externality* on society. The individual can be expected to pay for, or internalize the externality, as a result of this policy intervention. In the latter, the property rights of society, or the *common good*, outweigh the property rights of the individual. Society can expect to compensate the individual for *taking* his or her property rights as a result of this policy intervention.

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² This document was originally released as a working paper in the Colorado State University-Cooperative Extension series entitled CAFO Info, September, 1998.

Appropriate Scale of Public Policy

Public policy interventions can occur at international, national, regional, state, and/or local levels. The appropriate scale(s) of policy interventions depend upon the level of the issue and the comparative advantages of each level of intervention. Global issues, such as atmospheric warming and human rights, may require intergovernmental agreements over standards of behavior. National issues, such as social security, public education and health care, may be best managed at the federal government level. The larger the scale, the greater the degree of uniformity in policy and the more local, the greater potential for flexibility. Particularly regarding regulations, localities must consider whether they have the knowledge, finances, and people available to monitor and enforce their provisions. Moreover, localities must have the ability and intent to monitor and enforce regulations. Local officials in small communities can encounter particular challenges in enforcing regulations on friends and relatives and on wealthy or powerful neighbors.

There are very few issues that are clearly concerns at one level and not at other levels. As a result, legislation is commonly integrated through the local, state, and often national government level. Monitoring and enforcement responsibilities often fall to the local or state governments and policy formation and finance are assigned to the state or federal authorities. Unlike some other states and countries, in Colorado preferences are for the most local authority and the most individual volition possible. Our guiding policy principles are: locally-led, voluntary, and incentive-based.

Tools of Public Policy

Public policy tools can encourage or discourage current and future behavior. Some tools can only be used as incentives or "carrots" (grants and subsidies), while other tools can only be used as disincentives or "sticks" (regulations, standards and moratoria). Still other tools (taxes, zoning, quotas, and permits) can be used as either carrots or sticks depending upon their structure. In addition, research and education components of public policy are important to help craft the appropriate mix of incentives and disincentive to meet social objectives for the least cost.

Generally speaking, regulations, standards and permits should be used to provide the legislative floor or safe minimum standard for behavior that society is willing to tolerate. Incentive programs and graduated tax incentives or disincentives should be used to guide behavior beyond the safe minimum standard toward some behavioral norm or preferred state.

Prior to generating new legislation, attention should be paid to the intended and unintended impacts of the current legislative environment. Past policies creating negative impacts, or "perverse incentives," should be removed. New policies should fill gaps in old policies and not act as countervailing measures to ill-conceived or malfunctioning measures.

Features of Successful Policies: Integrating Appropriate Roles, Scales and Tools

Creating an effective and efficient policy environment can be a difficult task. However, a number of key features to successful policies have been identified. First, those people who are affected (both gainers and losers) by the proposed policy must view it as fair and unbiased. Fairness is commonly defined as based upon the best available (natural) science. Social science concerns such as the distribution of costs and benefits (who pays and who gains) should also enter into fairness considerations. Involving potentially affected people in policy formation can enhance the perception of fairness. The provisions of successful policies are clear, necessary and sufficient to achieve their objectives. Successful policies minimize unintended external effects. They contain a system of graduated sanctions for breaking rules and considerations for sufficient financial support and expertise to monitor and enforce rules. Regulators also must be willing to implement the letter and intent of policies. One feature of particular concern to localities is economic and political power. The scale of regulation should be such that the economic and political power of the regulator is greater than or equal to the regulated. Finally, successful policies achieve their objectives for the least possible cost to society.

Common Components of Swine Policy

The specifics of swine policy vary substantially from state to state. However, there is a core of common components of policies designed to guide the swine industry across states. Most state level swine policies include provisions for siting and construction standards, set-back requirements, effluent management plans, financial assurance, size and management structure requirements, training or educational requirements, the assignment of ownership or liability, and "nuisance" civil suit protection. These features of swine policy are addressed in greater detail in another paper in this series. Here, a listing of Colorado regulations is provided for illustration purposes (Table 1).

Conclusions

Recent changes and events in the swine industry have resulted in new state and federal legislation to guide the industry. States and localities are faced with complex issues in crafting a policy environment appropriate to the needs and objectives of their constituencies. We have briefly reviewed the philosophical basis of public policy, the tools available and their use, the features of successful policies and the components typical of swine policies across the United States. Using the conceptual framework outlined here, other papers in this series detail these common policy components, and community, industry and environmental economic issues surrounding the evolving swine industry are discussed.

Table 1: Current & Proposed Colorado CAFO Legislation

Topic	Confined Animal Feeding Operations Control Regulation 5 CCR 1002-19	Proposed Amendment #14 (1997-98)
CAFO Size	1,000 AU	800,000 pounds of swine
Seepage	Not to exceed 1/32 inches per day	Seepage must be minimized
Lagoon Liner	Natural or Plastic	See seepage requirements
Capacity	If 50% of runoff storage is exceeded then dewatering to full runoff storage capacity required within 15 days	Permit must be received from the Colorado Department of Health. Must minimize runoff.
Rainfall Capacity	Lagoon must withstand 24 hr period of maximum recorded rainfall over past 25 yr.	Water Quality Control Commission must adopt rules regarding construction, operation and management of effluent.
Earthen Liner	Minimum of 12 inches in thickness	Not specified, but would fall under permitting.
Grandfathering	Lagoons completed August 30, 1992 exempt from 1992 CWA regulations	Must get permit if currently "commercial", under construction or expanding.
Effluent Application	Not to exceed agronomic rates.	Not to exceed nutritional requirements of the plants on the land. Must not degrade public or state trust lands.
Monitoring	Not required, unless by the request of the Water Quality Control Commission	Land applied wastes monitored by farms and reported to the state health department
Reporting	No self reporting required	Immediate reporting to state and county health departments of spills
Costs of Monitoring	Complaint driven. Normal Dept. of Health budget covers	Assessment of permit fees from owners and operators up to \$0.20/AU
Bonding	Not Required	Financial assurance required to return site to state before development of the facility
Covered Waste Storage Sites	Not Required	Required
Odor Mgmt	Suggests that management practices promote odor control	Odorous gases must be managed from covered lagoons. Minimize odor emissions from operation.
County Govt	Not precluded from passing more stringent regulations	Not precluded from passing more stringent regulations

Note: In addition, Amendment 13 is a proposed constitutional amendment mandating that all livestock species fall under the same regulations on an AU basis. It is targeted to CAFOs over 1,000 AUs.