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## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission [Docket 5822]

#### PART 13—DIGEST OF CEASE AND DESIST ORDERS

MAICO CO., INC.

Subpart—*Dealing on exclusive and tying basis*: § 13.670 *Dealing on exclusive and tying basis*. In connection with the offering for sale, sale, or distribution of hearing aids, audiometers, other medical acoustic products, batteries, parts and accessories therefor, or other similar or related products in commerce as "commerce is defined in the Clayton Act: (1) Selling or making any contract or agreement for the sale of any such products on the condition, agreements, or understanding that the purchaser thereof shall not use, or deal in, or sell any such products supplied by any competitor or competitors of the respondent; and (2) enforcing or continuing in operation or effect any condition, agreement, or understanding in, or in connection with, any existing contract of sale, which condition, agreement, or understanding is to the effect that the purchaser of said products from respondent shall not use, or deal in, or sell any such products supplied by any competitor or competitors of respondent; prohibited.

(Sec. 3, 38 Stat. 731; 15 U. S. C. 46. Interprets or applies sec. 3, 38 Stat. 731; 15 U. S. C. 14) [Cease and desist order, The Maico Company, Inc., Minneapolis, Minn., Docket 5822, May 22, 1955]

This proceeding was heard by Webster Ballinger, hearing examiner, upon the complaint of the Commission, which charged respondent with entering into exclusive-dealing contracts in the sale of hearing aid instruments, parts, and accessories, in violation of section 3 of the Clayton Act, as amended by the Robinson-Patman Act, upon respondent's answer, and upon hearings at which evidence was taken in support of and in opposition to the allegations of the complaint.

Thereafter, following the rendering by said hearing examiner of his initial decision, the granting by the Commission of respondent's appeal therefrom and

the remanding of the proceeding for the taking of further evidence and for the reconsideration of various exclusionary rulings of the hearing examiner, and the transfer of the proceeding to Hearing Examiner Frank Hier, said Hearing Examiner Ballinger being about to retire (mandatorily) said Hearing Examiner Hier proceeded to carry out the command of the remand, pursuant to which further evidence was taken in support of the allegations of the complaint, and some evidence was offered by respondent in opposition thereto, and, subsequent to which, on March 28, 1955, counsel for the parties entered into a stipulation of record providing for entry of a consent order disposing of the proceeding under the Rules of Practice of the Commission.

By the terms of said stipulation, respondent admitted all of the jurisdictional allegations set forth in the complaint and stipulated that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations, and respondent expressly withdrew its answer previously filed therein and waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission and waived all other and further procedures before the hearing examiner and the Commission to which respondent might be entitled under the aforesaid Clayton Act or the rules of practice of the Commission.

Respondent further agreed thereby that the order to be entered should have the same force and effect as if made after a full hearing, presentation of evidence, findings and conclusions thereon, respondent specifically waiving any and all right, power, and privilege to challenge or contest the validity of the order entered in accordance with the stipulation; agreed that the stipulation, together with the complaint, should constitute the entire record in the matter; that the complaint in the matter might be used in construing the terms of the order entered, which order, upon motion of respondent or of counsel supporting the complaint or upon motion of the Commission, might be altered, modified, or set aside in the manner provided by the statute for the orders of the Com-

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- Title 26: Parts 1-79 (\$0.35)
- Title 26: Parts 170-182 (\$0.50)
- Title 39 (\$0.75)
- Titles 47-48 (\$1.25)

Previously announced: Title 3, 1954 Supp. (\$1.75); Titles 4-5 (\$0.70); Title 7: Parts 1-209 (\$0.60); Parts 210-899 (\$2.50); Part 900 to end (\$2.25); Title 8 (\$0.45); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 15 (\$1.25); Title 16 (\$1.25); Title 17 (\$0.55); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Title 26: Parts 80-169 (\$0.50); Part 300 to end and Title 27 (\$1.25); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Title 32A, Revised December 31, 1954 (\$1.50); Titles 35-37 (\$0.75); Title 38 (\$2.00); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60); Title 50 (\$0.55)

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mission; agreed that the stipulation was subject to approval in accordance with Rules V and XXII of the Commission's rules of practice and that the order to be entered should have no force and effect unless and until it became the order of the Commission.

Thereafter said Hearing Examiner Hier made his initial decision in which he set forth the aforesaid matters and his said conclusion based thereon, and in which, in conformity therewith, he made his cease and desist order.

Thereafter said initial decision, including said order, as announced and decreed by "Decision of the Commission and Order To File Report of Compliance," dated May 20, 1955, became, on May 22, 1955, pursuant to Rule XXII of the Commission's rules of practice, the decision of the Commission.

Said order to cease and desist is as follows:

*It is ordered,* That respondent, The Maico Company Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of hearing aids, audiometers, other medical acoustic products, batteries, parts and accessories therefor, or other similar or related products in commerce as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

1. Selling or making any contract or agreement for the sale of any such products on the condition, agreement or understanding that the purchaser thereof shall not use, or deal in, or sell any such products supplied by any competitor or competitors of the respondent.

2. Enforcing or continuing in operation or effect any condition, agreement or understanding in, or in connection with, any existing contract of sale, which condition, agreement or understanding is to the effect that the purchaser of said products from respondent shall not use, or deal in, or sell any such products supplied by any competitor or competitors of respondent.

By said "Decision of the Commission" etc., report of compliance was required as follows:

*It is ordered.* That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: May 20, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F. R. Doc. 55-5548; Filed, July 8, 1955;  
8:48 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter I—Civil Aeronautics Board

#### Subchapter B—Economic Regulations

[Reg. ER-203]

#### PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

##### CONTINUATION OF EXEMPTIONS FOR AIR TAXI OPERATORS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 5th day of July 1955.

On December 21, 1954, the Board issued its notice of proposed rulemaking circulating for public comment a proposal to make permanent the exemptions afforded air taxi operators. Subsequently, after receipt of written comment which indicated considerable disagreement within the aviation industry on the terms, conditions and limitations which should be imposed on such an extension, the Board temporarily extended the exemptions afforded by Part 298 and concurrently set the matter down for oral argument. Oral argument thereon was heard by the Board on June 1, 1955.

After considering the arguments both written and oral submitted by various interested parties, the Board has come to the following conclusions:

1. During the past three years while Part 298 has been in force, the air taxi industry has increased in strength and activity and has, in the Board's opinion, justified the Board's action in exempting the operators of small aircraft from most of the requirements in the economic field.

The Board believes that its reasoning which formed the basis upon which Part 298 and its amendments were adopted, remains valid today and is expressly reaffirmed. It is true that there may be some areas in which the economic impact of air taxi operations may be felt by car-

riers of various sorts. However, subject to the exceptions noted below the Board does not believe that such impact now has, or may be expected to develop substantial, detrimental, economic consequences. The Board therefore considers that, in the absence of a showing that stricter economic controls should be imposed on operators of small aircraft, such operators should be given an opportunity to develop their potential in relative freedom.

2. The Board's present regulations restrict fixed wing air taxi operators to irregular and infrequent service between points served by a certificated helicopter operator which points are named in its certificate of public convenience and necessity. However, such helicopter operators also serve certain points pursuant to exemption orders. Since these exempted services are as much a part of the controlled helicopter experiment as are the certificated services and are likewise supported by public funds, the Board believes that as a general rule they should receive the same protection from undue competition by air taxi operators. Consequently, the revised Part 298 will extend the present restrictions to include points served by certificated helicopter operators pursuant to exemption.

3. The Board is mindful of the fact that an air taxi operator may establish and build up a scheduled service over a route pattern in densely populated metropolitan areas, only to find that a certificated helicopter operator has subsequently been granted authority to operate over the same routes. The effect of such a grant would, under the regulation, force the air taxi operator to cut back its service to an irregular and infrequent basis over such routes. The Board cannot find as a general principle that in every such case the air taxi operator should be allowed to continue its operations on a scheduled basis. Nor can it find that in every case the air taxi should be relegated to irregular service. The Board believes each such case must be considered on its merits and therefore will consider in those instances applications for special exemption by the air taxi operator to continue to provide scheduled service over such routes, and will grant the applications where the public interest so requires. The Board believes that the number of these instances which may arise will be small.

4. Certain of the interested parties have suggested that limited helicopter operations be authorized for air taxi operators in direct competition with certificated helicopter operators. The Board is of the opinion, however, that such operations should not be authorized at this time. Any direct competition with certificated helicopter operators, using similar types of equipment, could only result in increased subsidy need by the certificated operator and at the expense of the public. The present prohibition will therefore be continued.

5. The Board does not believe that at this time the exemptions accorded air taxi operations should be made perma-

nent and accordingly the entire situation should be reviewed at the end of a reasonable period. Therefore the authorized exemptions will be extended for a period of approximately 5 years, namely to June 1, 1960.

Interested persons have been afforded an opportunity to participate in the making of this rule and consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board finds that, except to the extent and subject to the conditions provided in Part 298 as hereinafter amended, the enforcement of the provisions of Title IV of the Civil Aeronautics Act of 1938, as amended, and the rules and regulations issued thereunder is or would be an undue burden on those air carriers classified in Part 298 as "air taxi operators" by reason of the limited extent of and unusual circumstances affecting the operations of such class of air carriers and is not in the public interest. Accordingly, the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298, as amended) as follows effective August 9, 1955:

1. By amending the final proviso of § 298.4 to read as follows:

§ 298.4 *Duration of exemption.*  
\* \* \* *And provided further* That unless otherwise ordered by the Board the temporary exemption granted by § 298.3 shall terminate on June 1, 1960.

2. By amending § 298.7 (b) to read as follows:

§ 298.7 *Scope of service authorized.*  
\* \* \*

(b) Within the Territories or possessions of the United States, other than the Territory of Alaska, or between any two points between which scheduled helicopter passenger service is provided by the holder of a helicopter certificate of public convenience and necessity either in accordance with such certificate or by exemption order of the Board, no air taxi operator shall, except as specifically authorized by the Board, operate or hold out to the public expressly or by course of conduct that it operates therein, one or more aircraft between designated points or within a designated point, regularly or with a reasonable degree of regularity, upon which aircraft it accepts for transportation, for compensation or hire, such members of the public as apply therefor or such property as the public offers. Service shall be deemed to be regular within the meaning of this paragraph unless it is of such infrequency as to preclude an implication of a uniform pattern or normal consistency of operation between, or within, such designated points.

(Sec. 205, 52 Stat. 934; 49 U. S. C. 425. Interpret or apply sec. 416, 52 Stat. 1004; 49 U. S. C. 496)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 55-5550; Filed, July 8, 1955;  
8:49 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt 150]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

PROCEDURE ALTERATIONS

The standard instrument approach procedure alterations appearing hereinafter are adopted to become effective when indicated in order to promote safety compliance with the notice procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

NOTE: Where the general classification (LFR VAE, ADF ILS GCA or VOR) location and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure that procedure is to be substituted for the existing one as of the effective date given to the extent that it differs from the existing procedure; where a procedure is canceled the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

1 The low frequency range procedures prescribed in § 609.6 are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Headings, bearings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. If an IFR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation, facility, class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified or if landing not accomplished
							Condition	Type aircraft	75 m. p. h. or less	
1	2	3	4	5	6	7	8	9	10	11
ABERDEEN, S. DAK. Aberdeen, 1,300' SBRAZ-DTV, VOT. ABR-LFR. Procedure No. 1. Effective date: August 6, 1955 Amendment No. 10. Supersedes No. 9 dated June 11, 1955. Major changes: 75 miles per hour or less circling minimum lowered.	Aberdeen VOR	240-2.5	2,400	E side S course: 342° outbound, 342° inbound, 2,400' within 15 miles	1,900	342-2.6	T-dn C-dn S-dn 35 A-dn	2 engines or less 300-1 400-1 400-1 800-2	300-1 400-1 400-1 800-2	Within 2.0 miles climb to 2,800' on N course within 25 miles
BAKERSFIELD, CALIF. Kern County No. 1, 515' SBRAZ-DTV, EFL. Procedure No. 1. Effective date: August 6, 1955 Amendment No. 5. Supersedes Amendment No. 4 dated November 18, 1953. Major changes: Reduced procedure turn to 10 miles; new format	Famoso FM (final) Bakersfield VOR	141-11.0 119-3.0	1,600 2,000	W side northwest course: 321° outbound, 141° inbound, 2,000' within 10 miles	1,600	141-2.0	T-dn C-dn A-dn	2 engines or less 300-1 700-2 800-2	300-1 700-2 800-2	Within 2 miles turn right (W) and climb to 3,000' on NW course within 25 miles or when directed by ATO climb to 2,000' on the SW course within 15 miles. NOTE: Takeoffs and landings runway 7/25 is not authorized. Night takeoffs runway 34 not authorized. CAUTION: Numerous unlighted TV receiving antennas in approach areas to runways 25-30-34. Deviation from standard criteria authorized in item 5.
JOLIET, ILL. Joliet Airport, 480'. SBRAZ-DTV, JOT. Procedure No. 1. Effective date: August 6, 1955 Amendment No. 1. Supersedes LFR ACA 1725 dated March 3, 1950. Revised form. Major changes: (1) Transition deleted; (2) Regular and circling minimums changed; (3) Alternate approval deleted; (4) Minimums on procedure turn and final changed.	Joliet VOR	265-1.7	1,800	S side of W course: 245° outbound, 1,800' within 10 miles	1,300	125-3.7	T-dn S-dn C-dn A-dn	2 engines or less 300-1 400-1 600-1 N.A.	300-1 400-1 600-1 N.A.	Within 2.7 miles make right turn, climb to 2,000' on SW course within 25 miles. CAUTION: Airport without weather reporting services.

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Ceiling and visibility minimums		If visual contact not established at authorized landing minimums after passing facility within distance specified or if landing not accomplished
							Condition	Type aircraft 75 m. p. h. or less More than 75 m. p. h.	
1	2	3	4	5	6	7	8	10	11
MALAD CITY IDAHO. Malad City International SBRAZ-DTV MLD Procedure No. 1. Effective date: August 6, 1955 Amendment No. 3. Supersedes Amendment No. 2 dated June 23, 1952. Major changes: New format; and transition from MLD-VOR; minor course and distance corrections; equalizing minimums with VOR; missed approach changed to left turn	MLD-VOR	004-0	10 000	S side W course: 275° outbound, 083° inbound 9,000' within 10 miles. Not authorized beyond 10 miles	8 500	130-3 8	T-d 3 600-3 N/A C-d 3 600-3 N/A A-d 3, 600-3 N/A	3 600-3 N/A 3 600-3 N/A 3, 600-3 N/A	Within 2 miles make left turn climbing to 11,000' on W course within 25 miles CAUTION: High terrain all quadrants
POUGHKEEPSIE, N. Y. Dutchess County SBRAZ-DTV FOU Procedure No. 7. Effective date: August 6, 1955. Supersedes Amendment No. 6 dated July 16, 1955. Major changes: Delete note re-starting air carrier night operations	West Point Interception (final)	023-8	2, 100	E side S course: 285° outbound 260° within 10 miles. Not authorized beyond 10 miles	2, 100	002-5 4	T-d C-d A-d	2 engines or less 300-1 600-1/4 800-2	Within 5.4 miles climb to 3,000' on north course within 20 miles. *Shuttle to 8 000' on north course within 20 miles
PROVIDENCE, R. I. Green Airport SBMRLZ-PVD Procedure No. 1 Amendment No. 4. Effective date: August 6, 1955. Supersedes Amendment 3 dated November 8, 1953. Major changes: Deviations from criteria added. ADF procedure not authorized. Straight-in to runway 5R added. Procedure turn limited to 10 miles. Night visibility minimum revised	Wyoming FM (final)	047-15	1 000	W side SW course: 275° outbound, 017° inbound, 1,600' within 10 miles. Not authorized beyond 10 miles.	1, 000	Runway 5L 047-3 1 Runway 5R 053-3.1	T-d C-d S-d and 5R A-d	2 engines or less 300-1 400-1 400-1 500-2 500-2	Within 3.1 miles climb to 1,600' on course 017°, then make a climbing right turn and return to Providence LFR at 1,700'. Approach procedure not authorized when directed by ATIS on SW course *Squawk LFR. Item 4 does not provide standard clear areas over 625' lower 3 miles NW of Wyoming FM. #Procedure turn W to avoid Quonset Point traffic. Straight-in minimums do not provide standard clearance over terrain 1.2 miles NW of range station
RICHARMOND, VA. Burd Field, 167 SBRAZ-VDT RIC Procedure No. 1 Amendment No. 4. Effective date: August 6, 1955 Supersedes Amendment No. 3 dated April 1, 1954. Major changes: Direction of procedure turn revised. Do vision removed; procedure complies with new criteria	Chester FM (final)	003-0	700	W side SW course: 248° outbound, 055° inbound, 1,600' within 10 miles.	700	018-2.0	T-d C-d S-d and 5R A-d	2 engines or less 300-1 400-1 400-1 500-2 500-2	Within 2 miles, climb to 1,600' on N course Richmond LFR within 16 miles. *Procedure turn conducted by to avoid tele vision antennas S of airport

2 The automatic direction finding procedures prescribed in § 609 8 are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Cellings are in feet above airport elevation. If an ADF instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation, facility, class and identification; procedure NO; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Ceiling and visibility minimums		If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished			
							Condition	Type aircraft				
1	2	3	4	5	6	7	75 m. p. h. or less	More than 75 m. p. h.	8	9	10	11
<p>OHIO, CINCINNATI, OHIO                      Greater Cincinnati, 800                      LOM-OV                      Procedure No. 1                      Amendment 7.                      Effective date: August 27, 1952</p>												
<p>ONTARIO, CALIF                      International 852                      LOM-ONT                      Procedure No. 1                      Amendment 5.                      Effective date: August 6 1954</p>												
<p>PORTLAND, OREG.                      Portland International, 23'                      MBW-SVY                      Procedure No. 1.                      Amendment—Original.                      Effective date: December 17 1951</p>												
<p>VINEYARD HAVEN, MASS                      Martha's Vineyard 88                      MBW-MVY.                      Procedure No. 1                      Amendment No. 6.                      Effective date: August 6, 1955                      Supersedes Amendment No 5, dated June 11, 1954.                      Major change: Missed approach changed</p>												

3 The very high frequency omnirange procedures prescribed in § 609 9 (a) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Callings are in feet above airport elevation. If a VOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course and inbound altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance, facility to airport	Colling and visibility minimums		If visual contact not established at authorized landing minimums after passing a cleared within distance specified, or if land ing not accomplished	
							Condition	Type aircraft		
1	2	3	4	5	6	7	8	9	10	11
BAKERSFIELD, CALIF Kern County No 1, 518 VOR-FFL Executive order, August 6 1955 Amendment No. 3, August 6 1955 Supersedes Amendment No. 2 dated November 18, 1953 Major changes: Distance in items 2 corrected; bearing in item 7 corrected; procedure turn reduced to 10 miles; new format	Famoso FM (final) Bakersfield LFR	130-0 0 200-3 0	1,000 2,000	W side of course: 310° outbound 130° inbound 2,000' within 10 miles	1,000	130-4 4	T-4n C-4n A-4n	2 engines or less 300-1 700-2 800-2	300-1 700-2 800-2	Within 4.4 miles turn right (w) and climb to 2,000' on course 310° within 2.5 miles of BFL-VOR, or when directed by ATIS, climb to 2,000' on course 223° within 1.5 miles of BFL-VOR NOTE: Takeoffs or landings runway 7/25 not authorized. Night takeoffs runway 16 not authorized. Night landings runway 34 not authorized. CAUTION: Numerous unlighted TV receive antennas in approach areas to runways 25-30-34.
HUNTSVILLE, ALA Huntsville, Ala VOR-HSV Procedure No. 1 Amendment No. 3 Effective: August 6, 1955 Supersedes Amendment No. 2, dated February 23, 1953 Major changes: Removal of restriction regarding holdown radial				W side of course: 135° outbound 155° inbound 2,000' within 10 miles.	2,000	148-7 5	T-4n C-4n A-4n	2 engines or less 300-1 500-1½ 1,000-2	300-1 500-1½ 1,000-2	Within 7.5 miles climb to 3,500' on radial 135° within 2.5 miles. CAUTION: (1) In VOR area 2 miles S of Airport, (2) 107 VAS, cover 2 miles NNE of airport, (3) VAS, cover 2 miles SW of airport to the general public. (4) No control areas using this facility shall, as soon as practicable, advise Muscogee Shosits radio of their position, altitude, ETA, and intentions, and thereafter determine that adequate separation exists from other aircraft users of navigational facilities in the area. In instances where other aircraft have previously contacted Muscogee Shosits Radio, hold between facility and a radial 2 miles out on final approach course of at least 1,000' above previously reported traffic until advised that aircraft making approach has landed. Keep Muscogee Shosits Radio advised at all times of changes in altitude and position in order that other aircraft may also receive this information.
JOLIET, ILL. Joliet Airport, 157 VOR-JOT Procedure No. 1 Effective date: August 6, 1955. Amendment No.—Original Supersedes—None. Major changes—None. Newly commissioned facility	Joliet LFR..	085-1 7	1,500	W side of course: 82° outbound 145° inbound 1,500' within 10 miles.	1,500	140-3 0	T-4n S-4n C-4n A-4n	2 engines or less 300-1 400-1 600-1 NA	300-1 400-1 600-1 NA	Within 3.0 miles make right turn, climb to 2,000' within 2.0 miles and proceed to the Joliet VOR. CAUTION: Airport without weather reporting services

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft)	Course and distance to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distances specified, or if landing not accomplished
							Condition	Type aircraft	75 m. p. h. or less	
1							8	9	10	11
MALAD CITY, IDAHO Malad City International Field, 4,603' VOR-MLD Procedure No. 1, Effective date: August 6 1955 Amendment No. 1 Supersedes original dated June 27, 1952 Major changes: New format; add transition from MLD-LFR; minor course and distance corrections; equalize landing minimums with LFR	MLD-LFR	244-0	10 000	S side W course: 273° outbound, 093° inbound. 9,500' within 10 miles. Not authorized beyond 10 miles	9 000	088-8 5	T-D 3 500-3 N-A 3 500-3 N-A A-D 3 500-3 N-A N-A	2 engines or less 3 500-3 N-A 3 500-3 N-A A-D 3 500-3 N-A N-A	3 500-3 N-A 3 500-3 N-A 3 500-3 N-A 3 500-3 N-A	Within 6 miles turn left and climb to 11,000' on outbound course of 273° within 25 miles CAUTION: High terrain all quadrants

4 The instrument landing system procedures prescribed in § 609.11 are amended to read in part:

In Federal Register Document 55-4532, appearing in the issue of Thursday, June 23, 1955, at page 4404, the following change is made: In column 2, item 8, the entry "Intersection 025° radial IND VOR SW course ILS (final)" should read "Intersection 205° radial IND VOR and SW course ILS (final)".

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. If an ILS instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below:

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Transition to ILS		Minimum altitude at glide slope intercept (ft)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at approach end of runway	Altitude of glide slope		Ceiling and visibility minimums			
	From—	To—				Outer marker	Middle marker	Condition	Type aircraft		
1						8	9	10	11	12	13
AMARILLO, TEX.; Air Terminal 3 604 ILS-LAMA L-O-M-A-Y Combination ILS and ADF Procedure No. 1, Amendment 2 Effective: August 6 1955 Supersedes Amendment No. 1, dated August 16, 1954 Major changes: New format. Revise transition from W course LFR. Revise missed approaches	Amarillo VOR Amarillo LFR Saint Francis MEW Intersection E course of AMA LFR and 340° bearing to Saint Francis MEW Soney Intersection	L-O-M L-O-M L-O-M SW course ILS L-O-M	5,000 5,000 5,000 4,700 (ILS only) 5,000	S side of SW course; 205° outbound 038° inbound 5,000' within 10 miles	ILS 5,000 ADF over LOM 4 600	4 920-4 7	3 832-0 7	2 engines or less T-D 300-1 C-D 400-1 S-D 3 #ILS 200-½ ADF 400-1 More than 2 engines T-D 300-1 C-D S-D 3 #ILS ADF 400-1 All aircraft	300-1 500-1 200-½ 400-1 200-½ 600-1½ 200-½ 400-1 600-2 800-2	If visual contact not established upon descent to authorized landing minimums or if landing not accomplished  Climb to 4,600' on NE course ILS. Within 4 7 miles after passing LOM (ADF climb to 4,600' on course of 038° or when directed by ADF) climb to 4,700' on E course LFR. Within 25 miles #400-½ required when glide slope not utilized.	

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility class and identification; procedure No; effective date	Transition to ILS		From—	To—	Course and distance	Minimum altitudes (ft)	Procedure turn approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at slope interception in inbound (ft)	Altitude of glide slope and distance to approach end of runway at—		Type altrecat	Ceiling and visibility minimums	If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
	Outer marker	Middle marker							Condition	75 m p h or less			
1 B A K E R S F I E L D , O A L I F . Kern county No 1, 516' ILS-BFL Procedure No. 1, Effective: August 6, 1955 Amendment No. 6, Supersedes amendment No. 6, dated July 16, 1954. Major changes: Dis- tances corrected in forms 4 and 5; revised air- carrier notes; new for- mat	2	3		4	5	6	7	8	9	10	11	12	13
B A L T I M O R E , M D . Friendship International, 140'. ILS-BAL LOM-BAL Combination ILS- ADF. Procedure No. 1 Amendment No. 6, Effective date: August 6, 1955. Supersedes Amendment 4, dated July 29, 1954. Major changes: Intersec- tion established to pro- vide a straight in final approach	Interception NE course Area 1 LFR and W course ILS	Highland In- terception.	101-18	1,700	8 side V courses: 23° outbound 10° inbound 1,600' within 10 miles.	ILS 1,600 ADF 1,200 over LOM	1,250-4.4	335-0 7	2 engines or less T-dn 300-1 C-dn 400-1 S-dn 10 ILS 200-1/2 ADF 400 1 A-dn ILS ADF 600-2 600-2 600-2 More than 2 engines T-dn 300-1 C-dn 400-1 S-dn 23 A-dn 800-2	300-1 400-3/4 700-2 400-3/4 700-2	2 engines or less T-dn 300-1 C-dn 400-3/4 S-dn 30 A-dn 700-2	200-1/2 400-3/4 700-2	Within 4.4 miles after passing LOM (ADF) climb to 1,600 on E course ILS or course 10° from LOM within 10 miles. *Highland Interception.—Intersec- tion N course Andrews LFR and W course ILS or 10° bearing to LOM
B A L T I M O R E , M D . Friendship International, ILS-BAL (back course) Procedure No. 2 Amendment No. 1, Effective date: August 6, 1955 Supersedes Amendment originally dated July 29, 1954. This procedure not ap- proved for ADF approach. Major changes: Proce- dure published under Part 609; establishes final approach altitude	Interception E course Bal- timore LFR and E course ILS	Orchard Beach Interception.	231-21	1,600	N side E course; 15° outbound 23° inbound 1,400' within 10 miles of Or- chard Beach Interception	No glide slope or markers Descend to Orchard Beach Intersec- tion, 10 miles to approach end of Runway 23 miles Minimum altitude over Orchard Beach Interception 1,000'	1,250-4.4	335-0 7	2 engines or less T-dn 300-1 C-dn 400-1 S-dn 23 A-dn 800-2	300-1 400-1 400-1 800-2	2 engines or less T-dn 300-1 C-dn 400-1 S-dn 23 A-dn 800-2	200-1/2 400-1 400-1 800-2	Within 9 miles after passing Or- chard Beach Interception, climb to 1,600 on V course ILS within 10 miles on V course ILS within 10 miles of LOM. *Orchard Beach Intersec- tion.—Intersec- tion N course ILS and S course Baltimore LFR

City and State; airport, name, elevation; facility, class and identification; procedure No.; effective date	Transition to ILS			Procedure turn (-) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope intersection (ft)	Altitude of glide slope and distance to approach end of runway ft—		Ceiling and visibility minimums		If visual contact not established upon descent to authorized landing minimums or if landing not accomplished			
	From—	To—	Course and distances			Minimum altitudes (ft)	Outer marker	Middle marker	Condition		Type aircraft		
1		2	3	4	5	6	7	8	9	10	11	12	13
BURBANK, CALIF. Lockheed Air Terminal 764. ILS-BUR. Procedure No. 1. Effective August 6, 1955 Amendment No. 5. Supersedes Amendment No. 4 dated November 4, 1953. Major changes: Canoga Park MHW changed to LOM; transition from Fillmore VOR added; minor corrections to headings; new format	Burbank LFR Intersection SW course EHA LFR and NW course BUR LFR (Simi Intersection) Intersection SW course EHA LFR and W course ILS (Broome Intersection) Intersection SE course OAY LFR and W course LAX LFR (Malibu Intersection) Newhall LFR Fillmore VOR	LOM LOM LOM LOM LOM	251-11.0 131-9.0 076-16.0 365-22.0 181-14.0 109-19.0	4 4 4 4 4	5,000 4,100 4,100 5,000 6,000 5,000	S side of course; 23° outbound 076 inbound 4 100' within 10 miles W of LOM. Beyond 10 miles not authorized	4 100	4 078-13 75	1,293-2.04 Inner compass locator 832-0.50	#T-dn C-dn S-dn Runway 7 A-dn	All aircraft 300-1 300-1 1/4 900-2 600-1 900-2	300-1 900-1 1/4 900-2 600-1 900-2	Turn right (S) and climb to 4,100' on W course of BUR ILS to LOM. ALTERNATE MISSED APPROACH: When directed by ATO, climb to 3,000' on SE course of BUR LFR, then make 180° right turn (S) continuing climb to 5,000' while homing on BUR LFR and hold at BUR LFR in nonstandard 2 minutes pattern on SE course, or if directed by ATO, climb to 5,000' on SE course of BUR LFR. CAUTION: 2,000 terrain 2 1/4 miles NE of airport rising to 3,120' approximately 4 miles ENE of airport. *4,100' authorized after position is established westbound on ILS localizer. #600-1 required for all takeoffs when departing via SE course BUR LFR. 200-1/2 authorized for takeoff on runway 23 for 4-engine aircraft
OHIO Cincinnati, 587 ILS-CVG (each course) Procedure No. 2 Amendment No. 3 Effective date: August 6, 1955 Supersedes Amendment No. 2 dated August 21, 1952 Major changes: Revises transitions; missed approach revised	Camden Intersection New Baltimore Intersection Union Intersection Cincinnati VOR	New Baltimore Intersection Addyston FM Addyston FM Addyston FM	184-22 180-12 360-16 012-9	2,500 2,100 (4,600 final) 2,300 2,300	W side N course; 360° outbound 180° inbound 2 100' within 5 miles of Addyston FM.	No glide slope or markers after passing Addyston FM. Distance and bearing to Runway 18, 63-180°. Minimum altitude over Addyston FM 1,600'	1 400-4 44			2 engines or less T-dn C-dn S-dn A-dn More than 2 engines T-dn C-dn S-dn A-dn	300-1 400-1 400-1 600-1 300-2 200-1/4 400-1/4 400-1/4 300-2	300-1 400-1 400-1 600-1 300-2	6 8 miles after passing Addyston FM, make a right climbing turn to 2,400' on course of 230° from ILS LOM or Cincinnati VOR. 210° radial within 15 miles. Alternate missed approach procedure (when directed by ATO) climb to 2,000' on S course ILS to Union Intersection
FRESNO, CALIF. Fresno Air Terminal 331. ILS-FNO LOM-FN. Combination ILS-ADF Procedure No. 1. Effective August 6, 1955 Amendment No. 5. Supersedes amendment No. 4 dated May 17, 1954. Major changes: Minor corrections to headings and distances; new format.	FNO LFR FNO VOR Intersection of 012° bearing to FNO LOM and SE course FNO LFR (Boyles Intersection) Intersection of 030° radial OLG VOR and 142° radial FNO VOR.	LOM LOM LOM LOM	071-11.0 102-6.0 012-12.0 350-8.0	1,700 1,700 1,700 1,700	S side of course; 108° outbound 288° inbound 1 700' within 10 miles of LOM. Beyond 10 miles not authorized.	ILS 1,700 ADF 1,000 over LOM	1 400-4 44	635-0 70		2 engines or less T-dn C-dn S-dn Runway 29 #ILS ADF A-dn #ILS ADF More than 2 engines T-dn C-dn S-dn Runway 29 #ILS ADF A-dn #ILS ADF	300-1 600-1 300-1/4 400-1 600-2 800-2 200-1/4 500-1/4 300-1/4 400-1 600-2 800-2 300-1/4 400-1 600-2 800-2 300-1/4 400-1 600-2 800-2	Within 4.4 miles after passing LOM (ADF) climb to 1,500' on mag netic heading of 233° turn left and climb to 2,000' on W course of FNO-LFR within 20 miles or climb to 2,000' on 270° radial from FNO-VOR. *Procedure, turn S for more favorable terrain. #400-1 required with glide path inoperative. 400-1 required when only localizer or either the outer marker or outer compass locator operating. ##Alternate landing minimums will be 800-2 if any regular component of the ILS is inoperative	

ILS STANDARD INSTRUMENT APPROACH PROCEDURE--Continued

City and State; airport name, elevation, facility, class and identification; procedure No.; effective date	Transition to ILS		Course and distances	Minimal altitudes (ft)	Procedure turn approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope interception	Altitude of glide slope and distance to approach end of runway at--		Colling and visibility minimums		If visual contact not established upon descent to authorized landing minimums or if landing not accomplished	
	From--	To--					Outer marker	Middle marker	Condition	Type aircraft		
1 MIDLAND, TEX. AF Terminal, 2,867' ILS-TNAF BYOR-MAF Procedure No. 2 Amendment No. 1 Effective date: August 6, 1955 Supersedes Amend-ment originally dated March 24, 1954 Revised flight approach, added altitude, missed approach, revised interceptions	2 Midland VOR Stanton Intersection Tank Farm Intersection (final)	3 Radio Inter- section Tank Farm Intersection Radio Inter- section	4 117-4.0 223-13.0 223-4.0	5 4,100 4,400 3,000	6 N side of NE course of ILS; 645° outbound 225° inbound 4,400' within 10 miles Beyond 10 miles not authorized	7 Radio Intersection 3 900-4	8 No glide slope	9 0	10 T-dn C-dn S-dn 22 A-dn More than 2 engines T-dn C-dn S-dn 22 A-dn	11 More than 75 m p h or less	12 13 300-1 300-1 400-1 400-1 800-2 200-1/2 300-1/2 400-1 800-2 2 engines or less 300-1 400-1 300-1/2 400-1 600-2 800-2 More than 2 engines T-dn C-dn S-dn 22 A-dn More than 2 engines T-dn C-dn S-dn 22 A-dn	13 Within 4 miles climb to 4,000 on SV course ILS within 25 miles, or which directed by ATO climb to 4,000 on radial 160 or climb to 4,000 on SE course of LFR with in 25 miles. *300-1 required runways 16L and 34R
RICHMOND, VA Byrd Field, 167' ILS-RG LOM-RI Combination ILS-ADF Procedure No. 1 Amendment No. 6 Effective date: August 6, 1955 Supersedes Amendment No. 5, dated April 1, 1954 Major change: Procedure turn direction revised.	Flat Rock VOR Flat Rock VOR Richmond LFR Intersection N course Richmond LFR and SV course ILS Chester FM. Manakin Radiobeacon Chester FM	ILS SV course ILS LOM ILS LOM... ILS LOM... ILS SV course ILS LOM... ILS LOM...	120-20 100-24 205-3 243-3.7 010-0 130-20 020-8	1,500 2,000 1,500 1,500 1,500 2,000 1,500	W** side SW course; 245° outbound 63° inbound 1,600' within 10 miles	ILS 1,500 ADF 900 over LOM	1,370-4.4	370-0.7	T-dn C-dn S-dn 0 ILS ADF A-dn ILS ADF More than 2 engines T-dn C-dn S-dn 0 ILS ADF A-dn ILS ADF	300-1 600-1 *300-1/2 400-1 600-2 800-2 *300-1/2 400-1 600-2 800-2 *300-1/2 400-1 600-2 800-2	Within 4.4 miles after passing LOM (ADF) climb to 1,600' on course of 035° within 16 miles of LOM; Alternate procedure when directed by ATO) make a left climbing turn to 1,600' on N course Richmond LFR within 16 miles. **Procedure turn conducted W to avoid television antennas 8 of airport. *400-1/2 required with glide slope inoperative.	
SYRACUSE, N Y Francis, 410' ILS-SY LOM-SY Combination ILS-ADF Procedure No. 1 Amendment No. 11, effective date: June 25, 1954 Supersedes Amendment No. 10, dated June 25, 1954 Major changes: Transition and glide slope altitudes revised; relocation of glide slope and markers delayed	Syracuse LFR Syracuse VOR Intersection E course Syracuse LFR and SV course Uica LFR Intersection E course Syracuse LFR and bearing 338° to LOM Intersection S course Syracuse LFR and bearing 046° to LOM	LOM .. LOM E course ILS LOM .. LOM	620-13 121-10 310-13 335-3.5 045-20	1,500 1,500 2,000 (M) 1,500 3,000	N side E course; 635° outbound 278° inbound 1,600' within 10 miles.	ILS 1,500 ADF 1,100 over LOM	1,035-1.1	635-0.4	T-dn C-dn S-dn 23 ILS ADF A-dn 800-3 More than 2 engines T-dn C-dn S-dn 23 ILS ADF A-dn	300-1 700-1 300-1/2 700-1 800-3 800-3 300-1/2 700-1/2 300-1/2 700-1 800-2 800-2	Within 4.1 miles after passing LOM (ADF) climb to 2,000' on W course ILS or course of 278° from LOM within 25 miles. #Standard clearance not provided over 833' radio must 13 miles SE of airport. *300-1 required for takeoff to SF; Air Commander Notes: No restriction in minimums or sliding scale authorized for takeoff to the SE. ##After interception of localizer course inbound, descent on glide slope to cross the outer marker at 1,600' on final approach is authorized.	

5 The ground controlled approach procedures prescribed in § 609 13 are amended to read in part:

GOA STANDARD INSTRUMENT APPROACH PROCEDURE

Readings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. The GOA instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics or such airport which approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for the particular area or as set forth below. Positive identification must be established with the ground controller. From initial contact with GOA to final authorized landing minimums, the instructions of the GOA controller are mandatory except when (A) visual reference with ground is established on final approach at or before descent to the authorized landing minimums or (B) at pilot's discretion if it appears desirable to discontinue the approach

City and State; airport name elevation; effective date	Radar terminal area; maneuvering altitudes by sectors and limiting distances	Ceiling and visibility minimums				Surveillance approach (ASR)	Except when the ground controller may direct otherwise prior to final approach, a missed approach procedure shall be executed as provided below when (a) communication on final approach is lost for more than 5 seconds; (b) directed by ground controller; (c) visual reference is not established upon descent to the authorized landing minimums; or (d) landing is not accomplished	
		Runway No	Condition	Precision approach (PAR)				
				75 m. p. h or less	More than 75 m. p. h			
1 PITTSBURGH, PA. Greater Pittsburgh 1 163 Procedure No. 1 Amendment No. 1 Effective date: August 6, 1955. Supersedes Amendment—Original dated January 19, 1954. Major changes: Revises missed approach altitudes	2 All sectors within: 10 nautical miles 2,500. 10-40 nautical miles 3,000 or MEA when lower	3 All runways	4 T-dn O-dn S-dn A-dn	5 2 engines or less	6 More than 75 m. p. h	7 300-1 600-1 500-1 800-2	8 More than 75 m. p. h	9 Missed approach to runways 5, 10, and 14; climb to 3,000 and proceed to River Radiobeacon. Missed approach to runways 23, 28 and 32; climb to 3,000 and proceed to Clinton Radiobeacon

These procedures shall become effective on the dates indicated in Column 1 of the procedures (Sec 206 52 Stat 984 as amended; 49 U S C 425 Interpret or apply sec 601, 52 Stat 1007, as amended; 49 U S C 551)

[SEAL]

[F R Doc 55-5397; Filed July 8 1955; 8:45 a m]

F B LEE  
Administrator of Civil Aeronautics

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg 44]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922 344 Valencia Orange Regulation 44—(a) Findings (1) Pursuant to Order No. 22 (19 F. R. 1741) regulating the handling of Valencia oranges grown in Arizona and designated part of California effective March 31 1954 under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U S C 601 et seq) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee established under the said order, and upon other available information, it is hereby found that the limitation of

handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat 237; 5 U S C 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted under the circumstances for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth The Valencia Orange Administrative Committee held an open meeting on July 7, 1955 after giving due notice thereof to consider supply and market conditions for Valencia oranges and the need for regula-

tion; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof

(b) Order. (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a m. P s t, July 10 1955 and ending at 12:01 a m. P s t, July 17, 1955, is hereby fixed as follows:  
(i) District 1: Unlimited movement;  
(ii) District 2: 415,800 boxes;  
(iii) District 3: Unlimited movement

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein  
(3) As used in this section, 'handler,' 'handler,' 'boxes,' 'District 1,' 'District 2' and 'District 3' shall have the same meaning as when used in said order  
(Sec. 5 49 Stat 753 as amended; 7 U S C 608c)  
Dated: July 8 1955  
[SEAL]  
S R SMITH,  
Director, Fruit and Vegetable Division, Agricultural Marketing Service  
[F. R. Doc 55-5610; Filed July 8 1955; 11:23 a m]

[Lemon Reg. 597]

## PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

## LIMITATIONS OF SHIPMENTS

§ 953.704 *Lemon Regulation 597*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175; 20 F. R. 2913) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on July 6, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., July 10, 1955, and ending at 12:01 a. m., P. s. t., July 17, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
  - (ii) District 2: 600 carloads;
  - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 7, 1955.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-5538; Filed, July 8, 1955;  
8:57 a. m.]

[Avocado Order 7, Amdt. 1]

## PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

## QUALITY REGULATION

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969; 19 F. R. 3439; 20 F. R. 4177), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid amended marketing agreement and order, it is hereby found that the limitation of handling avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 11, 1955. Shipments of Florida avocados are currently subject to less restrictive quality regulation pursuant to Avocado Order 7 (§ 969.307; 20 F. R. 3787) and, unless sooner modified or terminated, will continue to be so regulated until March 31, 1956; determination as to the need for, and extent of, continued regulation of Florida avocado shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendation and supporting information for continued regulation of avocado shipments subsequent to July 10, 1955, and in the manner herein provided, was promptly submitted to the Department

after an open meeting of the Avocado Administrative Committee on July 5, 1955; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such avocados; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective during the period hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *It is, therefore, ordered.* That the provisions in subparagraph (1) of paragraph (b) of § 969.307 (Avocado Order 7; 20 F. R. 3787) are hereby amended to read as follows:

(b) *Order* (1) During the period beginning at 12:01 a. m., e. s. t., July 11, 1955, and ending at 12:01 a. m., e. s. t., March 31, 1956, no handler shall handle: (i) Any avocados, grown in South Florida, which do not grade at least No. 2 Grade, as defined in § 969.130 (d) of the supplementing rules and regulations (20 F. R. 3557).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 7, 1955.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-5537; Filed, July 8, 1955;  
9:27 a. m.]

[Lime Order 1, Amdt. 1]

## PART 1001—LIMES GROWN IN FLORIDA

## QUALITY REGULATION

*Findings.* (a) Pursuant to the marketing agreement and Order No. 101 (7 CFR Part 1001, 20 F. R. 4179) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 63 Stat. 906, 1047) and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as here-

inafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 11, 1955. Shipments of designated varieties of Florida limes are currently subject to quality regulation pursuant to Lime Order 1 (§ 1001.301, 20 F. R. 4711) and, unless sooner modified or terminated, will continue to be so regulated until April 1, 1956; determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendation and supporting information for continued regulation of lime shipments subsequent to July 10, 1955, and in the manner herein provided, was promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on July 5; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective during the period hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

It is, therefore, ordered that the provisions in paragraph (b) of § 1001.301 (Lime Order 1, 20 F. R. 4711) are hereby amended to read as follows:

(b) *Order* (1) During the period beginning at 12:01 a. m., e. s. t., July 11, 1955, and ending at 12:01 a. m., e. s. t., April 1, 1956, no handler shall handle:

(i) Any limes, including the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms) and the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) grown in the State of Florida, except the area West of the Suwannee River, which do not grade at least U. S. No. 2: *Provided*, That (a) a tolerance of 15 percent (including the tolerances provided in such grade) shall be allowed for limes not meeting the requirements of such grade; and (b) the requirement of such grade that the limes shall have good green color shall be applicable only to limes known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties)

(2) As used in this section "handler" and "handle" shall have the same mean-

ing as when used in said marketing agreement and order; and the terms "U. S. No. 2" and "good green color" shall have the same meaning as when used in the United States Standards for Persian (Tahiti) Limes, as recodified (§ 51.1001 of this title; 18 F. R. 7107)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 7, 1955.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-5589; Filed, July 8, 1955;  
8:57 a. m.]

[Avocado Reg. 1, Amdt. 1]

PART 1067—AVOCADOS

IMPORTATION INTO U. S.

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) paragraph (a) of § 1067.1 (Avocado Regulation No. 1, 20 F. R. 3793) is hereby amended to read as follows:

(a) On and after the effective time hereof, the importation into the United States of any avocados is prohibited unless:

(1) Such avocados grade at least No. 2 grade, as defined in § 969.130 (d) of the supplementing rules and regulations, as amended (20 F. R. 3558) effective under the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969; 19 F. R. 3439·20 F. R. 4177) regulating the handling of avocados grown in South Florida, and

(2) Each such importation is made in conformance with the general regulations (7 CFR Part 1060; 19 F. R. 7707, 8012) applicable to the importation of listed commodities and the requirements of this section.

*Findings and determinations.* (a) It is hereby determined, on the basis of the information currently available, that there are no variations in characteristics between the domestic and imported avocados which would require the establishment of equivalent or comparable quality requirements with respect to such imports.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U. S. C. 1001 et seq.) because: (1) The same quality restrictions as are provided herein are being made applicable to shipments of avocados produced in South Florida and the requirements of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047) makes this amendment of the current regulation mandatory (2) as was the case in connection with the amendment of the domestic

regulation, the time intervening between the date when the information upon which this amendment is based became available and the time when this amendment must become effective is insufficient for engaging in such rule-making procedures; (3) notice that the Avocado Administrative Committee would meet on July 5, 1955, to consider recommendations for changes in the current restrictions on domestic shipments of Florida avocados was given to interested parties, including the exporters of Cuban avocados who are the present source of avocado imports to the United States; (4) representatives of such exporters attended such meeting and therefore they are already aware of the reasons for changing promptly the domestic regulation and the necessary similar revision of the import restrictions; (5) in these circumstances, compliance with this amended import regulation should not require any special preparation which cannot be completed by the effective time; (6) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this import regulation; and (7) such notice is hereby determined, under the circumstances, to be reasonable.

(Sec. 401 (e), 68 Stat. 907; 7 U. S. C. 608e)

Done at Washington, D. C., this 7th day of July 1955, to become effective at 12:01 a. m., e. s. t., July 13, 1955.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-5585; Filed, July 8, 1955;  
9:27 a. m.]

[Avocado Reg. 2, Amdt. 2]

PART 1067—AVOCADOS

IMPORTATION INTO U. S.

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) paragraph (a) of § 1067.2 (Avocado Regulation No. 2; 20 F. R. 4149) is hereby amended to read as follows:

(a) On and after the effective time hereof, the importation into the United States of any avocados is prohibited unless:

(1) The individual fruit in each lot of such avocados weigh at least 10 ounces: *Provided*, That not to exceed 10 percent, by count, of the individual fruit in each lot may weigh less than 10 ounces but not less than 8 ounces, and not to exceed double such tolerance percentage shall be permitted for an individual container in a lot if the entire lot is within the tolerance;

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, any person may import any lot of avocados if (i) the exterior seed coat of the individual fruit is of a brown color characteristic of a mature avocado, or (ii) such avocados, when mature, normally

change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature; and

(3) Each such importation is made in conformance with the general regulations (Part 1060 of this subchapter; 19 F. R. 7707, 8012) applicable to the importation of listed commodities and the requirements of this section.

**Findings and determinations.** (a) It is hereby determined, on the basis of the further information which is now available, that the requirements set forth in this amendment are comparable to the maturity regulation presently in effect for avocados grown in South Florida, which regulation was published in the FEDERAL REGISTER issue of May 17, 1955 (§ 969.306; 20 F. R. 3427)

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U. S. C. 1001 et seq.) because (1) this amendment of the existing import regulations is necessary to effectuate the purposes of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (43 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) (2) compliance with this amendment to the avocado import restrictions will not require any special preparation which cannot be completed by the effective time; and (3) this amendment relieves restrictions on the importation of avocados into the United States.

(Sec. 401 (e), 68 Stat. 907; 7 U. S. C. 608e)

Done at Washington, D. C., this 7th day of July 1955, to become effective at 12:01 a. m., e. s. t., July 11, 1955.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-5586; Filed, July 8, 1955;  
9:27 a. m.]

## TITLE 36—PARKS, FORESTS, AND MEMORIALS

### Chapter I—National Park Service, Department of the Interior

#### PART 20—SPECIAL REGULATIONS

##### EVERGLADES NATIONAL PARK; LESSEE UNDER MINING LEASE; CORRECTION

In F. R. Document 55-4741, appearing in the issue for Wednesday, June 15, 1955, at page 4186, the reference to paragraph (l) *Lessee under a mining lease* should read: (m) *Lessee under a mining lease*.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 24th day of June 1955.

[SEAL] CONRAD L. WIRTH,  
Director National Park Service.

[F. R. Doc. 55-5537; Filed, July 8, 1955;  
8:46 a. m.]

## TITLE 50—WILDLIFE

### Chapter I—Fish and Wildlife Service, Department of the Interior

#### Subchapter F—Alaska Commercial Fisheries

##### PART 104—BRISTOL BAY AREA

###### WEEKLY CLOSED PERIODS

**Basis and purpose.** On the basis of assured good escapements of red salmon in the Wood River system of the Nushagak district of Bristol Bay, it has been determined that additional fishing time can be permitted.

Therefore, effective immediately upon publication in the FEDERAL REGISTER:

Section 104.5 is amended in paragraph (a) by adding the following proviso to

the text: "*Provided, That for the week July 10 to 16 only the extension to the weekly closed period shall be from 12 o'clock noon Wednesday to 12 o'clock noon Thursday and from 12 o'clock noon Friday to 6 o'clock postmeridian Saturday.*"

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237-5 U. S. C. 1001 et seq.)

(Sec. 1, 43 Stat. 464, as amended; 43 U. S. C. 221)

Dated: July 8, 1955.

ARNE J. SUOMELA,  
Acting Director.

[F. R. Doc. 55-5611; Filed, July 8, 1955;  
11:48 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### [7 CFR Part 989]

[Docket No. AO 188-A 2]

##### HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

##### NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEP- TIONS WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 19 F. R. 57), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to Marketing Agreement No. 109 and Order No. 89 (7 CFR, 1953 Rev., Part 989), hereinafter referred to as the "order," regulating the handling of raisins produced from raisin variety grapes grown in California, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047), hereinafter referred to as the "act." Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112A, Administration Building, Washington 25, D. C., not later than the close of business of the tenth day after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** A public hearing, on the record of which the proposed amendments to the order are formulated, was held at Fresno, California, from April 4 to 9, 1955, inclusive. The hearing was initiated by the Agricultural Mar-

keting Service pursuant to a notice thereof which was published in the FEDERAL REGISTER (20 F. R. 1666) of March 19, 1955. The notice of hearing contained proposed amendments received from the Raisin Administrative Committee, hereinafter referred to as the "committee," the administrative agency for order operations, and amendments proposed respectively by certain raisin packers, the Raisin Growers of California, an organization of producers of raisin variety grapes, a raisin producer, and the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture.

**Material issues.** The material issues presented on the record of the hearing involve amendatory proposals relating to:

(1) Definitions of such terms as "Secretary," "act," "Golden Seedless raisins," "natural condition raisins," "packed raisins," "varietal type," "packer," "acquire," and "crop year," "standard raisins," "off-grade raisins," "part," and "subpart;"

(2) The composition, duties, and procedures of the committee and the Raisin Advisory Board;

(3) Authorization for the establishment of marketing research and development projects;

(4) The formulation and adoption by the committee of a marketing policy for each crop year;

(5) The application of minimum grade standards to, and the inspection and certification of, handlers' receipts and dispositions of raisins, irrespective of whether the season average price to producers for raisins exceeds the parity price;

(6) Prohibition of unfair methods of competition and unfair trade practices;

(7) Prohibition against handlers offering to sell or selling raisins at prices lower than publicly posted prices filed by them;

(8) Volume regulation including the establishment of the free, reserve, and surplus percentages; the setting aside, storage, and handlers' shares of reserve

and surplus tonnage raisins; and the disposition of reserve tonnage raisins;

(9) The disposition of surplus tonnage raisins;

(10) The filing of reports and the keeping of records by handlers;

(11) The financing of program operations;

(12) Publicity and notice requirements to be observed by the committees; and

(13) Redelineation of certain of the districts included in the area covered by the order.

*Findings and conclusions.* The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The definition of "Secretary" should be amended to obtain greater clarity in the meaning of the term as it applies to the delegation of authority to persons to act in his stead.

The definition of "act" should be changed to include the amendments to the Agricultural Marketing Agreement Act of 1937, which are contained in the Agricultural Act of 1954. These amendments, among other things, provide for incorporating into regulatory programs of this nature provisions authorizing the establishment of marketing research and development projects and it is proposed that such authority be included in this amended order.

The term "Golden Bleached raisins" should be changed to "Golden Seedless raisins" so that the name of this varietal type will conform with its modern trade designation.

The present order should be amended so as to define "natural condition raisins" as raisins the production of which includes sundrying or artificial dehydration, with or without bleaching, but which have not been further processed to a point where they meet any of the conditions for "packed raisins" as defined in § 989.10, other than grading or sorting of unstemmed raisins. "Natural condition raisins" are defined in the present order as raisins so produced but which have not been further processed to a point where they meet the conditions for "packed raisins." In effect, the amendment would take out of the category of natural condition, raisins which are in the process of being packed or raisins which are partially packed. It is a practice of producers to grade and sort raisins of their production before delivering them to a handler. Such grading and sorting of the raisins before stemming do not involve any of the usual packing processes and should not change the character of raisins from natural condition.

Natural condition raisins keep better in storage than packed raisins. It is partly for this reason that handlers should be required to maintain in natural condition form the reserve, surplus, and off-grade raisins held for the account of the committee. Since the keeping quality of raisins which have been stemmed, seeded, or otherwise subjected to a packing process is impaired, it is essential that natural condition raisins should not

be defined so as to include partially packed raisins.

In order to clarify the status of partially packed raisins and to insure that they are subject to regulation, the definition of "packed raisins" (§ 989.10) should be amended by adding at the end thereof a provision that raisins in the process of being packed or raisins which are partially packed shall be subject to the same requirements as packed raisins.

The definition of "varietal type" should be amended to include all Sultana raisins as one varietal type and all Zante Currant raisins as one varietal type. The present definition separates Sultana raisins into two types, depending on whether they are produced by sundrying or artificial dehydration. The same is true of Zante Currants. This distinction has required separate volume percentages to be fixed each crop year on four instead of two varietal types for no useful purpose. Only negligible quantities of these two varieties have been produced in recent years by artificial drying. Even if substantial quantities are produced in the future, no need would exist for differentiating with respect to Sultana and Zante Currant raisins, respectively, for the purposes of quality or volume regulation, between those produced by sun-drying and those produced with artificial heat. In this regard, it is difficult to detect physical differences between Sultanas dried by the two different methods and the market does not distinguish between the two products insofar as pricing is concerned. This is also true of Zante Currants.

Section 989.15 of the present order should be amended so as to define "packer" as any person who, within the area, stems, sorts, cleans, or seeds raisins, grades stemmed raisins, or packages raisins for market as raisins, provided that any producer or dehydrator shall be deemed to be a packer, with respect to the raisins produced or dehydrated by him, only if he stems, cleans, seeds or packages them for market as raisins. The term is now defined as any person who acquires natural condition raisins and within the area stems, grades, sorts, cleans, or seeds them, and packages them for market as raisins.

One of the principal changes the proposed amendment would make would be the elimination of the existing requirement that the raisins be acquired. A second change would be, in lieu of making packing a mandatory function for qualification, it would be one of the alternative functions. Since the term "acquire" is defined as meaning to obtain possession of raisins as the first handler, to limit packers to those persons who acquire natural condition raisins would eliminate as a packer any person who obtains raisins from a handler, even though that person performs one or more packing functions with respect to such raisins. Under the proposed provisions for grade and condition standards, it is necessary to regulate a person who receives raisins from another handler, whether they be natural condition or not, and who prepares or packages the raisins for market. In order to effectuate the said provisions, it is necessary that any person performing a packing function be de-

finied as a packer (and consequently as a handler) so that he may be brought under regulation and subjected to necessary requirements applicable to raisins at the time of their acquisition or at the time of their final disposition in or from the area as raisins. By making packing for market as raisins a separate packing function, each person would be covered as a packer in case one person prepared raisins and another packaged raisins for market. A person engaged, in the area, in any one of the enumerated functions of a packer would become a packer and subject to regulation as such.

Producers and dehydrators normally grade or sort raisins of their production before delivering them for packing, but they should obviously be covered as a packer with respect to such raisins only if they stem, clean, seed, or package them for market as raisins.

The proposed amended definition of "packer" as set forth in the notice of hearing covers as a packer any person who, within the area, performs or causes to be performed with respect to raisins certain specified packing functions. The language "or causes to be performed" contemplates that a person may pack raisins for the account of another person as in the case of a toll packing arrangement. While such language would include as packers, producers who had raisins packed for themselves or for their account, it was testified that the committee would look to the "packer" (rather than the "producer") to fulfill order requirements with respect to such raisins. Also, the proposed amended order would provide even more clearly than the present order provides, that in order for raisins first to be brought under regulation they must be in the physical possession of the packer or other handler. In view of these aspects of the matter, it is concluded that only a person performing the packing function and not the person who may cause such functions to be performed, should be defined as a packer.

It was proposed at the hearing that "blending" be included as one of the functions of "packing" in order to prevent blending of raisins by persons who might buy raisins for such purpose. However, testimony developed that blending by producers and dehydrators was customary and that it was undesirable to treat them as handlers. However, the exclusion of producers and dehydrators from the scope of this proposal would defeat its objectives. The proposal is, therefore, denied.

Free, reserve and surplus percentages apply, and it is intended that certain of the proposed minimum grade and condition standards (and inspection) also apply, at the time raisins are acquired by a handler. It therefore is important that the point at which raisins are deemed to have been acquired be clearly defined. The term is defined in the present order as meaning to obtain possession of raisins as the first handler thereof.

Since the regulations which would apply at the time of acquisition would necessitate physical inspection of the

particular lot of raisins, and physical setting aside and segregation of reserve and surplus tonnage referable to such lot, "acquire" should be defined to mean to have or obtain physical possession of raisins by a handler at his packing or processing plant or at any other receiving station operated by him, except that a handler shall not be deemed to acquire any raisins (including raisins produced or dehydrated by him) while: (1) He stores them for another person or as handler-produced tonnage pursuant to the provisions of §§ 989.56 and 989.70; (2) he reconditions them; or (3) he has them in his possession for the purpose of inspection. The first two exceptions are necessary so as not to deprive a handler of the privileges of storing or reconditioning raisins for producers or dehydrators if he complies with applicable provisions of the order, or so as not to deprive producers and dehydrators of these services. Since the results of inspection would have a bearing on whether the raisins might be acquired, obviously handlers and producers should be free to postpone any decision as to "acquisition" until after the results of the inspection are known.

A handler should be deemed to have acquired raisins upon the delivery of the raisins at his packing or processing plant or other established receiving station, for these are the points at which a handler would normally receive raisins in his capacity as a handler and at which he could comply with the order requirements with respect to them.

As to raisins produced or dehydrated by a handler, it is set forth in the notice of hearing that "acquire" means, except as to raisins being reconditioned, the physical possession of such raisins in his packing plant or other established receiving station. By this provision, if a handler brought raisins of his production into his packing plant, processing plant or receiving station for storage or inspection, he would acquire them at that point. The proposed provisions of § 989.58 would require a handler to have inspected any raisins, including those of his production, received by him for storage, and that the raisins meet the prescribed minimum grade and condition standards. The proposed provisions of § 989.70 prescribe the conditions under which a handler may store raisins for others or raisins produced and owned by him. In view of these safeguards, it is concluded that a handler should be afforded the same privilege of storing raisins of his own production which is provided with respect to his storing raisins for others. It is also concluded, for obvious reasons, that a handler should not be deemed to have acquired raisins of his production by reason of the fact he has them in his plant or receiving station for the purpose of inspection.

"Acquire" should not apply to raisins which previously have been acquired by a handler because it is not necessary that the requirements attaching to acquisition be met more than once.

The term "crop year" should be changed to mean the 12-month period beginning with September 1 of any year

and ending with August 31 of the following year. Since the amended order may not become effective by September 1, 1955, the first crop year should begin on the date when it is made effective, assuming that the amended order is issued. In order to provide coverage under this regulatory program for the intervening period between August 14, 1955, and the effective date of such amended order, the 1954-55 crop year should be extended from August 14, 1955 so that it will continue in effect until the initial crop year under the amended order begins.

Inasmuch as industry operations are conducted on a calendar month basis, with records and statistical data kept accordingly, changing of the beginning date of the crop year from August 15 to September 1 should lessen accounting, statistical, and reporting difficulties for the handlers and the committee. While relatively small quantities of new crop Golden Seedless and Zante Currant raisins are delivered by producers to packers prior to September 1 and the volume and quality regulations for the new crop year might be different than those for the expiring crop year, producers could exercise a choice as to whether they deliver such raisins in the expiring or new crop year.

A new section, § 989.24, should be added to include in the order definitions of the terms "standard raisins" and "off-grade raisins," respectively, as these terms occur in the proposed amended order. The term "standard raisins" should be defined to mean raisins which have been certified as meeting the then effective minimum grade and condition standards for natural condition raisins and the term "off-grade raisins" should be defined to mean raisins which fail to meet such standards. It is desirable to identify these two categories of raisins by definition because the provisions of the amended order would be applied to them differently.

A new section, § 989.25, should be added to include in the order definitions of the terms "part" and "subpart" so that these terms will have the meanings used by the Federal Register Division for this kind of program.

(2) The present order requires that the Raisin Administrative Committee shall consist of 14 members, of whom eight represent producers, four represent packers, one represents dehydrators, and one represents processors.

The provisions of the order relative to representation of handlers on the committee should be amended to eliminate the requirement that processors be represented as a separate category. For the purposes of representation on the committee processors should be grouped with handlers doing a small volume of business. Only a small number of persons have qualified as processors under the order and their representation on the committee has been out of proportion to the relatively small quantities of raisins acquired by them. This amendment would correct this situation and still permit processors to be represented.

The provisions of the order relative to the grouping of independent handlers

according to their volumes of business should be changed to provide a sliding scale arrangement under which they would be entitled to representation on the committee on the basis of the relative quantities of raisins acquired by them during the 12-month period preceding the then current crop year, rather than according to fixed percentage ranges into which their proportions of the total raisin pack fall during that period. The handler positions on the committee for packers doing a medium volume of business are now vacant because it was determined under the fixed percentage method that no handler did a medium volume of business during the applicable base period. The proposed sliding scale arrangement, as set forth hereinafter, would correct this deficiency and aid in assuring full independent handler representation on the committee. Moreover, the use, for representation purposes, of handlers' acquisitions of raisins, instead of the quantities packed by them, would avoid the need for handlers to make a separate report of their packed tonnages and would reflect as accurately the extent of their participation in the raisin industry.

The order should be amended to include, for the purposes of committee representation, cooperative marketing associations doing a small volume of business in the same category as processors and small packers. Provision for representation of such cooperatives, other than through the large cooperative, was omitted in the promulgation of the present order.

Since the membership of the committee is drawn from the membership of the Raisin Advisory Board, appropriate changes should be made in the provisions relating to the board in order to effectuate the proposed changes in the committee's membership.

The foregoing amendments were sponsored by the Raisin Administrative Committee and, if adopted, the membership of the committee would consist of 14 members, of whom eight would represent producers, five would represent handlers, and one would represent dehydrators. Of the five handler members, one would be selected from and represent each of the following divisions: (a) The handlers doing business as cooperative marketing associations, or cooperative organizations engaged in the business of packing raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year; (b) the two handlers, other than cooperatives, who acquired the largest percentages of total acquisitions of raisins during the 12-month period preceding the then current crop year; (c) the three handlers, other than cooperatives, who acquired the next largest percentages of total raisin acquisitions during the 12-month period preceding the then current crop year; (d) the five handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; and (e) all other handlers, including cooperatives which acquired less than 10

percent of the total raisin acquisitions during the 12-month period preceding the then current crop year and including all processors.

It was proposed by independent handlers that the membership of the committee should consist of 18 members, of whom eight should represent producers, eight should represent handlers, one should represent producer-dehydrators, and one should represent packer-dehydrators. Under this proposal the representation among handlers would be divided according to a sliding scale arrangement similar to that in the committee proposal heretofore discussed, but the large cooperative marketing associations and the independent handlers doing a large volume of business would be afforded more, and the handlers doing a small volume of business less, representation on the committee than would be the case with the committee's proposal. On the other hand, it was proposed by the Raisin Growers of California that the membership of the committee should be confined to and consist of 11 producers only. This organization and the handler group each proposed amendments to other order provisions so as to effectuate their respective intentions in changing the membership of the committee. These included proposals to amend the provisions relating to the Raisin Advisory Board and those provisions dealing with the number of concurring votes needed to reach a decision by the committee. The instant proposals represent wide divergencies of opinion on this matter in the raisin industry and, lacking any compromise proposal sponsored by all of the groups concerned, it must be recommended here as to which of three methods of apportionment should be followed.

The primary purpose of the act and of the program is to benefit producers who comprise by far the most important industry segment from the standpoint of the number of persons affected by program operations. The committee's proposal as to representation is in accordance with the preponderant view in the industry. One of the reasons why handlers desire more representation on the committee is that they have been outvoted by producers on controversial matters, such as the pricing and disposal of reserve and surplus tonnage and the quantity of raisins which should be included in the free tonnage. These issues between producers and handlers would not necessarily be any less controversial by reason of the handlers having greater representation on the committee. Inasmuch as representatives of different types of handling operations can contribute valuable marketing information and advice in the deliberations of the committee and their help is needed for the industry to accomplish an effective marketing job, their membership on the committee should not be decreased. In these circumstances, it is recommended that the committee membership proposals sponsored by the committee be adopted. Accordingly, the membership proposals including the corollary amendments sponsored, respectively by the inde-

pendent handler group and the Raisin Growers of California, are denied.

The order now provides that no person shall be selected or continue to serve as a member or alternate member of the board or committee who was not actively engaged in the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in that business. At the hearing it was proposed by a producer of raisins that these provisions be supplemented with a provision to the effect that no person shall so serve who has any substantial interest in the raisin industry in conflict with the interests of the group or business unit which he purports to represent. The evidence in support of the proposal is not sufficiently definitive to permit conclusions concerning just what situations would constitute conflicts of interest. In view of this reason, the proposal is denied.

During past order operations and at the hearing, the question arose concerning whether a handler should continue to serve on the board or committee when his volume of raisin business changed during his term of office so that it fell within a size group of handlers other than the one for which he was nominated and selected to represent. It is concluded that such a handler should be permitted to complete his term of office so as to avoid the making of frequent and current determinations regarding the volume of raisin business conducted by handlers and to aid in assuring full handler representation on the board and committee at all times.

The order should be amended to provide that the handler and the dehydrator members of the board and their alternates should serve for one year instead of three years. This revision would more readily insure that the handler membership of the board would currently and closely represent each of the handler groups.

Appropriate provisions should be made for establishing the membership of the initial board and committee under the amended order as soon as practicable after its effective date. Inasmuch as the amended order would not make any substantial change in the bases for the producer membership of the board, the producer members and alternate producer members of the board and committee then serving on the effective date of the amended order should continue to serve as the board's and committee's producer members and alternates for the period for which they were selected. Since the bases for nominating and selecting the handler and dehydrator membership of the board would be different under the amended order, new handler and dehydrator membership on the board and committee should be nominated and selected so that it would conform with the revised provisions. However, handler and dehydrator members and their alternates holding office on the effective date of the amended order should continue to serve until the successors have been selected and have qualified so that the membership of the board could be at full strength while operations are being shifted from the

present program to the amended program.

It is provided in the present order that any producer who produced raisin variety grapes during the then current crop year in any of the districts specified in the order may be nominated to represent any districts as producer member or producer alternate member of the board. There have been instances in the past when the same producer has been nominated, but not selected, to represent more than one district. So that this situation will not arise in the future, the order should be amended to preclude a producer from being a nominee from more than one district.

The order should be amended to provide that the person receiving a majority of votes with respect to each producer member or producer alternate member position on the board shall be the person to be certified to the Secretary as the nominee for that position, and that in the event no person receives a majority, there shall be a run-off vote between the two persons receiving the largest number of votes. In this way, the person nominated would represent the choice of the majority of the producers voting at the nomination meeting.

It is specified in the present order that two members of the board and one member of the committee shall represent dehydrators. No distinction is made between producer-dehydrators and packer-dehydrators for the purposes of this representation and dehydrators as a group under past order operations have been able to resolve satisfactorily the question of who should be nominated to represent them. At the hearing it was proposed by the committee that only dehydrators other than packers should be eligible to serve as dehydrator members. Independent handlers proposed at the hearing that the board and the committee each have two dehydrator members, one a producer-dehydrator and the other a packer-dehydrator. In the California raisin industry there are producer-dehydrators, packer-dehydrators and producer-packer-dehydrators, who are capable of fairly representing the views of the dehydrator segment of the industry as a whole. Experience has shown that it is possible for the dehydrators to be represented adequately from among such persons. Accordingly, both of these proposals are denied.

The order now provides that the board shall meet on the first Monday in March of each year, and at other times at the call of its chairman. The order should be amended to delete this mandatory requirement for an early March meeting, because it has not served any useful purpose and is not likely to do so. The order should be amended to provide that the board shall meet at the call of its chairman or its vice chairman, or at the call of any officer of the board upon the request of at least one-third of its producer or handler members. This provision should encourage the holding of board meetings to consider problems while they are still current.

The order should be amended to require the committee to prepare quarterly instead of monthly statements of its financial operations. The time of the

committee's employees would be conserved if this change is adopted, and at the same time quarterly statements should provide sufficient financial information for proper fund and accounting control.

The order should be amended to include as an additional duty of the committee the investigation of compliance with, and the use of means available to it to prevent violations of, the provisions of the order and all rules, regulations, and supplementary orders issued thereunder. This provision would aid in clarifying the committee's authority with respect to seeking evidence of violations and obtaining handler compliance. The act confers upon the committee the power to receive, investigate, and report to the Secretary, complaints of violations of the program. If it were necessary for the committee to wait until it received complaints of violations before checking for compliance, some violations probably would never be exposed. Moreover, many potential violations could be prevented by the committee employing effective compliance methods. For these reasons, this new duty should be added.

The order should be amended to authorize the committee to vote by mail or telegram in order to save the time of its members, conserve its funds, and permit quick action in case of an emergency. However, fourteen concurring votes (unanimous) should be required to reach a decision on a proposition voted upon by mail or telegram. This safeguard would enable one member to prevent the adoption of any controversial matter by mail or telegraphic vote without the benefit of an assembled meeting where members would have the benefit of discussion before resolving the question. Moreover, so that the members would be informed properly with respect to any matter submitted to them for voting by one of these methods, the proposition should first be explained accurately, fully, and identically by mail or telegram to all of them.

The order should be amended to require that the committee shall defer action with respect to any marketing policy or percentage recommendation of the board until at least the day following the day on which any such recommendation is adopted by the board. Obviously, the committee should have time to consider carefully the board's recommendations on these important matters before the committee makes its recommendations to the Secretary regarding them.

(3) The Agricultural Act of 1954 amended the Agricultural Marketing Agreement of 1937, as amended, so as to authorize among other things, the inclusion in marketing agreements and orders of authority for administrative committees to establish, or provide for the establishment of, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of the commodity covered by the order, the expense of such projects to be paid from assessment funds collected from handlers pursuant to the particular program.

The Raisin Administrative Committee should be authorized, with the prior ap-

proval of the Secretary, to undertake or contract for such projects. These projects might include, among others, those designed to achieve more accurate estimates of the raisin production, or aid in the expansion of present market outlets or the development of new market outlets for raisins and the products thereof. It is not possible at the present time to foresee and enumerate all of the projects which may be beneficial to the raisins industry. It is expected that the nature and need for these research and development projects will vary from time to time depending upon the prevailing circumstances. Committee plans to engage in these endeavors should receive the prior approval of the Secretary so that he may determine whether they are appropriate and are within the statutory authorization.

It would not be permissible for the proposed authorization, if adopted, to be used for conducting advertising programs for raisins. However, the authorization should permit the committee to cooperate more effectively in projects conducted by Federal and State agencies, educational institutions, and private research organizations, through contracts or other appropriate means.

It is believed that worthwhile results should be achieved from these projects and that they could be expected to contribute to more orderly marketing of raisins and the enhancement of producer returns. It is concluded, therefore, that such authorization should be included in the order.

It was proposed by the Raisin Growers of California that the committee should be required to formulate and adopt plans for research and development projects at a specified time each year. As it is not possible to foresee the nature of all such projects, it will not be practicable to foresee the time when they should be undertaken. Therefore, the committee should be free to take this action at any time and it should be discretionary with the committee as to whether it engages in any of these projects, subject only to the approval of the Secretary. Accordingly, this proposed modification is denied.

(4) The present order provides that the committee shall hold a meeting to formulate and adopt a marketing policy for the ensuing crop year not later than July 5 preceding the beginning of the year. The committee has found that this date is too early to make reasonably accurate estimates of conditions which will prevail in the ensuing crop year and to formulate a realistic marketing policy. Accordingly, this time limitation should be changed to August 20 by which date the committee would have available to it more reliable information on the probable supply and marketing conditions for grapes and raisins for the ensuing crop year, on the basis of which it could formulate a more realistic marketing policy.

The committee should give consideration to the factors listed in the amended order recommended herein with respect to each varietal type of raisins so that it would have a reasonable basis for establishing a marketing policy consistent with the outlook for supply and demand conditions.

(5) In the interests of producers, handlers, and consumers, the order should be amended to include provisions which would prevent the marketing of low quality, off-grade raisins in regular commercial trade channels for use as human food, irrespective of whether the estimated season average price to producers for raisins exceeds parity.

Competition in the marketing of raisins is based to a considerable extent on the price factor and sales of such off-grade raisins, at a discount, to the trade have depressed the prices and values of better grade raisins. It is reasonable to expect that the correction of this situation would improve consumer acceptance of and demand for raisins and that the total value of the crop would be augmented. Under the amended order, it is intended, during years when producer prices do not exceed parity, that the supply of raisins for disposition in regular commercial trade channels will be tailored to conform with the demand in those outlets. It is logical that such tailored supply for human consumption be achieved by the withholding of the low quality and the release of the better quality raisins and that the off-grade or below standard grade raisins be disposed of in outlets other than for human consumption.

Even when prices to producers exceed parity, it obviously would not be in the interest of users, consumers, producers, or handlers to permit the distribution to the public of off-grade raisins which are considered unacceptable by any reasonable standard for use as human food, either in the form of raisins or raisin products.

The quality regulations should include the application of minimum grade and condition standards to handlers' receipts of natural condition raisins and the application of related minimum grade standards to handlers' shipments or other final dispositions of raisins.

The notice of hearing included proposed initial minimum grade and condition standards for natural condition raisins and for packed (processed) raisins. However, the minimum grade standards for packed raisins should be the same as the U. S. Grade C in the then effective United States Standards, except that in the case of Zante Currants and Layer Muscats such minimum grades should be the same as the then applicable U. S. Grade B. These are the minimum grades which the industry believes should be established for assuring that the quality of raisins used for human consumption would be satisfactory and that the objectives of quality regulation would be achieved. The minimum grade and condition standards for natural condition raisins prescribed under the amended order should be related to those for packed raisins, since raisins meeting the requirements of the former standards should be of such quality and condition that they would, when processed in accordance with good commercial practice, meet the effective minimum grade standards for packed raisins. The proposed minimum grade and condition standards for natural condition raisins set forth in the notice of hearing

should be adopted with minor modifications supported at the hearing.

Handlers' receipts and dispositions of raisins should be inspected in order to determine whether they meet the applicable minimum grade standards, to ascertain the quality of raisins on a uniform basis, and to facilitate the segregation and control of raisins failing to meet those standards.

The quality regulations applicable to handlers' receipts of natural condition raisins (incoming quality regulations) would aid in diverting off-grade raisins from human consumption channels, afford producers and handlers a basis upon which to price such receipts according to quality, encourage producers to produce better quality raisins, and facilitate compliance with the quality regulations relating to handlers' shipments and other dispositions of raisins.

The quality regulations applicable to handlers' dispositions of raisins (outgoing quality regulations) would ensure that raisins shipped for human consumption will meet minimum requirements for edible raisins, and thus instill confidence in the trade that its purchases of better quality raisins will not meet disruptive competition from low-priced, off-grade raisins.

The amended order should permit the quality of raisins to be regulated according to varietal types because production and marketing conditions usually vary for the different varietal types and the inherent quality characteristics of the individual varietal types differ one from another.

In order to achieve the purposes of incoming quality regulations, no handler should be permitted to acquire or receive natural condition raisins unless they meet the minimum grade and condition standards as set forth in § 989.97 (Exhibit B) or as later modified. However, four exceptions should be made to this restriction. Under the first exception, handlers should be permitted to acquire storable off-grade raisins for the account of the committee to permit the pooling of these raisins. The off-grade raisins so pooled should be storable, otherwise they would deteriorate quickly while pooled. Storable off-grade raisins should include only those off-grade raisins, as described in the aforesaid Exhibit B, which have been properly dried and cured in original natural condition, are free from active infestation, and are in such condition that they are capable of being received, stored, and packed without undue deterioration or spoilage. Off-grade raisins failing to meet these storability requirements would be non-storable off-grade raisins.

Under the second exception, any handler should be permitted to receive raisins for inspection. Obviously, a handler should be permitted to receive any raisins on his premises or at an established receiving station so that their quality could be determined by inspection.

Under the third exception, any handler should be permitted to receive storable or non-storable off-grade raisins for reconditioning so that such raisins

could be converted by the handler into a storable or marketable condition by such means as fumigation, sorting, processing, or further drying.

Under the last exception, a handler who is a processor should be permitted to acquire storable or non-storable off-grade raisins for use in distillation, animal feed, or any outlet other than for human consumption because the grade and condition of these raisins would not normally preclude their use in these outlets and such usage would not impair the demand for standard raisins in normal trade outlets.

All storable off-grade raisins acquired by a handler for the account of the committee should be held separate and apart from any other raisins held by him, should not be held for the account of anyone but the committee, and should be identified as storable off-grade raisins. These requirements are necessary to prevent handlers from commingling off-grade raisins with standard quality raisins, to aid in compliance checks by the committee, and to facilitate the pooling and disposition of off-grade raisins in specified outlets. The expressed desire of the industry was to preclude the storage of off-grade raisins on memorandum receipt in order to implement other provisions which would result in the early reconditioning or disposal of off-grade raisins.

The amended order should authorize the modification of the minimum grade and condition standards prescribed for natural condition raisins. In view of the limited experience which the industry has had with such standards, it is possible that areas of change may develop in the standards now proposed. Beyond this, if the minimum grade standards for packed raisins are modified, it may be necessary to modify the minimum grade and condition standards for natural condition raisins to keep the two standards properly related.

Procedure also should be prescribed in the amended order to permit modification of the outgoing minimum grade standards then in effect. In view of possible changes in consumer preference or of improvements in processing techniques, changes may be desirable in such standards. Also, if the minimum grade standards for natural condition raisins are modified, it may be necessary to modify the minimum grade standards for processed raisins to keep the two standards properly related.

Each handler should cause an inspection to be made of all raisins acquired or received by him, except raisins which a handler obtains under an inter-plant or inter-handler transfer. No other exception should be made to this requirement so that all raisins delivered to handlers would be inspected on the same basis and either designated as standard raisins or as off-grade raisins. The cost of all such inspections should be borne initially by the handler requesting the inspection. However, provisions should be made to reimburse the handler for inspection costs applicable to pool tonnage held by him for the account of the committee.

No handler should be permitted to acquire raisins, store raisins, recondi-

tion raisins or acquire any raisins which have been reconditioned until he has obtained an inspection certificate showing whether the raisins meet the applicable incoming minimum grade standards for natural condition raisins. The foregoing requirements are necessary to identify and separate off-grade raisins from standard raisins and to insure that only standard quality natural condition raisins will be included in the free, reserve, and surplus tonnages, with storable off-grade natural condition raisins being set aside in a separate pool.

Inasmuch as a handler would be permitted to store only standard quality raisins for his own account or for the account of another person, it would be necessary to determine by inspection that the raisins were of such quality before the handler could enter into a storage arrangement. Since stored raisins may deteriorate in quality before they are acquired by a handler so that they no longer meet the incoming minimum grade standards, the committee should have the authority, in its discretion, to require that such raisins be inspected again at the time the handler acquires them. It is anticipated that the committee will require reinspection only when it has reason to believe that the raisins have deteriorated materially during storage. This authorization should be provided in rules and procedures to be prescribed by the committee with the approval of the Secretary.

Raisins received by a handler for reconditioning should be inspected when received for this purpose so as to provide the committee with information with respect to raisins received for reconditioning, and to aid in ensuring that the raisins will be kept separate and identifiable from other raisins until the reconditioning process is completed. The quality and perhaps the weight of the raisins would be different after the reconditioning of the raisins is completed. Therefore, the raisins should be inspected again at that time so that the handler and committee would know the order obligations on such raisins.

In order to afford producers and dehydrators ample opportunity for disposing of, and for maximizing their proceeds from, off-grade raisins, the amended order should provide that any natural condition raisins tendered to a handler which fail to meet the incoming minimum grade standards may at the option of either the handler or the person making the tender (1) be returned to such person; (2) if storable, be turned over to the handler to be held by him as off-grade natural condition raisins for the account of the committee; or (3) be turned over to the handler for reconditioning. A written agreement should be required in connection with reconditioning so that the committee would be informed of the status of the raisins.

If the handler is to acquire the raisins after they have been reconditioned, his obligations with respect to such raisins should be based on the weight of the raisins (if stemmed, adjusted to natural condition weight) after they have been reconditioned.

After reconditioning, if the raisins are no longer natural condition raisins, any

handler who acquired such raisins should meet his reserve and surplus tonnage obligations with natural condition raisins acquired by him. The reason for this proposed provision is that partially processed or processed raisins do not withstand storage as well as natural condition raisins and raisins pooled under the program should be storable in view of the periods of time needed to effect their disposition.

Any off-grade raisins (including stemmer waste and raisin offal) accumulated by a handler in reconditioning raisins should, depending on the terms of the written agreement between the handler and the person making the tender, be returned by the handler to such person, or be disposed of by the handler pursuant to § 989.59 (f) of the amended order. The off-grade raisins resulting from reconditioning ordinarily would be unsuitable for storage in an off-grade raisin pool for any extended period of time. Provision should be made, therefore, to permit the prompt disposition of this material.

In order to prevent raisins received by a handler for reconditioning from contaminating pool raisins on his premises and to ensure that such raisins will not be commingled with standard raisins which have been acquired by the handler, each lot of raisins received by a handler for reconditioning should be stored and kept by him separate and apart from all other raisins including other lots received by him for reconditioning until the quality of the raisins is established by inspection and certification after they have been reconditioned. Since it is not possible to foresee at this time all of the requirements that should be prescribed with respect to the reconditioning of raisins, the committee should have the authority to adopt appropriate rules and procedures with the approval of the Secretary.

Except as otherwise indicated below, no handler should be permitted to ship or otherwise make final disposition of natural condition raisins or of packed raisins which fail to meet the applicable minimum grade standards.

In order to determine on a uniform basis that raisins entering trade channels would be of acceptable quality, each handler should, before shipping or otherwise making final disposition of raisins, cause an inspection to be made of the raisins to determine whether they meet the then applicable minimum grade standards unless the raisins are specifically exempted. He should submit, or cause to be submitted, to the committee a certificate that the raisins meet such standards together with such other documents or records as the committee may require so that the committee would be provided with the information needed by it for administering the quality provisions of the amended order.

Since processed or packed raisins are more perishable than natural condition raisins and it is possible that a handler would permit an unreasonable period of time to elapse between inspection and shipment or other final disposition, the committee should have the authority to specify in appropriate rules and procedures periods of time for which inspec-

tion certificates issued in connection with outgoing quality regulation are valid.

It is necessary that an agency be designated to render the required inspection services. The inspection agency so designated should be the Processed Products Standardization and Inspection Branch of the United States Department of Agriculture. Testimony was to the effect that these services could be performed satisfactorily by this agency. However, if the committee determines, and the Secretary concurs in that determination, that inspection by another agency would improve the administration of the order, it should be provided that another inspection agency could be designated.

It was proposed at the hearing that the order include a provision to the effect that any change contemplated in the designation of the inspection agency should be submitted to the Raisin Advisory Board for its consideration and recommendation. This provision would be unnecessary because any program matters may, under the present provisions, be considered by the board in its discretion. The evidence does not substantiate a change which would make the board's recommendation binding in such an event, therefore, this proposal is denied.

Certain exceptions should be made to the requirements of the amended order relating to the quality controls applicable to handlers' shipments or other final dispositions of raisins. Any handler should be permitted to transfer raisins from his plant to his own or another handler's plant within the State of California without having had such raisins inspected as called for in connection with the outgoing quality regulations. These transfers should be permitted so as to minimize interference with handlers' normal operations. The transferring handler should submit promptly to the committee a report of each such transfer so that the committee would be informed of the quantities of raisins held by the respective handlers. The receiving handler should, however, before shipping or otherwise making final disposition of raisins, comply with the inspection and quality requirements then in effect so that a way would not be open for shipping raisins of unsuitable quality to the public.

The amended order should provide that any off-grade raisins (including stemmer waste and raisin offal) which may be received by a processor or accumulated by a handler by removing them from his standard raisins, and any raisins acquired as standard raisins by a handler which do not meet the applicable grade and condition standards for shipment or final disposition as raisins, should be disposed of or marketed, without further inspection, for distillation, animal feed, or uses other than for human consumption. Such raisins and raisin material would normally be received by processors or derived from handlers' normal processing and packing operations on standard raisins. Therefore, it would be only fair and reasonable to permit handlers to recover such financial value as they can from

the off-grade raisins and raisin waste arising from raisins, and it would serve no useful purpose to require reinspection. So that the objectives of the order would not be defeated, such raisins and raisin material should be disposed of only in the indicated channels and the committee should be authorized to establish, with the approval of the Secretary, such rules and procedures as would be necessary to ensure this.

The committee should have the authority to establish, with the approval of the Secretary, rules and procedures exempting gift and specialty packs from the grade, inspection, and certification requirements imposed in connection with outgoing quality regulation. These dispositions are not considered to be competitive with normal market sales. Also, this provision is desirable to permit the development and expansion of markets for specialty packs of raisins, including gift packs.

A separate pool should be established for storable off-grade raisins held by handlers for the account of the committee so that the holding and disposition of such raisins could be controlled effectively. The disposition of these off-grade raisins should be limited to distillation, animal feed, or uses other than for human consumption. Inasmuch as off-grade raisins held by handlers for the account of the committee are not considered surplus tonnage raisins, which are confined to standard raisins, and pooling provisions must be prescribed for this off-grade pool, the committee should, with the approval of the Secretary, establish such rules and procedures as are necessary for the receiving, handling, holding, and disposing of such off-grade raisins. These rules and procedures should include provisions dealing with handlers' obligations and responsibilities, payments to handlers for performing services in connection with the pool, and distribution of net proceeds to equity holders in a manner similar to those comparable provisions dealing with surplus tonnage raisins.

Notwithstanding any other provisions of the amended order, the committee should be authorized to establish, with the approval of the Secretary, such rules and procedures as may be necessary to permit the acquisition and disposition of any off-grade or surplus pool raisins, free from any or all order regulations, for use in distillation, animal feed, or any uses other than for human consumption. It is advisable to include this special provision in the amended order because of such situations as a portion of the raisin production in any year being damaged by rain or other natural causes, a necessity to make quick disposition of off-grade raisins which are not storable, and to facilitate disposition of off-grade and surplus pool raisins.

As authorized by section 2 (3) of the act, the provisions of the amended order relating to minimum grade and condition standards and inspection requirements, and any other provisions pertaining to the administration and enforcement thereof, should continue in effect irrespective of whether the season average prices to producers for raisins is in excess of the parity level specified in section 2

(1) of the act. Incorporation in the amended order of authority for quality regulation in an above-parity situation would ensure the continuity of the regulation, and by keeping unacceptable raisins out of channels for human consumption contribute to the orderly marketing of raisins and be in the public interest. Any off-grade raisins received by a handler during a period when minimum grade standards are in effect and when the season average price to producers for raisins, estimated by the Secretary, is in excess of the parity level, should be disposed of by such handler pursuant to the provisions of § 989.59 (f) rather than through the off-grade pool.

(6) A new section entitled "Unfair methods of competition and unfair trade practices" was proposed by the committee. This section contains six specified practices or methods of trade deemed by the proponents to be unfair. The section, if made effective, would prohibit such practices.

(I) "Guarantee against price decline or guarantee against prices of competitors whether by refund, concessions or subsequent purchases, rebates, cancellations, or otherwise, but this provision shall not prohibit guarantees against seller's own price in effect at time of shipment on raisins sold in seller's proprietary brand consumer packages not exceeding 15 ounces net weight." The damaging effect of price guarantees of the kind to be prohibited is reportedly found principally in the sale of raisins in bulk containers to bakery and other industrial users many of whom contract ahead for requirements extending for as much as 12 months. Competition among handlers for such business is stated to be very keen and purchasers are in position to demand, from handlers, concessions such as these guarantees. The financially weaker handlers, unable or unwilling to undertake commitments involving future fluctuations of the market are stated to have as their only alternative that of cutting prices. It was contended at the hearing that when the handler cuts prices it becomes necessary for him, if he is to remain in business, to exert every effort to buy from producers at prices low enough to keep him whole and that such a situation is directly prejudicial to the interest of raisin producers. It was further contended that the practice is unfair because it results in injuriously lessening competition and tends toward monopoly.

The testimony cites the harmfulness of this practice by reason of the risks incurred, willingly by some and as a competitive necessity by others. The price-cutting alternative to such practice was also stressed. It was contended that it is unfair to sellers employing it as a means of getting business because of the one-sided nature of the protection offered and unfair to other sellers who elect to the price-cutting alternative. The one-sided nature of the guarantee arises from the fact that under it the seller's price is reduced if the market price-level goes down but it is not increased if the market price-level goes up. However, no substantial proof was given to show that the practice is unfair. Similarly, there was no substantial proof

that handlers have been put out of business by reason of competitors' use of this trade practice, nor was there such proof that monopoly tends to be created by it deliberately or otherwise. It was not conclusively demonstrated that in the absence of the price adjustments brought about by this trade practice the supply of raisins available for sale in a given season would be sold or, conversely, would not in part remain in handler's or producer's hands or be sold at cut prices as an alternative. The adverse impact of the ill-effects attributed to this trade practice upon subsequent field prices received by raisin producers was alleged but not proved. For the foregoing reasons proposal numbered (I) of the proposed unfair trade practices is denied.

(II) "Grant reservations at specified prices to buyers in lieu of firm sales contract or enter into any contract, sales or shipment agreement containing provisions designed to be equivalent to such reservations." It was stated that such reservations merely purport to make available a specific quantity of raisins to the purchaser which he may order out according to his needs; that termination or cancellation of the reservation causes any unshipped balance to revert to the handler and thus protects the buyer against price decline. When a seller (handler) makes such a reservation, it is incumbent on him to cover it by purchasing raisins at or about the time of making it or to assume the risks of subsequent coverage. The release of buyers from such reservations is stated to create uncertainty and chaos in the selling of raisins and to depress the market. It was further stated that those sellers least able to assume that kind of a speculative risk have only one alternative, that of such price cutting as to involve them in the danger of inability to cover their commitment. (Apparently this refers to a situation in which the price-cutting seller is unable to buy raisins from producers at prices low enough to correspond with his selling price of packed raisins.) It was testified that the practice tended to lessen competition and was unfair to handlers who are unwilling or unable to undertake the risks of loss this trade practice involves. This prohibition is not intended to prevent a handler from giving a buyer an option to buy raisins although the line of demarcation between non-prohibited options and prohibited reservations is not clear beyond the point that options have terminal dates, are relatively short-term instruments, and are permitted under this prohibition for such purposes as providing a prospective buyer with sufficient time to learn the outcome of a State bid for institutional use. The test of whether an option is bona fide was stated to be the purpose for which it is made. Proponent testified that this prohibition is needed to close a loophole in prohibition (I) that prohibitions (I) and (II) are closely related and that one without the other would nullify both.

In substance the testimony parallels that offered with respect to trade practice numbered (I) and there is parallel lack of substantial proof. For the reasons given with respect to trade prac-

tice numbered (I) the proposed prohibition of trade practice numbered (II) is denied.

(III) "Sell natural Thompson Seedless raisins as such which contain any raisins other than the natural Thompson Seedless variety." This practice was stated to have consisted substantially of blending raisins of the Sultana variety with Thompson Seedless. The market prices of Sultanas being usually below those of Thompson Seedless, when handlers engage in the practice of blending substantial quantities of Sultanas with Thompsons they are in a position to injure competition by quoting prices, allegedly for Thompson Seedless, substantially below the fair market price for that variety. The prohibition is not intended to apply to such blending as occurs by producers mixing the raisins from a few vines of the Sultana variety with those from a vineyard consisting primarily of the Thompson Seedless variety nor to blending in a packing house due to occasional inadvertence. The prohibition is intended to stop an established practice by some handlers of deliberately blending such varieties. It was proposed at the hearing that (III) be prefaced by the word "knowingly" The proponent stated that he would not oppose such amendment. However, the bulk of proponent's testimony on such change shows it to be acceptable if it does not indicate a change in the meaning of the prohibition.

That misrepresentation by a seller such as that here referred to is deceptive is beyond question. Where such blending of raisin varieties is substantial, it can reasonably be assumed that such deception is intentional. Shipments so mislabelled are, and have long been, subject to seizure and legal penalty may be imposed on the shipper. In the absence of outgoing inspection and of authoritative proof resulting from such inspection, it is clear that hitherto buyers or other persons interested in stopping such deception might have been disadvantaged by lack of such proof. It is therefore pertinent to recognize here another proposed amendment to this marketing order, viz., mandatory outgoing inspection on all shipments by handlers, which is not required under the present order. Such inspection has not been a general practice in the raisin industry. The proposed mandatory outgoing inspection is adequately supported by the testimony adduced in its behalf and its adoption is recommended. When it is put into effect buyers can demand a copy of the inspection certificate issued with respect to any shipment. Where Sultana and Thompson Seedless raisins are blended the inspection certificate thereon will show that the raisins are a blend. Any buyer will be able to ascertain whether raisins purchased as Thompson Seedless raisins are in fact raisins of that variety. Thus sellers will no longer be able to mislabel blends of raisins without running the risk of certain and provable detection. In view of this changed situation there appears to be insufficient reason to establish a specific prohibition against the practice of mislabeling blends of raisin varieties and

the proposed prohibition of trade practice numbered (III) is denied.

(IV) "Ship raisins on consignment to a purchaser, broker or distributor in seller's proprietary packages in excess of four pounds net weight or in any packages, regardless of size, containing the purchaser's label or brand, or ship such raisins under any arrangement designed to be equivalent to such consignment shipment." It was testified that this prohibition is intended to supplement other prohibitions set forth in this section such as (I) and (II) in the sense that such consignment shipments could be used to nullify prohibitions against price guarantees and reservations. It was contended that consignments of the types covered by the proposed prohibition interfere with the normal distributive functions of buyers. An example of bakery supply houses was cited to show that consignment sales offered by brokers, representing the consignment shipper, at a cost to the ultimate consumer, viz., f. o. b. market price plus freight, handling and warehouse costs, identical to the cost to the supply house itself, constitute a threat to such distributors to make it impossible for such distributors to secure a compensatory margin and leave them with no incentive to invest money in raisins. On the other hand, it was contended that merchandise brokers like those employed by raisin handlers cannot cover the small wholesale and retail bakery trade which, for lack of sales persuasion, does not freely use raisins. It was further contended that such consignments are usually made after buyers have purchased their estimated requirements; that the arrival of consigned shipments in their markets enter into direct competition with raisin stocks so purchased; that when this occurs a threat of raisins becoming "distressed" is immediately created; and that the experience of the industry for decades has been one involving absorption of losses from consignments. Testimony was adduced to show that the risk of consignment shipments is greatly enhanced when such shipments are made under purchasers' label. It was also argued that this trade practice is unfair because it tends to lessen competition. The proponent's testimony shows that this prohibition is not intended to apply to a handler consigning to himself.

Even if it be conceded that consignment shipments by handlers may offer unusual and serious competition to distributors in terminal markets, such a condition affords insufficient support for a conclusion that such handlers should be denied the right to so attempt to sell their raisins. The right of a seller to compete for a buyer's custom is too fundamental in a competitive society to be lightly abridged. It is not material that this particular trade practice is more hazardous to a handler using it than some other ways of doing business. Such choice of business risk is a normal part of commerce. Similarly, distinctions between different ways of making consignment shipments merely for the sake of doing business which otherwise might not be obtained do not appear to afford adequate ground for finding that

one way is unfair while another is not. Consignment shipments are not peculiar to the raisin industry. Such a practice is available to any shipper of any product and is used or not in accordance with his personal judgment. Substantial proof was not given that this practice is unfair in the raisin industry. Also it was not clearly demonstrated that such a practice has ill effects on producers. For the foregoing reasons the proposed prohibition of trade practice numbered (IV) is denied.

(V) "Sell raisins, except in consumer packages 15 ounces net weight or less, prior to January 1, for delivery subsequent to the first Monday in March of any year, without the addition to the sales price of carrying charges sufficient to cover cost of taxes, insurance, storage and shrinkage on such raisins to time of shipment." Proponent contended that the practice, used by industrial users, of purchasing during September through December for delivery stretching over many months, in contrast to purchase of consumer packages for shipment within a period approximating 60 days as now practised by retail and wholesale distributors, results in a price concession to industrial users taking delivery after the State property tax date. The total cost of absorbing such carrying charges is estimated by proponent to range from one-half to five-eighths cent per pound of raisins, and it was contended that such reduction in sellers' returns ultimately adversely affects growers' prices. A parallel was drawn between the effect of this prohibition and the requirement of § 989.67 (b) with respect to the pricing of raisins in the reserve pool. It was contended that this trade practice tends to injuriously lessen competition. It is not intended that this prohibition apply to deferred shipments from stocks held outside the area of production.

The trade practice objected to is that of absorbing charges incurred on raisins sold for later delivery. While the cost of such absorption may not be precisely determinable by a handler at the time of making such a sale, depending on the degree of freedom granted the buyer with respect to deferred delivery, it is clear that the seller must know that he has accepted a lower net sales price than that quoted in the sale. To the extent that the costs arising from deferred delivery can be estimated at the time of sale, the same price result to buyer and seller could be achieved by making the sale at a lower price with seller's costs of holding for later delivery to be for buyer's account. Thus, in effect, this trade practice can constitute one of the many ways of selling at a net price to the seller which is below the general net price level at the time of sale. Whether it does or not would depend on whether the quoted sales price for March delivery was at or above the pre-January 1 market price level. In any event there was no substantial showing that such a method of selling at prices which, in effect, may be below prices quoted by competitors is unfair. The effect of banning such a trade practice by handlers upon returns received by producers is not clear in the absence of knowledge of buyer reaction

and hence of the need to sell in this manner in order to compete against prices of cash, as contrasted with delayed delivery contract sellers. It is presumed that sellers would not jeopardize their profit making opportunities by the complained of practice if it were normal for prices in the springtime market to be strong enough to permit absorption of the additional charges by buyers.

For the foregoing reasons, the proposed prohibition of trade practice numbered (V) is denied.

(VI) "Make or issue any false invoice, sales memo, statement, bill or other document in connection with the purchase or sale of raisins."

An amendment to this proposed prohibition was proposed at the hearing, viz., that the words "with intent to evade any of the provisions of this order" be added.

In general, legal recourse exists in the event that damage is caused by the fraudulent practices covered by this prohibition. In this instance, the purpose of this prohibition is to prevent evasion of the foregoing proposed prohibitions of this section. As the foregoing proposed prohibitions of this section have been denied, proposal numbered (VI) of the proposed unfair trade practices is also denied.

It was proposed by a producer at the hearing that open-price contracts between producers and handlers be prohibited. It was testified that a few packers go into the field market early in the season and offer open contracts with a low minimum price and that the minority of growers who enter into such contracts do so mostly because they need boxes. It was further testified that packers who acquire raisins on open contracts thereafter hold prices down until the closing dates of the contracts and thus have the advantage of getting a supply of cheap raisins. It was stated that other growers, not using open contracts, who need money to meet financial obligations have to sell at the low price established by open contracts. It was testified that if this trade practice were prohibited, growers could sell or get a box rental contract from a packer or, if they wished to speculate on the future price of raisins, they could deliver to a packer under storage agreement. It was also testified that the use of open contracts is available to all packers but that most of them do not choose to use them.

This trade practice represents a sale transaction by a raisin producer in which he retains the right to close the contract as to price at any time from the day of sale to the closing date specified in the contract. On the closing date the sales price is determined by the going price on that day or by agreement between the parties to the contract. Under these conditions, the producer elects to speculate that he will obtain at some later time a price higher than that named in the open contract. While this trade practice does not appear to be widespread, in most seasons some producers sell under open contract. Although such speculative sales may be unwise, there is no substantial proof that they are unfair to other producers

or packers. Nor is there such proof that the prohibition of this trade practice would not result in early-season sales at low prices which, in effect, would bring about a situation similar to that which this trade practice is alleged to create. Therefore, this proposed prohibition is denied.

(7) A proposed new section entitled "Price filing and posting" was included in the notice of hearing. This section would have given the committee permissive authority to recommend to the Secretary that any varietal type of raisins should be sold by handlers at prices no lower than prices filed by such handlers, would have provided for the establishment by the Secretary of a regulation period during which time handlers should file minimum prices, including terms and conditions of sale, and would have provided appropriate provisions to effectuate such price filing and posting. The proposal was abandoned by the proponents at the hearing and no testimony was presented in support of it.

(8) The order should be amended to require that when the committee makes any recommendation with respect to volume percentages, it shall designate for each varietal type of raisins the outlets which were considered in determining the free and surplus tonnages and the free and surplus percentages. The committee should do this in order to make it abundantly clear which outlets it intends to be supplied from free tonnage and which outlets, if any, it intends to be supplied from surplus tonnage, to provide an estimated supply of raisins for the estimated demand for raisins in specific markets, and to establish the markets for export sales of surplus tonnage by handlers and for direct sales by the committee.

The order should be revised to require that the committee make its initial recommendations for the fixing of the free, reserve, and surplus percentages not later than October 1 of each year, instead of by July 15 as required by the present order. Reliable information as to the raisin production and marketing conditions which are likely to prevail in the ensuing crop year is not available by the preceding July 15. Therefore, the committee is not in a position at that time to recommend percentages which would achieve the objectives of volume regulation. However, by October 1 of each year, or before that date, the committee would have available to it reasonably reliable information which should enable it to recommend reasonably accurate volume percentages. On the other hand, the making of its percentage recommendations for the crop year should not be deferred by the committee beyond October 1, and if practicable should be made before that date, because after that time the percentages would have to be fixed by the Secretary and producers and handlers would need to have definite knowledge of the percentages as early as possible in the season so that they could plan and conduct their operations accordingly. Moreover, the greatest export demand for raisins usually occurs early in the crop year and handlers would not be able to make firm

sales of surplus tonnage raisins in export until such time as the surplus percentage is fixed.

The order should be amended to provide for the application of the free, reserve, and surplus percentages to handlers' acquisitions of standard raisins. While provision could be made for applying the percentages to handlers' acquisitions of all raisins (standard and off-grade) it is deemed inadvisable to do this. The percentage of off-grade raisins produced in any year can vary substantially between different producers. Such off-grade raisins have a much lower value than that of standard raisins. In this way, and by not allowing off-grade raisins to be credited against the surplus obligation, the pool equities of producers delivering standard raisins would not be adversely affected by producers delivering off-grade raisins.

The order should be amended to provide that the free tonnage percentage initially designated for any crop year by the Secretary shall not be decreased so as to avoid the inequities to producers and handlers which would result from such action. It was provided also in the notice of hearing that the surplus percentage initially designated by the Secretary could not be decreased: It would be inadvisable to include this provision in the amended order because conditions unanticipated at the time the percentages are initially established may arise during a season, under which the surplus percentage should be decreased in order to make a portion of the originally designated surplus tonnage available for use in domestic markets at prices higher than those obtainable in export markets.

The order now provides that each handler shall hold in storage all reserve and surplus tonnage raisins acquired by him until he has been relieved of such responsibility by the committee, either by delivery to the committee or otherwise, and prescribes other terms and conditions relating to the storage of reserve and surplus raisins. In order to provide more specific terms and conditions relating to the storage of such raisins, it was proposed, as set forth in the notice of hearing, to add two provisions in this regard to § 989.66 (a) and one such provision to § 989.66 (b). It appears more logical that all of the three provisions should be added to § 989.66 (b) since paragraph (b) is intended to cover the specific provisions in regard to storage.

Section 989.66 (b) now requires the handler to store reserve and surplus tonnage acquired by him in such a manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for such things as loss through fire and acts of God. This provision should be amended to require the handler to store such reserve and surplus tonnage raisins in natural condition without addition of moisture and in such manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for loss through fire, acts of God, force majeure, or other conditions beyond the handler's control, except that, in the case of Layer Muscat

raisins, the committee should have the authority to permit the satisfaction of the applicable reserve and surplus obligations with residual Muscat raisins obtained in layering operations, subject to such safeguards as it may prescribe.

Obviously, a handler should not be permitted to add moisture to reserve or surplus pool raisins in order to increase their weight. However, it has been the custom for handlers to satisfy their pool obligations with residual Muscat raisins obtained by them from layering operations. Since this custom is intended to be continued, the restriction on addition of moisture should not preclude the layering operations prior to setting aside Muscats. The committee should, however, be permitted to prescribe safeguards to ensure the storability of such Muscats.

Section 989.66 (b) should be further amended by adding a requirement that reserve, surplus, and off-grade raisins acquired or held by each handler shall be stored separate and apart from other raisins and from each other to such extent, and identified in such manner, as the committee may specify by its rules and procedures as approved by the Secretary. Such rules and procedures may require segregation of the respective pools by varietal type. It is necessary for the purpose of compliance that reserve, surplus, and off-grade raisins which are acquired and held by handlers be so segregated. Periodically, employees of the committee make physical checks of raisins on hand at various handlers' plants. Unless the reserve tonnage, the surplus tonnage, and the off-grade raisins are stored separately, it would be difficult to ascertain whether a handler is in compliance with the provisions of the order requiring the setting aside of the reserve, surplus and off-grade raisins acquired by him.

In this connection, and for the same reason, the order should be amended by adding a new provision as § 989.70 to provide that all raisins stored by a handler for another person on memorandum or warehouse receipt, or raisins produced and stored by a handler, should be stored separate and apart from other raisins, and should be clearly marked or tagged as raisins stored on memorandum or warehouse receipt or as raisins produced by the handler but not acquired by him in his capacity as a handler. This segregation and marking would set such raisins apart from raisins which the handler has acquired, and thus facilitate compliance checking by the committee employees.

Section 989.66 (b) should also be amended to provide that each handler may, under the direction and supervision of the committee, substitute for any quantity of reserve tonnage or surplus tonnage raisins, a like quantity of free tonnage raisins of like quality and varietal type and of the same or more recent year's production. Permission to make such substitutions would give handlers some flexibility in their operations, so that they may release producers' boxes in which pool raisins may be stored, or clean out stacks where this is desirable. If raisins of a like quality and of a more recent crop year are substituted, the re-

serve and surplus pools would be benefited, inasmuch as raisins produced in a more recent year could be stored for longer periods of time.

Hearing testimony indicated a difference of views as to the control which the committee should exercise over the substitution of free tonnage raisins for reserve or surplus tonnage raisins. If free tonnage raisins substituted for pool raisins meet the conditions which would be prescribed for them as indicated in the preceding paragraph, the equity holders in the pool would not lose and might gain. For practical operational purposes, each handler should give the committee reasonable advance notice of his intention to substitute, the exact location of the raisins for which substitution is to be made, and arrange with the committee a mutually satisfactory time for the substitution.

The present provisions of § 989.66 (c) should be modified so as to make them conform with the indicated changes in § 989.66 (a) and (b).

The present provisions of § 989.66 (c) permit the committee, in its discretion, to defer the requirement that a handler set aside the reserve and surplus tonnages referable to his acquisitions of raisins for a specified period ending not later than November 15 of the particular crop year. These provisions should be amended to make it mandatory upon the committee to grant such a deferment when the conditions specified above are met. If good and sufficient cause exists for the deferment, and the handler is willing to comply with the terms and conditions relating to such privilege, the committee should not be permitted to decline his application. Otherwise, it is possible that the movement of raisins into free tonnage outlets could be retarded and the total quantity ultimately moved into these outlets could be reduced at the expense of returns to producers.

The Raisin Growers of California and Francis H. McEwen, a producer, proposed amendments which would remove the committee's authority to grant handlers such deferments. These proposals are denied because this authority may need to be used early in some crop years for handlers to satisfy the then existing demand for raisins which might not be fulfilled by reason of lack of sufficient new crop supplies.

It was proposed at the hearing that the transfer of reserve or surplus tonnage raisins from the committee to any handler should not be subject to the inspection and certification requirements discussed hereinabove with respect to outgoing quality regulations. It was contended that such raisins would have been inspected after their receipt by handlers and would be inspected again prior to the time the handlers shipped them to domestic or export outlets for human consumption. However, questions may arise as to whether the reserve and surplus tonnage raisins, held by handlers or delivered by them to the committee or to any person designated by it, are below the specified minimum quality due to improper storage or for other reasons. Also, it may

be necessary at times to determine the quality of pooled raisins held by handlers in permitting substitution of raisins or with respect to transfers of pooled raisins from one handler to another. In order to resolve such questions, the committee should have the authority to require, in its discretion and at its expense, that reinspections be made of reserve and surplus tonnage raisins as it may deem necessary. Accordingly, the subject proposal is denied and such authority is included in the amended order recommended herein.

Section 989.66 (e) now provides that, in the event the committee offers reserve or surplus tonnage raisins to handlers for sale or for contract packing, each handler shall be given the first opportunity to purchase or pack his share of the offer, which share shall be determined as the same proportion that the respective reserve or surplus tonnage held by him is of the respective reserve or surplus tonnage held by all handlers. If any handler declines or fails to take any or all of his share of any such offer, the remaining portion thereof is required to be reoffered to all handlers who accepted all of their respective shares, in proportion to their respective shares.

Experience has shown that the present allocation procedure requires some modifications for use in connection with offers of reserve tonnage to handlers for purchase and is unsatisfactory for use in connection with offers of surplus tonnage raisins for contract packing or for sale in export. It is proposed, as set forth in the notice of hearing, to provide separate allocation procedures for each of the three types of offers.

With respect to offers of reserve tonnage raisins to handlers for purchase, § 989.66 (e) should be amended to provide that such offers shall be allocated on the same basis as now provided, i. e., in proportion to the respective handler's holdings of reserve tonnage, but that reoffers shall be allocated to all handlers who purchased all of their respective shares of the offer, in proportion to their respective volumes purchased in the current and all prior offers, and any handler whose holdings of reserve tonnage raisins have been exhausted may participate in any subsequent reoffer on the same basis. Also, it should be provided that if the committee determines an offer to be the last which will be made prior to July 1 of each crop year, each handler entitled to participate in any reoffer made in connection therewith shall be eligible to purchase an equal share of the tonnage reoffered, and as many reoffers of unpurchased tonnage as the committee deems advisable may be made.

It was agreed at the hearing that handlers' holdings of reserve tonnage raisins provide an acceptable basis for allocating offers of such tonnage for purchase and that such basis should be retained. However, under the present order when a handler's holdings of reserve tonnage is exhausted, he now has no share in subsequent offers or reoffers. However, the fact that a handler purchased all of his holdings in early offers is an indication that he needs additional tonnage and the order should be amended to permit him to participate in later reoffers of un-

purchased tonnage. The weakness in the present order should be remedied by providing that any unpurchased portion of an offer shall be reoffered to handlers in proportion to their respective volumes purchased from the applicable reserve pool.

The above indicated procedures for determining handlers' shares of an offer and a reoffer of reserve tonnage for purchase could result in part of an offer remaining unpurchased after the reoffer because some handlers might not purchase their full shares of the reoffer. At the same time handlers who purchase their shares of the reoffer might desire to purchase additional tonnage. Any reserve tonnage remaining on June 1 (July 1 as the order is proposed to be amended) becomes surplus tonnage and would be disposed of at lower prices. In order to maximize the quantity of raisins which are disposed of as reserve tonnage, it is proposed to give handlers equal shares in any reoffer or reoffers in connection with the last offer of reserve tonnage.

With respect to offers of surplus tonnage raisins to handlers for contract packing, § 989.66 (e) should be further amended to provide that procedures for offers of surplus tonnage for such purpose be limited to offers to packers since they are the only handlers who are prepared to pack raisins; each packer's share of an offer shall be determined as the same proportion that the surplus tonnage raisins acquired by him is of the surplus tonnage acquired by all packers; and, if any packer fails to contract for packing any or all of his share of any such offer, the remaining portion thereof shall be reoffered by the committee to all packers who contracted for packing all of their respective shares, in proportion to their respective acquisitions. It should be provided, however, that if such amount which packers fail to contract for packing does not exceed 250 tons, or it is necessary to deviate from the foregoing in order to meet terms and conditions of shipment, the committee may, in its discretion, allocate such surplus tonnage raisins among packers as it deems appropriate, but the shares of packers in subsequent offers or reoffers should be adjusted accordingly.

Surplus tonnage raisins are offered to packers (and any other handlers who may have acquired surplus tonnage) for sale in export, as well as to packers for contract packing. Also, the committee may dispose of surplus tonnage raisins in other outlets which do not interfere with the normal marketing of raisins. If a packer has been active in disposing of surplus tonnage by sale in export, or the committee has made other dispositions from the packer's holdings of surplus tonnage, he may find his holdings of surplus raisins exhausted at the time the committee makes an offer for contract packing, and thus on the basis of holdings he would have no share in the offer. The proposed use of packers' acquisitions of surplus tonnage raisins as a basis for determining handlers' shares of an offer for contract packing would obviate the exclusion of packers whose surplus holdings were exhausted. Packers whose holdings are exhausted would

have surplus tonnage released to them from other handlers.

In case of an offer where the quantity which packers fail to contract for packing does not exceed 250 tons, it would be impracticable to make a reoffer on a pro rate basis because the individual shares might be so small that such per-ton costs as for packing and transportation might be excessive. Also, sometimes the committee must have surplus tonnage raisins packed on a very short notice, in order to meet shipping schedules or delivery dates prescribed by purchasers, and it is necessary that the committee be authorized to reoffer surplus tonnage other than by prescribed formula. It is, of course, desirable and expected that the committee will adjust insofar as practicable any subsequent offers or reoffers so as to permit each packer who so desires to pack his proportionate share of the offers.

With respect to offers of surplus tonnage raisins to handlers for sale in export, § 989.66 (e) should be further amended to provide that each handler's share of an offer shall be determined as the same proportion that the surplus tonnage raisins acquired by him is of the surplus tonnage acquired by all handlers. The reason for using handlers' acquisitions as a basis for determining their shares of such an offer, rather than handlers' holdings as provided in the present order, is basically the same as for making the same change in the case of offers of surplus tonnage raisins for contract packing, namely, that dispositions of surplus tonnage other than for sale in export may exhaust the holdings of some handlers while the holdings of other handlers remain substantial. The use of acquisitions as a basis for determining shares of an offer would obviate the exclusion of packers whose surplus holdings were exhausted.

The offering of surplus tonnage raisins for sale in export is likely to be a continuous operation during the season, an offer perhaps running for several months and a handler purchasing portions of his share as he has export orders. While each handler should be given the first opportunity to purchase his share of an offer, the need for exportation of surplus tonnage as expeditiously as is feasible and the fact that some handlers probably will not participate in such offers actively, make it necessary to provide that additional tonnage be made available upon application prior to the close of an offer to any handler who has purchased his share of the offer or whose holdings are exhausted. In such situations, the committee should be required to make additional tonnage available to such a handler by allocating to him surplus tonnage raisins held by him or, if his holdings are exhausted, by withdrawing surplus tonnage raisins from other handlers. In making such allocation the committee should, insofar as is practicable, withdraw from handlers who have purchased the smallest percentage of surplus tonnage raisins acquired by them or for other reasons are holding the largest percentage of their acquisitions of such raisins.

It is possible that the committee will encounter unforeseen problems or situa-

tions in the allocation of offers of pool tonnage raisins to handlers, and in order that it may prescribe appropriate procedure to meet any such situation, § 989.66 (e) should be further amended to authorize the committee, with the approval of the Secretary, to establish such modifications of the applicable procedures as indicated above, consistent with the principle of making each offer available to all handlers proportionately, as will facilitate the disposition of reserve and surplus tonnages through handlers.

The present marketing order includes provision for compensating handlers for receiving, storing, and handling reserve and surplus tonnage raisins held by them for the account of the committee, in accordance with the schedule of payments established by the committee and approved by the Secretary. This provision should be amended to provide for reimbursement of handlers for inspection payments on pooled raisins because this would be an additional expense on such raisins under the amended order. It was proposed that the order be amended to specify that service payments to handlers be paid for any part of a crop year as well as for an entire crop year. It is concluded that such an amendment is undesirable because the problem could be handled more satisfactorily by rule making action and the order provision would permit such action to be taken. Further, hearing testimony disclosed that the industry was not then in agreement as to the manner and extent such payments should be made.

The order should be amended to provide that a box rental should be paid by the committee to producers or handlers for boxes used in storing reserve or surplus tonnage raisins beyond the crop year of acquisition, in accordance with a rental schedule established by the committee and approved by the Secretary. The carrying over of pooled raisins beyond the initial crop year immobilizes boxes which would otherwise be emptied and used for the current year's production. This situation requires producers and handlers to purchase or rent additional boxes. It is only fair and reasonable, therefore, that producers and handlers be compensated for the use of their boxes beyond the crop year of acquisition.

The order should be amended to provide that any handler may request the committee at any time, by registered mail, to remove all surplus tonnage raisins held for the account of the committee and remaining in his possession from any previous crop year, and at any time after August 1 of any crop year, may request removal of all surplus tonnage raisins remaining in his possession from the current crop year. Also he may request that the committee provide the necessary containers for this removal, and in this event, the committee shall make such removal within 30 days after the receipt of the request, supplying the necessary containers if so requested. The committee should give immediate notice to the Secretary of each such request for supervisory purposes. The availability of handlers' storage and box facilities for use with respect to the new

year's production of raisins is reduced when they are required to hold surplus raisins beyond the crop year of acquisition. Moreover, any surplus tonnage raisins held on September 1 by handlers for the account of the committee would have been stored by them on the average for a substantial period of time and it becomes increasingly difficult to keep the raisins from deteriorating. In these circumstances, it is only fair and reasonable that handlers have the right to be relieved of their storage responsibilities on surplus raisins carried over from one season to another. The committee would have the authority to arrange for storage of the raisins by rental or purchase of storage space, to rent or purchase boxes of the raisins to be removed, and to pay the necessary transportation charges.

The provisions of § 989.67 (a) should be amended, to make it clear that the committee is authorized to sell reserve tonnage of a varietal type to handlers when the total free tonnage of that varietal type is insufficient to fulfill the market demand in free tonnage outlets for that varietal type even if the free tonnage supply of any or all other varietal types of raisins is liberal. Although it is believed that the provisions of the present order authorize the committee to take such action and while it has operated accordingly, this authority has been questioned in the past, necessitating better definition of the committee's authority in this respect. It was recognized in the decision issued in connection with the promulgation of the present order that each varietal type of raisins should be treated separately in establishing volume percentages because the supply of and demand for the respective varietal types vary one from another. Six years of operations under the order have sustained this conclusion. Also, it is generally true that the market demand for one varietal type cannot be satisfied with another. For the same reasons, the same need exists for separate treatment of varietal types of augmenting the free tonnage from the reserve tonnage.

The provisions of § 989.67 (a) presently prohibit the committee from selling to handlers reserve tonnage of bleached raisins including Golden Seedless raisins prior to November 1 and of all other varietal types of raisins prior to December 1 of the particular crop year. These provisions should be amended to remove such time limitations, except the December 1 limitation with respect to natural (sun-dried) Thompson Seedless raisins. The latter varietal type is the principal one produced in California and the free tonnage supply should be adequate in any season to fulfill the demand for it in free tonnage outlets up to December 1 notwithstanding errors which may be made in the supply and demand estimates upon which the volume percentages are based. Moreover, this limitation would serve to encourage the acquisition by handlers of producers' holdings of natural Thompson Seedless raisins before December 1.

With respect to the other varietal types, the present time limitations for selling reserve tonnage should be removed. In comparison with natural (sun-dried) Thompson Seedless raisins,

the other varietal types of raisins are generally marketed earlier in the season. Some of them, such as Golden Seedless raisins, have a shorter storage life and early season estimates of their supply and demand situations are subject to greater percentage error than for natural Thompson Seedless raisins.

It is provided in § 989.67 (b) of the present order that reserve tonnage of any varietal type shall not be sold at a price below that which the committee concludes reflects the average price received by producers for free tonnage of the same varietal type purchased by handlers during the current crop year up to the time of any offer for sale of reserve tonnage by the committee, plus the costs incurred by the committee on account of the receiving, storing, insuring and holding of said raisins. These provisions should be amended by adding the cost of inspection to the list of costs which should be included in the computation, inasmuch as inspection cost should be treated the same as other pool costs.

These provisions should also be amended, by the addition of a proviso at the end of the first sentence, which would permit the committee to sell reserve tonnage, when the outlook for the next crop or other factors have caused a downward trend in the price received by producers for free tonnage of the particular varietal type, at the current field price, in lieu of the average weighted field price plus the indicated costs. The current field price should be determined by the committee. Experience under past order operations has demonstrated that it is impracticable to price reserve tonnage raisins for sale to handlers on the presently required basis when there has been such a downward trend in the prices received by producers for free tonnage. The inclusion of the proviso would enable the committee to adjust its selling price for reserve tonnage of any variety in such a situation to a realistic figure which would permit handlers to purchase it, and thus carry out the objective of the act by disposing of the reserve tonnage at the highest price practicable.

Section 989.67 (c) of the present order provides that all reserve tonnage not disposed of by the committee prior to June 1 of any crop year shall, on June 1, and any reserve tonnage acquired between June 1 and the end of the crop year shall, at the time of acquisition, become surplus tonnage. These provisions should be amended by extending from June 1 to July 1 the date on and after which reserve tonnage would become surplus tonnage. By July 1 handlers are in a better position to know the quantity of reserve pool raisins they need to purchase for use as free tonnage until new crop raisins are available. At the same time, July 1 is about the latest date that reserve tonnage should be held as such and still enable the committee to dispose of any remainder as surplus before the new crop year.

Section 989.67 (c) should also be amended to provide that if the committee finds within a crop year that the current holdings of surplus tonnage are insufficient to meet the current demand

therefor and that it would be inappropriate to change the volume percentages, it may temporarily borrow, with the prior approval of the Secretary, sufficient reserve tonnage for disposition in the surplus outlets with provision for subsequent replacement from the surplus tonnage. At times the tonnage in the surplus pool has been less than that required to meet the current demand for surplus in authorized export channels. Under conditions such as these, the temporary borrowing of reserve tonnage would enable the committee to supply such export or any other demand for surplus in authorized outlets whereas a change in the percentages might be inappropriate in the light of the then existing overall supply and demand conditions.

The order should be amended also to authorize the committee, if it finds that because of national emergency, crop failure or other major change in economic conditions, a shortage of raisins has developed or is likely to develop, to waive for any crop year, with the prior approval of the Secretary, the time limitations of this section. Such time limitations are those set forth in § 989.67 (c) with respect to when reserve tonnage becomes surplus tonnage. It would be in the interest of producers, handlers, and consumers to have reserve tonnage raisins remain available for sale to handlers to supplement their free tonnage.

(9) The committee should dispose of all surplus tonnage raisins so as to achieve complete disposal of such raisins by the end of the crop year insofar as is practicable. It is held to be a basic concept of the sound marketing of raisins that they be sold within the year of their production. Failure to achieve such disposal could jeopardize raisin marketing in the next succeeding crop year and thus could involve a threat of serious economic injury to the raisin industry. However, mandatory disposition of any carry-over surplus should not be made prior to October 15 because in the 45-day period after August 31 substantial volumes could be sold in export to meet the early fall demand. Any surplus tonnage raisins held unsold by the committee on October 15 of the subsequent crop year should be physically disposed of promptly in any available outlet not competitive with normal market channels for free tonnage raisins or sales of surplus tonnage raisins in export. However, it should be provided that, whenever the Secretary approves a finding by the committee or finds on the basis of other information available to him, that, because of national emergency, crop failure, or other major change in economic conditions, retention of the surplus raisins carried over is warranted, the foregoing requirement as to disposal shall not apply and the committee may then sell any of such surplus tonnage raisins as though they were reserve tonnage raisins. This proviso is desirable in order to obviate, insofar as is practicable, the arising of a shortage of raisins in such circumstances.

The committee should be authorized to dispose of surplus raisins by sale, gift, or otherwise but to fulfill the grower return objectives of the act, the greatest

practicable volume shall be disposed of by sale at the best prices obtainable. The committee should sell surplus raisins to handlers for export sale, either directly or indirectly through other handlers or non-packing exporters. Testimony adduced at the hearing clearly establishes the desirability of making export sales through the industry's established marketing agencies. This method will restore the disposition of surplus raisins to the gradually reopening historic channels of trade and will result in more salesmen offering raisins for export sale. The committee should also be authorized to implement the export disposition of surplus by direct sales to any agency of the United States Government for non-competitive uses. Governmental outlets have been used in the past for the disposal of surplus raisins. Since they are not a part of the normal market for raisins, they should remain as potential outlets available to the committee for surplus disposal.

The area in which surplus sales for export by handlers may be made should be defined and established for each crop year. It is necessary to delineate the area to which such export sales of surplus raisins may be made and the countries therein so that handlers may know their export outlets. It is necessary that a list of countries to which handlers may export surplus tonnage raisins be established so that the objective of disposing of surplus through the normal marketing agencies may be effectuated. Similarly, and for the same reason, it is necessary that explicit provision be made for the committee's findings with respect to proposed changes in the list.

Where international trade in raisins is so confined, restricted, or impeded by foreign governmental action that commercial exporters are unable to fulfill their function, the committee should be given the power and authority to undertake direct export business with any such foreign country. Such direct export business, however, should be only if a substantive finding is made by the committee and approved by the Secretary that it will not jeopardize handler sales in listed countries, and that sales by handlers do not result in the demand of such foreign country being satisfied even though supplies of domestic surplus raisins are available at prices competitive with other raisins in such country. Prior to removing a listed country the committee should make the foregoing finding and have it approved by the Secretary.

Surplus raisins should be sold to handlers in a manner and on a price basis calculated to achieve disposal of all surplus by August 31 of the crop year. This means, among other things, that surplus should be available for handler sale as early in the crop year as is practicable in order to assure export supplies in the peak demand months for raisins. The reasons for disposing of surplus raisins by the end of the crop year have been set forth hereinabove. It is obvious that achievement of this disposal objective will be vitally influenced by the extent to which surplus raisins are made available to handlers

and by the prices at which they are offered by the committee. However, no offer to sell surplus raisins to handlers should be made by the committee until five days (exclusive of Saturdays, Sundays and holidays) have elapsed from the time of filing the proposed offer with the Secretary. This procedure is necessary in order that the Secretary may have adequate information with respect to such proposed sales offers and may have opportunity to disapprove any such offer.

It was proposed that the committee could, whenever not less than eleven committee members or alternate members acting as members concur, establish minimum prices and terms and conditions of sale governing exports of surplus raisins to markets outside of the Western Hemisphere and to establish regulatory periods for such minimum prices. It was testified that in the past the absence of such controls has permitted the use of disruptive sales practices with resulting slowing-up or stoppage of export sales and loss of revenue to handlers and producers. It was anticipated that the committee would invoke such controls only when they are found to be needed to prevent disruption of export outlets. However, the committee should be able to accomplish this objective by including restrictions as to resale prices and other terms and conditions in its sales contracts with the individual handlers. Therefore, it is unnecessary to include such a provision in the amended order, and the proposal is denied.

The committee should be authorized to sell surplus tonnage raisins, as would be prescribed in § 989.68 (b) (3) to foreign countries which are not listed as outlets available for export sale by handlers whether such countries were initially omitted from the list of countries reserved for handler sale or were listed and subsequently removed from such list. It is deemed desirable that such authorization be explicit so as to clearly delineate the area of permitted sale of surplus tonnage raisins by the committee. However, no such sale should be entered into by the committee until five days (exclusive of Saturdays, Sundays and holidays) have elapsed from the time of filing any proposed sale with the Secretary. This is necessary in order that the Secretary may have adequate information of such sale and opportunity to disapprove of it.

It should be provided that the committee may undertake market development projects to promote the consumption of surplus tonnage raisins in export. The increase in consumption of surplus raisins by efforts to expand existing market outlets and the development of new export outlets are inherent in the committee's disposal obligation. It is anticipated that such authority would be exercised with respect to surplus tonnage raisins in a manner similar to the exercise of comparable authority in regard to raisins generally pursuant to the provisions of proposed § 989.53.

Subject to the approval of the Secretary, the committee should have the right to refuse to sell surplus tonnage raisins to any handler who is in default on any previous purchase of such raisins

or if the committee finds that a handler is currently not in compliance with the provisions of a surplus tonnage sales agreement executed by such handler with the committee. The committee is charged with the responsibility of safeguarding the interests of persons having an equity in surplus tonnage raisins and the committee should have the right to protect itself and equity holders against any handler who does not meet his obligations to the committee with respect to such raisins.

The committee should prescribe, with the approval of the Secretary, such rules and procedures as are necessary to carry out the provisions of proposed § 989.68.

(10) Section 989.72 of the present order provides that each handler shall, upon request of the committee, file promptly with the committee a certified report of all natural condition raisins and packed raisins, separately, which were held by him on July 1 of any crop year, which report shall show the quantity of each varietal type, and the locations thereof. This information has been needed by the committee in developing its marketing policy, considering sales of reserve or surplus tonnage, and making compliance checks. By other amendments, it is proposed to require that the marketing policy meeting each year shall be held not later than August 20, whereas it is now required to be held not later than July 5. Also, the proposed grade and condition standards may result in handlers having in their inventories one or more additional categories of raisins. Sales of reserve or surplus raisins are made at various times, and in that connection, information concerning handlers' inventories usually is required only for the varietal type offered. It is, therefore, concluded that the aforesaid provisions of § 989.72 should be amended by deleting the reference to July 1, and indicating some of the types of information to be reported, so as to provide more flexibility for the obtaining of the necessary information in this connection.

Section 989.73 of the present order provides, among other things, that each handler shall file with the committee a certified report, for each week, showing with respect to his acquisitions of each varietal type of raisins during that particular week covered by such report, the total quantity acquired, the reserve and surplus tonnages, separately, referable to his acquisitions of raisins, and other information as to reserve and surplus tonnage. Experience has shown that this requirement is too rigid, in that some handlers operate on a seasonal basis and may have no acquisitions to report for periods as long as six or eight months. Also, when no volume regulation is in effect, less frequent reports than weekly may be satisfactory. Moreover, the proposed grade and condition standards would require handlers to hold for the account of the committee any off-grade raisins acquired as such, and to determine reserve and surplus tonnage obligations on the basis of their acquisitions of standard raisins. Changes in the reporting requirements are necessary because of these added requirements. In order to provide the flexibility necessary

to meet the conditions indicated above, § 989.73 should be amended to provide that each handler shall file with the committee, in accordance with such rules and procedures as are prescribed by the committee, with the approval of the Secretary, certified periodic reports with respect to: (1) The quantity of off-grade raisins acquired; and (2) the reserve and surplus tonnage separately referable to his acquisitions of standard raisins. Also, the present requirement for weekly reports should be made permissive, rather than mandatory.

The present requirement that handlers maintain records for two years, as specified in the present rules and procedures, is adopted for inclusion in the amended order with the minor change that the period be for two years beyond the crop year in which the transactions occurred.

(11) The order should be amended to provide that expenses incurred by the committee for the receiving, handling, holding, or disposing of any quantity of reserve, surplus, and off-grade raisins held for the account of the committee shall be charged against the proceeds of sales of such raisins, and such expenses shall not be defrayed from funds which the committee obtains by collecting assessments from handlers.

It is specified in the present order that direct expenses incurred by the committee in discharging its obligations with respect to reserve and surplus tonnage shall be charged against the sales proceeds of such tonnage and that the committee shall not use assessment revenue obtained from handlers to defray such expenses. However, a question arose under the order operations as to the meaning of "direct expenses," that is, exactly which expenses should be paid from sales proceeds of the reserve and surplus tonnage and not paid from assessment revenue. In this regard, section 10 (b) (2) (ii) of the act provides specifically that handlers shall pay assessments to cover expenses incurred in the maintenance and functioning of an authority or agency, such as the committee, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers. It is necessary that any provisions of the amended order be in conformity with the applicable provisions of the act. The proposed amendment would achieve this result.

The provisions of the present order require the committee to submit to the Secretary for each crop year, not later than July 15 of the preceding crop year, its budget of anticipated expenses, its recommendation as to the expenses it is likely to incur in the maintenance and functioning of the committee and the board, and its proposed assessment rate to be levied on handlers to provide funds to meet such latter expenses. As set forth in the notice of hearing, it is proposed that the proposed budget of administrative expenses (those for the maintenance and functioning of the committee and the board) and the proposed assessment rate be submitted prior to the beginning of the applicable crop

year, and that the proposed budget of pool expenses (those incurred in connection with reserve, surplus, and off-grade raisins held for the account of the committee) be submitted prior to December 1 of the applicable crop year.

Experience has shown that a satisfactory budget either of administrative expenses or of pool expenses for a particular crop year cannot be developed by July 15 prior to such crop year. The same is true with respect to the proposed assessment rate. It was testified that while a reasonably satisfactory budget of administrative expenses could be developed by September 1, a better basis would exist for making an accurate report on administrative expenses if it could be delayed until the committee submits its recommendation with respect to free, reserve, and surplus percentages, which is proposed to be not later than October 1. It is, therefore, concluded that the order should be amended to provide that the committee shall file with the Secretary for each crop year and not later than October 1 of the crop year its proposed budget of administrative expenses and its proposed assessment rate, together with a report thereon.

With respect to pool expenses, a proposed budget of such expenses is not used as a basis for establishing an assessment rate or for taking any other specific action. A major portion of the pool expenses are those paid to handlers for receiving, storing, and handling pool tonnage and for which a schedule of payments is established by the committee and approved by the Secretary pursuant to the provisions of § 989.66 (f) of the present order. The establishment and approval of such schedule of payments constitute adequate fiscal control over these expenses. Other major pool expenses are those which may be incurred in the disposition of pool tonnage, such as packing, transportation, and wharfage costs, and cannot be estimated meaningfully until the method of disposition and delivery point are determined. The committee's disposition cost for a given lot of raisins is governed in part by rates established by government regulation or industry practice. Thus, the committee does not have complete discretion in the matter.

The remaining pool expenses include the so-called indirect pool expenses which relate to such items as salaries, telephone, rent, office supplies and travel expense and which can be reasonably well estimated at the time the proposed budget of administrative expenses is prepared. It is, therefore, further concluded that the order should be amended by deleting the requirements with respect to the committee submitting and the Secretary approving pool expenses and providing that the committee shall submit to the Secretary with its proposed budget of administrative expenses, its proposed budget of estimated pool expenses, exclusive of the expenses for receiving, storing, and handling pool tonnage covered by any schedule of payments to handlers established by the committee and approved by the Secretary and exclusive of any disposition expenses which are unknown at the time.

As set forth in the notice of hearing, it was proposed to amend § 989.79 of the existing order to provide that the assessment of each handler as prescribed in that section shall apply with respect to all surplus tonnage sold to him for use as free tonnage. The order as proposed to be amended would not provide for the sale of surplus tonnage to handlers for use in free tonnage outlets, but does provide, under certain conditions, for surplus tonnage to be sold as though it were reserve tonnage for use in free tonnage outlets. Since the assessment prescribed in § 989.79 of the existing order now applies to all reserve tonnage sold to handlers, the objective desired by this proposal may be achieved without further amendment of said section. Therefore, the proposal is denied.

So as to assure continuance of the committee throughout the period the amended order is in effect, § 989.79 of the existing order should be amended to provide that the payment of assessments for the maintenance and functioning of the committee may be required throughout the period the amended order is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

Section 989.80 (a) of the existing order should be clarified so that any money collected as assessments during any crop year and not expended in connection with that year's operations may be used by the committee in paying its expenses during the succeeding crop year in the same manner as advance assessment payments may be made.

Section 989.81 of the present order should be amended to authorize the committee to pay any taxes assessed against raisins held by or for the account of the committee of the first Monday in March, in the reserve, surplus, or any other pools established pursuant to the order, provided that any producer, handler or other equity holder may pay his own taxes upon giving notice to the committee on or before May 1 of each year of his intention to do so.

The practical problems involved in having each equity holder of pool raisins pay his own taxes on his share of the raisins make it advisable that the committee be authorized to pay any taxes assessed against pool raisins with the exception as indicated above. If each producer desired or was required, to pay his own taxes, this would place a heavy burden on the committee, as it would be necessary to advise every producer or other pool equity holder of his appropriate share in each of a number of pools operated by the committee. Inasmuch as these pools change from time to time by reason of the fact that reserve tonnage is converted into surplus tonnage on specific dates, and pool raisins are from time to time sold to packers, it would present a real problem to determine as of a particular tax date each equity holder's share in these pools.

In this connection, it is presumed that each county assesses personal property taxes on all pool raisins held in that county, whereas pooling is on a statewide basis. There is no requirement that the committee hold, or handlers hold for the account of the committee, any lot

of pool raisins in the county in which the producer thereof, or successor in interest thereto, resides. Also, the committee does not necessarily make disposition of pool raisins held in the various counties, pro rata according to the holdings in each county, so that on tax date the pool holdings in a particular county may not be in the same proportion to total pool holdings as they were earlier. Thus, because of order operations, the total of pool holdings in a particular county on tax date is likely to differ from the total pool equities of the person residing in the county. The proposal for the committee to pay any taxes assessed against pool raisins would make it unnecessary to compute each equity holder's share in the tonnage held in each county.

Since some individuals may have special tax exemptions, any persons having an equity in a pool should be permitted to pay his own taxes if he gives appropriate notice to the committee of his intention to do so. The committee should furnish to any such person pertinent information concerning his share of the pool holdings. The vast majority of the producers (equity holders) apparently prefer that the committee take care of the tax obligation for them, and furnishing the required information to those desiring to pay their own tax should not be a great burden to the committee.

As a compliance aid and to strengthen the enforceability of the order, it should be amended to include a new provision that no handler shall dispose of free, reserve, or surplus tonnage raisins or off-grade raisins except in accordance with the provisions of the amended order or pursuant to regulations and instructions issued by the committee.

(12) It is now provided in the order that the committee shall give reasonable advance notice to producers, dehydrators, or handlers with respect to meetings, recommendations to the Secretary, and regulations established by the Secretary, and in some instances that such notices shall be given through publication in newspapers having general circulation in the area. From this language, it could be interpreted that "notice" would require a paid advertisement in a newspaper or similar and comparable means of formal notice. In the past, wide publicity has been given to these matters by newspapers, industry newsletters, radio, and television without the necessity of the committee placing paid advertisements or announcements. The opinion was expressed that such coverage reaches more interested people than would be the case if notice were given by paid advertisement, and that such publicity channels will be available to the committee in the future. In order to make it clear that the committee is not required to run paid advertisements or announcements, the order should be amended to require only that the committee or the board give reasonable publicity in giving notices of such things as meetings, recommendations submitted to the Secretary and regulations. Where particular persons must act in response to a notice, as for example notices to the membership of board or

committee meetings or to handlers of regulations established, appropriate individual notices should be given.

(13) Section 989.96 (Exhibit A) of the present order should be amended by redelineating the Sanger (No. 5) Reedley (No. 11) Kingsburg (No. 12) and Selma (No. 13) districts described therein, to correct inadvertent errors. These are four of the 15 districts of Fresno County for each of which a producer member and producer alternate member of the Raisin Advisory Board is selected. The correction of the errors would be accomplished by: (a) Including in the appropriate districts, small producing areas not now included in any district; (b) excluding certain areas from districts in which they are now placed and including them in more geographically appropriate districts; and (c) excluding from one district, areas which are now included in each of two districts. The redelineation should be according to the districts shown on the map of Fresno County introduced at the public hearing, identified as Exhibit No. 5 and made a part of the record. The revisions involve relatively small areas in each instance and would not change materially the balance among producer groups for purposes of representation on the board.

*Rulings on proposed findings and conclusions.* At the time of the hearing, the Presiding Officer set May 9, 1955, as the time by which briefs would need to be filed by interested parties with respect to facts presented in evidence and the conclusions which should be drawn. Briefs were filed on behalf of: (1) Raisin Administrative Committee, by its counsel, John W. Guerard; (2) El Mar Packing Company, Pacific Raisin Company, Vagim Packing Company, Lion Packing Company, Enoch Packing Company, Clovis Packing Company, Chooljian Bros. Packing Company, Del Rey Packing Company, Tusan Packing Company and Pelolan Packing Company, by their counsel, Iener W. Nielsen; (3) California Packing Corporation, Rosenberg Bros. & Company, Inc., Bonner Packing Company and West Coast Growers and Packers, by their counsel, Melville Ehrlich; (4) Raisin Growers of California, by Ralph E. Wallace, counsel for the association; (5) Raisin Growers of California and Francis McEwen, by Francis McEwen, and (6) Eugene B. Williams, by himself. The briefs contain proposed findings of fact, conclusions and arguments with respect to proposals discussed at the hearing. Every point covered in these briefs has been considered carefully along with the evidence in the record in making the findings and reaching the conclusions herein set forth. To the extent that the suggested findings and conclusions contained in those briefs are inconsistent with the findings and conclusions contained herein, the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with this recommended decision.

*General findings.* (a) The findings hereinafter set forth are supplementary, and in addition to, the findings and determinations which were previously

made in connection with the original issuance (14 F. R. 5136) of this marketing agreement and order, and all of said previous findings and determinations, except the findings as to the base period for parity computation, are hereby ratified and confirmed except insofar as such findings and determinations may be in conflict with the findings set forth herein;

(b) The marketing agreement and order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(c) The marketing agreement and order, as hereby proposed to be amended, will be applicable only to persons in the respective classes of industrial and commercial activities specified or necessarily included in the proposals upon which the amendment hearing has been held; and

(d) There are no differences in the production and marketing of raisins in the production area covered by this marketing agreement and order, as hereby proposed to be amended, which make necessary different terms applicable to different parts of such area.

*Recommended amendment of the marketing agreement and order.* The following proposed amended marketing agreement and amended order<sup>1</sup> is recommended as the detailed means by which the foregoing conclusions may be carried out:

#### DEFINITIONS

§ 989.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

§ 989.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933) as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047)

§ 989.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 989.4 *Area.* "Area" means the State of California.

§ 989.5 *Raisin variety grapes.* "Raisin variety grapes" means grapes of the Thompson Seedless (or Sultanina), Muscat of Alexandria (or Muscat) Muscatel Gordo Blanco (or Muscat) Black Corinth (or Zante Currant) White Corinth (or Zante Currant) and Seedless Sultanina (or Sultanina), varieties grown in the area.

§ 989.6 *Raisins.* "Raisins" means any raisin variety grapes from which a part of the natural moisture has been removed by sun-drying or artificial dehydration after such grapes have been removed from the vines.

<sup>1</sup> The provisions identified with an asterisk (\*) apply only to the proposed amended marketing agreement and not to the proposed amended order.

§ 989.7 *Bleached raisins.* "Bleached raisins" means (a) any raisins which have been produced by soda dipping, with or without oil, whether sun-dried or artificially dehydrated, or (b) any raisins which have been produced by soda dipping, sulfuring, and sun-drying.

§ 989.8 *Golden Seedless raisins.* "Golden Seedless raisins" means raisins, the production of which includes soda dipping, sulfuring, and artificial dehydration.

§ 989.9 *Natural condition raisins.* "Natural condition raisins" means raisins the production of which includes sun-drying or artificial dehydration, with or without bleaching, but which have not been further processed to a point where they meet any of the conditions for "packed raisins", as defined in § 989.10.

§ 989.10 *Packed raisins.* "Packed raisins" means raisins which have been stemmed, graded, sorted, cleaned, or seeded, and placed in any container customarily used in the marketing of raisins or in any container suitable or usable for such marketing. Raisins in the process of being packed or raisins which are partially packed shall be subject to the same requirements as packed raisins.

§ 989.11 *Varietal type.* "Varietal type" means natural (sun-dried) Thompson Seedless, natural (sun-dried) Muscat, natural (sun-dried) or artificially dehydrated Sultanina, natural (sun-dried) or artificially dehydrated Zante Currants, Layer Muscat, Golden Seedless, Sulfur Bleached, Soda Dipped, or Valencia raisins.

§ 989.12 *Producer.* "Producer" means any person engaged, in a proprietary capacity, in the production of raisin variety grapes.

§ 989.13 *Dehydrator.* "Dehydrator" means any person who produces raisins by dehydrating raisin variety grapes by means of artificial heat.

§ 989.14 *Processor.* "Processor" means any person who acquires raisins and uses them within the area, with or without other ingredients, in the production of a product other than raisins, for market or distribution.

§ 989.15 *Packer.* "Packer" means any person who, within the area, stems, sorts, cleans, or seeds raisins, grades stemmed raisins, or packages raisins for market as raisins: *Provided*, That any producer or dehydrator shall be deemed to be a packer, with respect to the raisins produced or dehydrated by him, only if he stems, cleans, seeds or packages them for market as raisins.

§ 989.16 *Handler.* "Handler" means any person who ships natural condition raisins out of the area, or any processor or packer.

§ 989.17 *Acquire.* "Acquire" means to have or obtain physical possession of raisins by a handler at his packing or processing plant or at any other established receiving station operated by him: *Provided*, That a handler shall not be deemed to acquire any raisins (including

raisins produced or dehydrated by him) while: (a) He stores them for another person or as handler-produced tonnage in compliance with the provisions of §§ 989.58 and 989.70; (b) he reconditions them, or; (c) he has them in his possession for the purpose of inspection; and *Provided further* That the term shall apply only to the handler who first acquires the raisins.

§ 989.18 *Board*. "Board" means the Raisin Advisory Board established pursuant to § 989.26.

§ 989.19 *Committee*. "Committee" means the Raisin Administrative Committee established pursuant to § 989.39.

§ 989.20 *Ton*. "Ton" means a short ton of 2,000 pounds.

§ 989.21 *Crop year* "Crop year" means the 12-month period beginning with September 1 of any year and ending with August 31 of the following year: *Provided*, That the first crop year under this amended subpart shall begin at the effective time of this amended subpart: *And provided further* That the crop year which began on August 15, 1954, is hereby extended from August 14, 1955, to the effective time of this amended subpart.

§ 989.22 *District*. "District" means any one of the geographical areas referred to in § 989.26 and specified in § 989.96 (Exhibit A).

§ 989.23 *File*. "File" means transmit or deliver to the Secretary or committee, as the case may be, and such act shall be deemed to have been accomplished at the time: (a) Of actual receipt by the Secretary or committee in the event of personal delivery; (b) of receipt at the office of the telegraph company, in case submission is by telegram; or (c) shown by the postmark, in case submission is by mail.

§ 989.24 *Standard raisins and off-grade raisins*. (a) "Standard raisins" means raisins which have been certified as meeting the then effective minimum grade and condition standards for natural condition raisins.

(b) "Off-grade raisins" means raisins which fail to meet the then effective minimum grade and condition standards for natural condition raisins.

§ 989.25 *Part and subpart*. "Part" means the order regulating the handling of raisins produced from raisin variety grapes grown in California, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of raisins produced from raisin variety grapes grown in California shall be a "subpart" of such part.

#### RAISIN ADVISORY BOARD

§ 989.26 *Establishment and membership*. The Raisin Advisory Board is hereby established, consisting of 46 members of whom 36 shall represent producers, eight shall represent handlers and two shall represent dehydrators. The dehydrator members shall represent all dehydrators within the area and shall be selected from dehydrators as provided in § 989.29 (b) (4). The handler members of the board shall include the following: (a) One member selected from

and representing handlers doing business as cooperative marketing associations, or cooperative marketing organizations engaged in the business of packing raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year; (b) two members selected from and representing the two handlers, other than cooperatives, who acquired the largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; (c) one member selected from and representing the three handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; (d) two members selected from and representing the five handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; and (e) two members selected from and representing all other handlers, including cooperatives each of which acquired less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year, and including all processors. The 36 producer members shall be selected in the number and for the districts as designated in § 989.96 (Exhibit A). For each member of the board there shall be an alternate member who shall have the same qualifications as the member for whom he is an alternate.

§ 989.27 *Eligibility*. No person shall be selected or continue to serve as a member or alternate member of the board, who is not actively engaged in the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business: *Provided*, That any handler eligible to represent a particular size group at the time of his selection who later falls in a different size group shall continue to represent for the entire term the size group for which he was selected.

§ 989.28 *Term of office*—(a) *Producer members*. One-third of the producer members and producer alternate members of the board initially selected pursuant to § 989.30 by the Secretary shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 30, 1951, and until the respective successors are selected and have qualified. One-third of the producer members and producer alternate members of the board initially selected pursuant to § 989.30 by the Secretary shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 30, 1952, and until the respective successors are selected and have qualified. The per-

sons to hold office as producer members and producer alternate members for the respective terms of office specified above shall be determined by the drawing of lots by those persons selected by the Secretary as producer members and alternate members pursuant to § 989.30, and the results of such drawings shall be filed promptly with the Secretary. The term of office of succeeding producer members and producer alternate members of the board shall be three years, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified.

(b) *Handler and dehydrator members*. The handler members and dehydrator members, and their respective alternates, shall each serve for terms of one year, beginning on May 1, and ending on April 30 of the following year, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified: *Provided*, That the terms of office of the initial handler and dehydrator members and their respective alternates under this amended subpart shall begin on a date to be designated by the Secretary. Handler and dehydrator members, and their respective alternates, who are holding office on the effective date of this amended subpart shall continue to do so until the successors have been selected and have qualified.

§ 989.29 *Nominations*—(a) *Initial members*. Producer members and alternate producer members of the board serving on the effective date of this amended subpart shall continue to serve as the initial producer and alternate producer members of the board established by § 989.26, as amended, for their specified terms of office and until their respective successors have been selected and have qualified. Initial nominations for each of the handler and dehydrator members and alternate members of the board established by § 989.26, as amended, shall be filed with the Secretary not later than 10 calendar days after the effective date of this amended subpart.

(b) *Successor members*. Nominations for successor members and alternate members of the board shall be made as set forth in subparagraphs (1) to (6) of this paragraph.

(1) The board shall give reasonable publicity of a meeting or meetings of producers, handlers and dehydrators, respectively, for the purpose of making nominations for member and alternate member positions to be filled on the board: *Provided*, That, with respect to producer members and producer alternate members, a meeting or meetings shall be held in each respective district for which nominations are to be made to fill producer member and producer alternate member positions on the board.

(2) Only producers who produced raisin variety grapes during the then current crop year in the respective district for which nominations are to be made may nominate, or vote for, any producer member or producer alternate member for such district. Any producer who produced raisin variety grapes during the

then current crop year in any of the districts may be nominated to represent any district as producer member or producer alternate member of the board, except that a producer may be a nominee from only one district. One or more eligible producers for each producer member position to be filled on the board may be proposed for nomination and one or more eligible producer for each alternate member position to be filled may be proposed for nomination. Each producer shall cast only one vote with respect to each position for which nomination is to be made. The person receiving a majority of votes with respect to each producer member or producer alternate member position shall be the person to be certified to the Secretary as the nominee for each such position. In the event no person receives a majority, there shall be a run-off vote between the two persons receiving the largest number of votes.

(3) Only handlers who packed or processed raisins during the then current crop year may nominate, or vote for, handler members or handler alternate members. One or more eligible handlers for each handler member position to be filled may be proposed for nomination, and one or more eligible handlers for each alternate member position to be filled on the board may be proposed for nomination. Nominations by each of the handler groups specified in § 989.26 shall be made by and from handlers, or employees, representatives; or agents of handlers falling within such groups. Each handler shall cast only one vote with respect to each position for which nomination is to be made: *Provided*, That only handlers coming within the particular group, as specified in § 989.26, for which nomination is to be made, shall vote. The person receiving the most votes with respect to each handler member or handler alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(4) Only dehydrators who produced raisins by dehydrating raisin variety grapes during the then current crop year may nominate, or vote for, dehydrator members or dehydrator alternate members. One or more eligible dehydrators for each dehydrator member position to be filled on the board may be proposed for nomination, and one or more eligible dehydrators for each alternate member position may be proposed for nomination. Each dehydrator shall cast only one vote with respect to each position for which nomination is to be made. The person receiving the most votes with respect to each dehydrator member or dehydrator alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(5) Each vote cast shall be on behalf of the person voting, his agents, subsidiaries, affiliates, and representatives. Voting at each meeting shall be in person. The result of each ballot at each such meeting shall be announced at that meeting. Voting at each meeting of producers shall be by secret ballot, and

at each meeting of handlers, and dehydrators, voting may be by secret ballot.

(6) Each such nomination shall be certified by the board to the Secretary on or before April 5 immediately preceding the commencement of the term of office of the member or alternate member position for which the nomination is certified.

§ 989.30 *Selection*. The Secretary shall select producer, handler, and dehydrator members and alternate members in the numbers specified in § 989.26 and with the qualifications specified in § 989.27. Such selections may be made from the nominations certified pursuant to § 989.29 or from other producers, handlers, and dehydrators, but each such selection shall be made, on the basis of the respective producer, handler, and dehydrator representations and qualifications set forth in §§ 989.26 and 989.27.

§ 989.31 *Failure to nominate*. In the event nomination for a member or alternate member position on the board is not certified pursuant to and within the time specified in § 989.29, the Secretary may select such member or alternate member without regard to nomination, but such selection shall be on the basis of the respective producer, handler and dehydrator representations and qualifications set forth in §§ 989.26 and 989.27.

§ 989.32 *Acceptance*. Each person selected by the Secretary as a member or as an alternate member of the board shall, prior to serving on the board, qualify by filing with the Secretary a written acceptance within 10 calendar days after being notified of his selection.

§ 989.33 *Alternate members*. The alternate for a member of the board shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

§ 989.34 *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member of the board to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in §§ 989.29 and 989.30, insofar as such provisions are applicable. If nomination to fill any vacancy is not filed within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nomination, but on the basis of the applicable representation and qualifications set forth in §§ 989.26 and 989.27.

§ 989.35 *Meetings*. The board shall meet at the call of its chairman or its vice chairman when acting as chairman, or at the call of any officer of the board upon the request of at least one-third of its producer or handler members. Reasonable advance notice of each meeting shall be given by mail or other appropriate means to each member and alternate member and such notice shall be given as widespread publicity as is prac-

ticable. The notice of each meeting shall specify the time, place, and general purpose thereof.

§ 989.36 *Duties*. The duties of the board shall consist of the conducting of meetings for the purpose of making nominations for membership on the board and the certifying of nominations made for such purpose to the Secretary, the making of nominations to the Secretary for member and alternate member positions on the committee, the making of recommendations to the committee with respect to marketing policy, the free, reserve, and surplus percentages, and such other operational matters as it deems proper or as the committee may request.

§ 989.37 *Procedure*. (a) Except as otherwise provided in § 989.42, all decisions of the board shall be by majority vote of the members present. The presence of not less than 19 producer members and not less than five members other than producer members shall be required to constitute a quorum.

(b) The board shall give to the Secretary the same notice of meetings of the board as it gives to its members.

#### RAISIN ADMINISTRATIVE COMMITTEE

§ 989.39 *Establishment and membership*. A Raisin Administrative Committee is hereby established to administer the terms and provisions of this part. Such committee shall consist of 14 members, of whom eight shall represent producers (one of whom shall be a producer of raisin variety grapes used in the production of Golden Seedless raisins), five shall represent handlers, and one shall represent dehydrators. Of the five handler members, one shall be selected from and represent each of the following divisions: (a) The handlers doing business as cooperative marketing associations, or cooperative organizations engaged in the business of packing raisins, each of which acquired not less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year; (b) the two handlers, other than cooperatives, who acquired the largest percentages of total raisin acquisitions during the 12-month period preceding the then current crop year; (c) the three handlers, other than cooperatives, who acquired the next largest percentages of total raisin acquisitions during the 12-month period preceding the then current crop year; (d) the five handlers, other than cooperatives, who acquired the next largest percentages of the total raisin acquisitions during the 12-month period preceding the then current crop year; and (e) all other handlers, including cooperatives each of which acquired less than 10 percent of the total raisin acquisitions during the 12-month period preceding the then current crop year, and including all processors. For each member of the committee there shall be an alternate member who shall have the same qualifications as the member for whom he is an alternate.

§ 989.40 *Eligibility*. No person shall be selected, or continue to serve, as a member or alternate member of the committee, who is not actively engaged in

the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business: *Provided*, That any handler eligible to represent a particular size group at the time of his selection who later falls in a different size group shall continue to represent for the entire term the size group for which he was selected.

§ 989.41 *Term of office.* Members and alternate members of the committee shall each serve for terms of one year, beginning on June 1, and ending on May 31 of the following year but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified: *Provided*, That the term of office of initial dehydrator and handler members and alternate members under this amended subpart shall begin on a date to be designated by the Secretary.

§ 989.42 *Nomination*—(a) *Producer members.* The producer members of the board, and producer alternate members when acting as members, shall nominate from among the producer members and producer alternate members of the board eight persons for producer member positions on the committee and an alternate for each such person: *Provided*, That one of the persons nominated for a producer member position on the committee and his alternate shall be producers of raisin variety grapes used in the production of Golden Seedless raisins.

(b) *Handler members.* The handler members of the board and handler alternate members when acting as members, shall nominate from among the handler members and alternate members of the board, five persons for handler member positions on the committee, and an alternate for each such person: *Provided*, That such nominations shall be made on the basis of one member and one alternate member for each of the groups specified in § 989.39. Nomination for each of the handler groups specified in § 989.39 shall be made by and from handlers, employees, representatives or agents of handlers falling within each such group.

(c) *Dehydrator members.* The dehydrator members of the board, and dehydrator alternate members when acting as members, shall nominate from among the dehydrator members and dehydrator alternate members of the board one person for the dehydrator member position on the committee and an alternate for such person.

(d) *Initial members.* Nominations for initial handler and dehydrator members and alternate members of the committee as provided in § 989.39, as amended, shall be certified by the board to the Secretary not later than 10 calendar days after the selection by the Secretary of board members. The handler and dehydrator members and alternate members who are serving as such at the effective time of this amended subpart shall continue to serve until the successors have been selected and have qualified. The producer members and alternate members who are serving as such at the effective time of this subpart shall continue to serve for their specified

terms of office and until their respective successors have been selected and have qualified.

(e) *Successor members.* Nominations for successor members and alternate members of the committee shall be certified by the board to the Secretary annually within 30 days following the selection by the Secretary of board members.

§ 989.43 *Selection.* The Secretary shall select producer, handler, and dehydrator members and alternate members of the committee in the numbers and with the qualifications specified in §§ 989.39 and 989.40. Such selections may be made by him from the nominations certified pursuant to § 989.42 or from other eligible producers, handlers, and dehydrators, but such selections shall be made on the basis of the respective producer, handler and dehydrator representations and qualifications set forth in §§ 989.39 and 989.40.

§ 989.44 *Failure to nominate.* In the event any of the groups entitled pursuant to § 989.42 to submit nominations to the Secretary shall fail to do so within the time specified in § 989.42, the Secretary may select the particular members or alternate members of the committee without regard to nominations, but such selections shall be on the basis of the applicable producer, handler and dehydrator representations and qualifications set forth in §§ 989.39 and 989.40.

§ 989.45 *Acceptance.* Each person selected by the Secretary as a member or as an alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 10 calendar days after being notified of such selection.

§ 989.46 *Alternate members.* An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death until a successor for such member's unexpired term has been selected and has qualified.

§ 989.47 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in §§ 989.42 and 989.43, insofar as such provisions are applicable. If nomination to fill any such vacancy is not made within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, but on the basis of the applicable representations and qualifications set forth in §§ 989.39 and 989.40.

§ 989.48 *Compensation and expenses.* The members of the committee and the board, and the alternate members when acting as members, shall serve without compensation but shall be allowed their necessary expenses as approved by the committee.

§ 989.49 *Powers.* The committee shall have the following powers:

- (a) To administer the terms and provisions of this part;
- (b) To make rules and regulations to effectuate the terms and provisions of this part;
- (c) To receive, investigate, and report to the Secretary, complaints of violations of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ 989.50 *Duties.* The committee shall have, among others, the following duties:

- (a) To act as intermediary between the Secretary and any producer, packer, dehydrator, or processor;
- (b) To keep minutes, books, and other records, which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;
- (c) To investigate and assemble data on the production, handling, and market conditions with respect to raisins;
- (d) To submit to the Secretary such available information with respect to raisins and raisin variety grapes as he may request, and such other information as the committee may deem desirable and pertinent;
- (e) To select, from among its members, a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;
- (f) To appoint or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of each such person;
- (g) To cause the books of the committee to be audited by certified public accountants at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request, and the report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit shall be submitted to the Secretary.

(h) To prepare quarterly statements of its financial operations and make such statements, together with the minutes of its meetings, available at the office of the committee for inspection by producers, handlers and dehydrators;

(i) To give reasonable advance notice of the times, places, and purposes of its meetings by mail or other appropriate means to each member and alternate member and such notice shall be given as widespread publicity as is practicable.

(j) To investigate compliance with and to use means available to the committee to prevent violation of the provisions of this part; and

(k) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the act and the efficient administration of this subpart.

§ 989.51 *Obligation.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member, such mem-

ber or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor or, until such successor has been selected and has qualified, in the committee.

§ 989.52 *Procedure.* (a) All decisions of the committee reached at an assembled meeting shall be by majority vote of the members present and a quorum must be present. All votes in an assembled meeting shall be cast in person. The presence of nine members shall be required to constitute a quorum. The committee may vote by mail or telegraph, but any proposition to be so voted upon first shall be explained accurately, fully and identically by mail or telegraph to all members. Fourteen concurring votes shall be required to reach a decision on a mail or telegraphic vote.

(b) The committee shall give to the Secretary the same notice of its meetings as it gives to its members and also advance notice of all subcommittee meetings.

(c) The committee shall defer action with respect to any marketing policy or percentage recommendation of the board until at least the day following the day on which any such recommendation is adopted by the board.

#### RESEARCH AND DEVELOPMENT

§ 989.53 *Research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of raisins. The expense of such projects shall be paid from funds collected pursuant to § 989.79.

#### MARKETING POLICY

§ 989.54 *Marketing policy.* Not later than August 20 preceding the beginning of each crop year, the committee shall hold a meeting to formulate and adopt a marketing policy for the marketing of raisins for the ensuing crop year and shall submit to the Secretary within 10 days a report setting forth its marketing policy for the regulation of the handling of raisins in such crop year. Such report shall include the data and information used by the committee in formulating such marketing policy and the recommendations of the board: *Provided*, That with respect to the initial crop year the committee shall hold a meeting for such purpose as soon as practicable after the effective date of

this amended subpart. In developing the marketing policy, the committee shall give consideration to the following factors with respect to each varietal type of raisins:

(a) The estimated tonnage of raisins held by producers and handlers;

(b) The estimated tonnage of raisins which will be produced during the crop year.

(c) An appraisal of the quality of raisins of the crop to be produced in such crop year, including the estimated tonnage of standard raisins and off-grade raisins, respectively.

(d) The tonnage of raisins marketed during recent crop years in the domestic market and in Canada;

(e) The tonnage of raisins marketed in recent crop years in foreign markets, segregated to show the quantities marketed from free and surplus tonnage raisins and the countries in which such raisins were marketed;

(f) The current price being received for raisins by producers and handlers;

(g) The estimated trade demand during the crop year for raisins in normal market channels both domestic and foreign;

(h) The trend and level of consumer income in the domestic market;

(i) The estimated probable market requirements for raisins during the crop year in foreign markets segregated by countries or groups of countries;

(j) Such factors, if any, which, in the supplying of foreign markets, may tend to directly affect or burden the normal domestic market;

(k) Any other pertinent factors bearing on the marketing of raisins; and

(l) The conditions, including pricing formula, for the sale of surplus tonnage raisins in foreign markets pursuant to the provisions of § 989.68.

§ 989.55 *Modification.* In the event the committee subsequently deems it advisable to modify such marketing policy, because of changed demand or supply conditions, it should hold a meeting for that purpose, and file a report thereof with the Secretary within five days (exclusive of Saturdays, Sundays, and holidays) after the holding of such meeting, which report shall show each modification, the bases therefor, as well as the recommendation of the board.

§ 989.56 *Verbatim record.* The committee shall file with its report to the Secretary a verbatim record of that portion of its meeting or meetings relating to its marketing policy.

§ 989.57 *Publicity and notice.* The committee shall promptly give reasonable publicity to producers, dehydrators, and handlers of each meeting to consider a marketing policy or any modifications thereof, and each such meeting shall be open to them. Similar notice shall be given to producers, dehydrators, and handlers of each marketing policy report, or modification thereof, filed with the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be made available for examination by any producer, dehydrator, or handler.

#### GRADE AND CONDITION STANDARDS

§ 989.58 *Natural condition raisins—*

(a) *Regulation.* No handler shall acquire or receive natural condition raisins which fail to meet the minimum grade and condition standards as set forth in § 989.97 (Exhibit B) or as later modified; *Provided*, That any handler may acquire storable off-grade raisins for the account of the committee, may receive raisins for inspection, and may receive storable or non-storable off-grade raisins for reconditioning: *And provided further* That a handler who is a processor may acquire storable or non-storable off-grade raisins for use in distillation, animal feed, or any outlet other than for human consumption. All storable off-grade raisins acquired by a handler for the account of the committee shall be held separate and apart from any other raisins held by him, shall not be held for the account of anyone but the committee, and shall be identified as storable off-grade raisins.

(b) *Modification of minimum grade and condition standards for natural condition raisins.* The committee may recommend to the Secretary modifications of the minimum grade and condition standards for natural condition raisins of any varietal type, as set forth in § 989.97 (Exhibit B), and shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall issue such modification of the minimum grade and condition standards for natural condition raisins if he finds upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

(c) *Publicity and notice.* The committee shall give prompt and reasonable publicity to producers, dehydrators, and handlers of each recommendation submitted by it to the Secretary and of each regulation issued by the Secretary. Notice of each such regulation shall be given to all handlers by registered mail.

(d) *Inspection and certification.* Each handler shall cause an inspection and certification to be made of all natural condition raisins acquired or received by him, except with respect to an inter-plant or inter-handler transfer as described in § 989.59 (e). The cost of all such inspection shall be borne initially by the handler but he shall be reimbursed by the committee for inspection costs applicable to pool tonnage held for the account of the committee. Prior to acquiring raisins, storing raisins, reconditioning raisins, or acquiring raisins which have been reconditioned, each handler shall obtain an inspection certificate showing whether or not the raisins meet the applicable minimum grade and condition standards. The handler shall submit or cause to be submitted to the committee a copy of such certificate, together with such other documents or records as the committee may require. Such certificate shall be issued by inspectors of the Processed

Products Standardization and Inspection Branch of the United States Department of Agriculture, unless the committee determines, and the Secretary concurs in such determination, that inspection by another agency would improve the administration of this amended subpart. The committee may require that raisins held on memorandum receipt be reinspected and certified as a condition for their acquisition by a handler.

(e) *Options as to off-grade natural condition raisins.* Any natural condition raisins tendered to a handler which fail to meet the applicable minimum grade standards may at the option of either the handler or the person making the tender: (1) Be returned to the person tendering the raisins; (2) if storable, be turned over to the handler to be held by him as off-grade natural condition raisins for the account of the committee; or (3) be turned over to the handler for reconditioning under the terms of a written agreement between the person making the tender and the handler. If the handler is to acquire such raisins after they are reconditioned, his obligations with respect to such raisins shall be based on the weight of the raisins (if stemmed, adjusted to natural condition weight) after they have been reconditioned. If after such reconditioning, such raisins meet the minimum grade standards but are no longer natural condition raisins, any handler who acquires such raisins shall meet his surplus and reserve tonnage obligations from natural condition raisins acquired by him. Any off-grade raisins (including stemmer waste and raisin offal) accumulated by a handler in reconditioning raisins shall, depending on the terms of the written agreement, be returned by the handler to the person making the tender, or be disposed of by the handler pursuant to § 989.59 (f). Each lot of raisins received by a handler for reconditioning shall be kept by him separate and apart from all other raisins, including other lots received by him for reconditioning, until the quality of the raisins is established by inspection and certification after the raisins have been reconditioned.

§ 989.59 *Regulation of the handling of raisins subsequent to their acquisition by handlers—(a) Regulation.* Unless otherwise provided herein, no handler shall: (1) Ship or otherwise make final disposition of natural condition raisins unless they meet the effective applicable minimum grade and condition standards for natural condition raisins; or (2) ship or otherwise make final disposition of packed raisins unless they at least meet the following minimum grade standards or such standards as modified pursuant to the provisions of paragraph (b) of this section: (i) With respect to all raisins except Layer Muscats and Zante Currants, "U. S. Grade C" as defined in effective United States Standards for Grades of Processed Raisins; (ii) with respect to Golden Seedless and Sulfur Bleached Raisins, the color requirements for "bleached color" (or "choice color") as defined in the said standards; (iii) with respect to Layer Muscat raisins,

"U. S. Grade B" as defined in the said standards; and (iv) with respect to Zante Currant raisins, "U. S. Grade B" as defined in the effective United States Standards for Grades of Dried Currants.

(b) *Minimum grade standards for packed raisins.* The committee may recommend to the Secretary modifications of the minimum grade standards for packed raisins of any varietal type as prescribed in paragraph (a) of this section, and shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall issue such modification if he finds upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

(c) *Publicity and notice.* The committee shall give prompt and reasonable publicity to producers, dehydrators, and handlers of each recommendation submitted by it to the Secretary and of each regulation issued by the Secretary. Notice of each such regulation shall be given to all handlers by registered mail.

(d) *Inspection and certification.* Unless otherwise provided in this section, each handler shall, at his own expense, before shipping or otherwise making final disposition of raisins, cause an inspection to be made of such raisins to determine whether they meet the then applicable minimum grade and condition standards for natural condition raisins or the then applicable minimum grade standards for packed raisins. Such handler shall obtain a certificate that such raisins meet the aforementioned applicable minimum standards and shall submit or cause to be submitted to the committee a copy of such certificate together with such other documents or records as the committee may require. The certificate shall be issued by the Processed Products Standardization and Inspection Branch of the United States Department of Agriculture, unless the committee determines, and the Secretary concurs in such determination, that inspection by another agency will improve the administration of this amended subpart. Any certificate issued pursuant to this paragraph shall be valid only for such period of time as the committee may specify, with the approval of the Secretary, in appropriate rules and regulations.

(e) *Inter-plant and inter-handler transfers.* Any handler may transfer raisins from his plant to his own or another handler's plant within the State of California without having had such raisins inspected as provided in paragraph (d) of this section. The transferring handler shall submit promptly to the committee a report of such transfer. Before shipping or otherwise making final disposition of such raisins, the receiving handler shall comply with the requirements of this section.

(f) *Off-grade raisins accumulated by handlers.* Any off-grade raisins (including stemmer waste and raisin offal) which may be received by a processor or accumulated by a handler by removing

them from his standard raisins, and any raisins acquired as standard raisins by a handler which do not meet the applicable grade and condition standards for shipment or final disposition as raisins, shall be disposed of or marketed, without further inspection, for distillation, animal feed, or uses other than for human consumption. The committee shall establish with the approval of the Secretary, such rules and procedures as may be necessary to insure such uses.

(g) *Exemption of gift and specialty packs.* The committee may establish, with the approval of the Secretary, rules and procedures providing for the exemption of gift and specialty packs of raisins from the grade, inspection, and certification requirements of this section.

§ 989.60 *Pooling and disposition of storable off-grade raisins held for the account of the committee.* Except as provided in § 989.62, a separate pool shall be established for storable off-grade raisins held by handlers for the account of the committee. Such raisins shall be disposed of or marketed for distillation, animal feed, or uses other than for human consumption. The committee shall establish, with the approval of the Secretary, such rules and procedures as are necessary for the administration of the pool. These rules and procedures shall include provisions dealing with handlers' obligations and responsibilities, payments to handlers for performing pooling functions, and distribution of net proceeds to equity holders in a manner similar to those comparable provisions dealing with surplus tonnage raisins.

§ 989.61 *Exemption.* Notwithstanding any other provisions of this amended subpart, the committee may establish, with the approval of the Secretary, such rules and procedures as may be necessary to permit the acquisition and disposition of any off-grade or surplus pool raisins, free from any or all regulations, for uses in distillation, animal feed, or any use other than for human consumption.

§ 989.62 *Above parity situations.* The provisions hereof relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2 (3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2 (1) of the act. Any off-grade raisins received by a handler during a period when minimum grade standards are in effect and when the season average price to producers for raisins, as estimated by the Secretary, is in excess of the parity level shall be disposed of by such handler pursuant to the provisions of § 989.59 (f) rather than through the off-grade pool.

#### VOLUME REGULATION

§ 989.63 *Recommendations for designation of percentages.* (a) If the committee concludes that the supply and demand conditions for raisins make it advisable to designate the percentages

## PROPOSED RULE MAKING

of standard raisins acquired by handlers in any crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively, it shall recommend such percentages to the Secretary. The committee may recommend such percentages separately for each varietal type. The committee also shall submit, together with any recommendation with respect to percentages, the information on the basis of which such recommendation was made, and the recommendations of the board, and also shall specify for each varietal type of raisins the outlets which were considered in determining the free and surplus tonnages and the free and surplus percentages. In the event the committee subsequently deems it desirable to modify, suspend, or terminate any designation by the Secretary of such percentages, it shall submit to the Secretary its recommendation in that regard along with the information on the basis of which such modification, suspension, or termination is recommended, and the recommendation of the board. The committee shall file with its recommendation to the Secretary, a verbatim record of that portion of its meeting or meetings, relating to the free, reserve, and surplus percentages. The recommendations of the committee for the fixing of the initial free, reserve, and surplus percentages for any crop year shall be made not later than October 1 of such year.

(b) In determining any recommendation referred to in paragraph (a) of this section, the committee shall consider and analyze with respect to each varietal type of raisins the same pertinent factors as set forth in § 989.54 of the revised order, relating to marketing policy.

(c) The committee shall give prompt and reasonable publicity to producers, dehydrators and handlers of each meeting to consider the recommendation of the percentages to be fixed pursuant to § 989.64 or of any recommendation to modify suspend or terminate such percentages and each such meeting shall be open to them. The committee shall also give similar notice to producers, dehydrators and handlers, of all such recommendations submitted to the Secretary

§ 989.64 *Regulation by the Secretary.* (a) Whenever the Secretary finds from the recommendation and supporting information supplied by the committee, or from any other available information, that to designate the percentages of standard raisins acquired by handlers during any crop year which shall be free tonnage, reserve tonnage and surplus tonnage, respectively, would tend to effectuate the declared policy of the act, he shall so designate the percentages of standard raisins acquired by handlers during such crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively. In the event the Secretary subsequently finds from the recommendations and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such designation will tend to effectuate the declared policy of the act, he shall so

modify, suspend, or terminate such designation. No such modification shall decrease the free percentage initially designated by the Secretary.

(b) The Secretary may designate separately for each varietal type of standard raisins acquired by handlers in any crop year, the percentages which shall be considered as free tonnage, reserve tonnage, and surplus tonnage, respectively.

(c) The Secretary shall notify the committee promptly of each such percentage so fixed. The committee shall give prompt and reasonable publicity thereof to producers and shall notify handlers and dehydrators of such percentages by registered mail.

§ 989.65 *Free tonnage.* The standard raisins acquired by a handler which are designated as free tonnage may be disposed of by him in any marketing channel, subject to the applicable provisions of this amended subpart.

§ 989.66 *Reserve and surplus tonnage generally.* (a) The standard raisins acquired by a handler which are designated as reserve tonnage and those which are designated as surplus tonnage shall be held by him for the account of the committee and subject to the applicable restrictions of this part.

(b) (1) Each handler shall hold in storage all reserve and surplus tonnage acquired by him until he has been relieved of such responsibility by the committee, either by delivery to the committee, or otherwise. Such handler shall store such reserve and surplus tonnage raisins in natural condition without addition of moisture and in such a manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for loss through fire, acts of God, force majeure, or other conditions beyond the handler's control: *Provided*, That, in the case of Layer Muscat raisins, the committee may permit handlers to satisfy the applicable reserve and surplus tonnage obligations with residual Muscat raisins obtained by them in layering operations subject to such safeguards as it may prescribe.

(2) Reserve, surplus and off-grade raisins acquired or held by each handler shall be stored separate and apart from other raisins and from each other to such extent, and identified in such manner, as the committee may specify by its rules and procedures as approved by the Secretary.

(3) Each handler may, under the direction and supervision of the committee, substitute for any quantity of reserve tonnage or surplus tonnage raisins a like quantity of free tonnage raisins of like quality and varietal type and of the same or more recent year's production. Each such handler shall give the committee reasonable advance notice of his intention to substitute, the exact location of the raisins for which substitution is to be made, and arrange with the committee a mutually satisfactory time for the substitution.

(4) The committee may, after giving reasonable notice, require a handler to deliver to it, or to any one designated by

it, at such handler's warehouse or at such other place as the raisins may be stored, part or all of the reserve tonnage or surplus tonnage raisins held by him. The committee may require that such delivery consist of natural condition raisins; or it may arrange for such delivery to consist of packed raisins.

(c) Each handler shall, at all times, hold in his possession or under his control reserve and surplus tonnage referable to his acquisitions of standard raisins, less any quantity of such reserve or surplus tonnage delivered by him pursuant to instructions of the committee and any quantity of such tonnage sold to him by the committee: *Provided*, That the committee shall defer, upon the written request of any handler and for good and sufficient cause, the meeting by such handler of such requirement for a specified period ending not later than November 15 of the particular crop year. As a condition to the granting of any such deferment, the committee shall require the handler to obtain and file with it a written undertaking that by the end of the deferment period he will have fully satisfied his obligation with respect to the holding or control by him of the reserve or surplus tonnages applicable to his acquisitions of raisins. Such undertaking shall be secured by a bond or bonds to be filed with and acceptable to the committee, with surety or sureties satisfactory to the committee, running in favor of the committee and the Secretary, and for an amount computed on the basis of the then current market value of the raisins in the quantity for which the deferment is granted. The cost of such bond shall be borne by the handler. Any sums collected through default of a handler on his bond shall, after reimbursement of the committee for any expenses incurred by it in effecting collection, be deposited with the funds obtained by it from the disposition of the reserve or surplus pools as applicable and disbursed to producers as set forth in paragraph (g) of this section. In addition to the foregoing, the committee may establish other reasonable and necessary terms and conditions upon which such deferments may be granted.

(d) Reserve tonnage and surplus tonnage raisins delivered by any handler to the committee, or to any person designated by it, whether in the form of natural condition raisins or packed raisins shall meet the applicable minimum grade and condition standards, except for normal and natural deterioration. The committee shall have the authority to require, in its discretion and at its expense, such reinspection and certification of reserve and surplus pool tonnage raisins as it may deem necessary.

(e) (1) In the event the committee offers to handlers reserve tonnage raisins for purchase as provided in § 989.67, or surplus tonnage raisins for contract packing or for sale in export as provided in § 989.68, each such handler shall be given the opportunity to purchase his share of each offer. Each share of an offer or reoffer under such an offer shall be determined in accordance with the appropriate provisions of subparagraphs (2) (3) or (4) of this paragraph, unless

the committee determines and prescribes that any such share shall be in accordance with any modified procedure established pursuant to subparagraph (5) of this paragraph.

(2) Each handler's share of an offer of reserve tonnage raisins for purchase shall be determined as the same proportion that the reserve tonnage held by him is of the reserve tonnage held by all handlers: *Provided*, That any reserve tonnage for which a deferment has been granted to a handler pursuant to the provisions of paragraph (c) of this section shall be included in his holdings in determining his share. In the event that any handler fails to purchase any or all of his share of any such offer, the remaining portion of the offer shall be reoffered by the committee to all handlers who purchased all of their respective shares of such offer, in proportion to their respective volumes purchased in the current and all prior offers. Any handler whose holdings of reserve tonnage raisins have been exhausted may participate in any subsequent reoffer on the same basis. If the committee determines an offer to be the last which will be made prior to July 1 of each crop year, each handler entitled to participate in any reoffer made in connection therewith, shall be eligible to purchase an equal share of the tonnage reoffered, and as many reoffers of unpurchased tonnage as the committee deems advisable may be made.

(3) Each packer's share of an offer of surplus tonnage raisins for contract packing shall be determined as the same proportion that the surplus tonnage raisins acquired by him is of the surplus tonnage raisins acquired by all packers. In the event that any packer fails to contract for packing any or all of his share of any offer, the remaining portion thereof shall be reoffered by the committee to all packers who contracted for packing all of their respective shares, in proportion to their respective acquisitions: *Provided*, That, if such amount which packers fail to contract for packing does not exceed 250 tons, or if it is necessary to deviate from the foregoing in order to meet terms and conditions of shipment, the committee may, in its discretion, allocate such surplus tonnage raisins among packers as it deems appropriate, but the shares of packers in subsequent offers or reoffers shall be adjusted accordingly.

(4) Each handler's share of an offer of surplus tonnage raisins for sale in export shall be determined as the same proportion that the surplus tonnage raisins acquired by him is of the surplus tonnage raisins acquired by all handlers. If, prior to the close of any offer of surplus tonnage raisins for export, a handler has purchased his entire share of such offer and makes application to the committee for additional surplus tonnage raisins for sale in export, the committee shall allocate to such handler surplus tonnage raisins held by him. In the event that a handler wishes to purchase surplus tonnage raisins for export and no longer holds any surplus tonnage raisins for the account of the committee, the committee shall withdraw surplus tonnage raisins from other handlers

and deliver them to the handler applying to the committee for the purchase of additional surplus tonnage raisins for sale in export. In making such allocation, the committee shall, insofar as is practicable, first withdraw such surplus tonnage raisins from those handlers who have purchased for sale in export the smallest percentage of the surplus tonnage raisins acquired by them, or who for other reasons are holding the largest percentage of their acquisitions of surplus tonnage. The cost of transporting any such surplus tonnage raisins from one handler to another shall be paid by the committee from surplus pool funds.

(5) In the event the committee determines that the applicable procedures, as specified in subparagraphs (2), (3) or (4) of this paragraph, will not provide an allocation for handlers which is suitable for a particular situation, the committee, with the prior approval of the Secretary, may establish such modifications of such applicable procedures, consistent with the provisions of subparagraph (1) of this paragraph, as will facilitate the disposition of reserve and surplus tonnages through handlers.

(f) Handlers shall be compensated for receiving, storing, handling, and inspection of reserve and surplus tonnage raisins held by them for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary. A box rental shall be paid by the committee to producers or handlers for boxes used in storing reserve or surplus tonnage raisins beyond the crop year of acquisition in accordance with a rental schedule established by the committee and approved by the Secretary. Any handler may request the committee at any time, by registered mail, to remove all surplus tonnage raisins held for the account of the committee and remaining in his possession from any previous crop year, and at any time after August 1 of any crop year may request removal of all surplus tonnage raisins remaining in his possession from the current crop year, and may request that the committee provide the necessary containers for such removal. In this event, the committee shall make the removal within 30 days after the receipt of the request, supplying the necessary containers if so requested. If any handler makes such a request, the committee shall immediately give notice thereof to the Secretary.

(g) The committee shall have the authority, in its discretion, to obtain loans, nonrecourse or otherwise, on any part or all of the reserve tonnage or surplus tonnage, or both, and to pledge or hypothecate the raisins on which such loans are obtained as security therefor: *Provided*, That, in every such case, there shall be included in the loan agreement a provision to the effect that, in case the lender obtains possession or control of such raisins, he will dispose of them in such a manner as will not tend to defeat the objectives of this amended subpart. The net proceeds of any such loan shall be distributed by the committee to the respective producers, or their successors in interest, on the basis of the volume of their respective contributions to the

pooled raisins of each varietal type on which the loan is obtained. The net proceeds from the disposition of reserve and surplus tonnages of raisins of each varietal type shall be distributed by the committee to the respective producers, or their successors in interest thereto, on the basis of the volume of their respective contributions to the reserve and surplus tonnages of such varietal type. Distribution of the proceeds in connection with the reserve and surplus tonnages contributed by a nonprofit cooperative marketing association which has authority to market the raisins of its members and to allocate the proceeds therefrom to such members shall be made to such association. Advance or progress payments may be made by the committee, in conformity with the provisions of this paragraph, as sufficient funds become available.

(h) The committee may establish, from time to time, with the approval of the Secretary, additional procedures, not inconsistent with the provisions of this amended subpart, which are deemed necessary to effectuate the provisions of this section, and §§ 989.67, 989.68, 989.69 and 989.70.

§ 989.67 *Special provisions relating to reserve tonnage.* (a) The committee may sell reserve tonnage of any varietal type to handlers so as to provide them with the quantity which is needed to meet the free tonnage commercial trade requirements for that varietal type in the event that such requirements cannot be filled by the total free tonnage of that varietal type: *Provided*, That no such sale of natural (sun-dried) Thompson Seedless raisins shall be made prior to December 1 of the particular crop year. Any such quantities made available for such sale to handlers shall be offered to them pro rata as required by the provisions of § 989.66 (e).

(b) Reserve tonnage of any varietal type shall not be sold at a price below that which the committee concludes reflects the average price received by producers for free tonnage of the same varietal type purchased by handlers during the current crop year up to the time of any offer for sale of reserve tonnage by the committee, to which shall be added the costs incurred by the committee on account of the receiving, inspecting, storing, insuring and holding of said raisins: *Provided*, That where the outlook for the next crop or other factors have caused a downward trend in the price received by producers for free tonnage, reserve tonnage may be sold to handlers at the current field price, as determined by the committee. The committee shall file with the Secretary, five days (exclusive of Saturdays, Sundays and holidays) prior to making any offer to sell reserve tonnage raisins, information relating to the quantity of raisins to be offered and the price or prices at which such raisins are to be offered. The Secretary shall have the right to disapprove the making of such an offer or any price at which reserve tonnage raisins may be offered for sale.

(c) Reserve tonnage held unsold by the committee on July 1, shall on July 1, and any reserve tonnage acquired be-

tween July 1 and the end of the crop year shall, at the time of acquisition, become surplus tonnage for all purposes and subject to the provisions of this amended part relating to surplus tonnage. If the committee finds within a crop year that the current holdings of surplus tonnage are insufficient to meet the current demand therefor and that it would be inappropriate to change the volume percentages, it may temporarily borrow, with the prior approval of the Secretary, sufficient reserve tonnage for disposition in the surplus outlets with provision for subsequent replacement from the surplus tonnage.

(d) If the committee finds that because of national emergency, crop failure or other major change in economic conditions, a shortage of raisins has developed or is likely to develop, it may waive for any crop year, with the prior approval of the Secretary, the time limitations of paragraph (c) of this section.

§ 989.68 *Disposal of surplus raisins.*

(a) The committee shall dispose of all surplus tonnage raisins in such a manner as to achieve, as nearly as may be practicable, complete disposal of such raisins by August 31 of the crop year.<sup>22</sup> Any surplus tonnage raisins held unsold by the committee on October 15 of the subsequent crop year shall be physically disposed of promptly in any available outlet not competitive with normal market channels for free tonnage raisins or sales of surplus tonnage raisins in export: *Provided*, That, whenever the Secretary approves a finding by the committee or finds on the basis of information otherwise available to him, that, because of national emergency, crop failure, or other major change in economic conditions, retention of the surplus raisins carried over is warranted, the foregoing requirement as to disposal shall not apply and the committee may then sell any of such surplus tonnage raisins as though they were reserve tonnage raisins.

(b) Surplus tonnage raisins shall be disposed of by the committee: (1) By sale to handlers for sale in specified surplus outlets or for resale to exporters for sale in such outlets; (2) by direct sale to any agency of the United States Government for non-competitive use; (3) by direct sale to foreign government agencies or foreign importers in any country not listed pursuant to paragraph (c) of this section or where the procurement of raisins is so regulated as to preclude purchases from domestic handlers; (4) by gift; and (5) by any other means consistent with the provisions of this section, and in outlets non-competitive with those for free tonnage raisins.

(c) The committee shall sell surplus raisins to handlers for export sale to listed countries. The Secretary shall establish, on the basis of the recommendation of the committee or from other available information, a list specifying the countries to which sale in export of surplus tonnage raisins may be made by or through handlers. The recommended list shall be submitted by the committee to the Secretary at the time it submits its recommendation as to volume percentages, and in recommending such list the committee shall give con-

sideration to the pertinent factors enumerated in § 989.54. The list shall not be changed except upon approval by the Secretary of a recommendation by the committee subsequent to its review of such pertinent factors. No country may be removed from the list unless a finding is made by the committee that such removal and subsequent direct sale by the committee will not lead to disruption of sales of surplus tonnage raisins by handlers in other countries on the list and a further finding that, although handlers have been able to offer surplus tonnage raisins at competitive prices to the country to be removed, there remains an unfulfilled demand in such country which has not been supplied by handlers and which could be supplied by the committee at the same prices by means of direct sale. No country may be added to the list unless a finding is made by the committee that such addition represents a practical means of making sales of surplus raisins to such country.

(d) Surplus tonnage raisins shall be sold to handlers at prices and in a manner intended to maximize producer returns and achieve complete disposition of such raisins by August 31 of the crop year. No offer to sell surplus raisins to handlers shall be made by the committee until five days (exclusive of Saturdays, Sundays and holidays) have elapsed from the time it files with the Secretary information as to the quantity and varietal type of raisins to be offered and the prices at which they are to be offered, and no such offer shall be made if the Secretary disapproves thereof.

(e) The committee may sell surplus raisins as provided in paragraph (b) (3) of this section only when such country is not included in the list of specified countries established pursuant to paragraph (c) of this section and may sell surplus raisins to any country removed from such list but no such sale shall be entered into by the committee until five days (exclusive of Saturdays, Sundays and holidays) have elapsed from the time it files with the Secretary information as to the quantity, price, and foreign country involved in such sale, and no such sale shall be made if the Secretary disapproves thereof.

(f) The committee may undertake market development projects to promote the consumption of surplus tonnage raisins in existing export outlets or in new export outlets.

(g) The committee may, with the approval of the Secretary, refuse to sell surplus tonnage raisins for export to any handler who is in default on any previous purchase of such raisins from the committee or if the committee finds that such handler is currently not in compliance with the provisions of a sales agreement covering surplus tonnage raisins executed by such handler with the committee.

(h) The committee shall prescribe, with the approval of the Secretary, such rules and procedures as are necessary for carrying out the provisions of this section.

§ 989.69 *Substitution for Layer Muscats.* A handler may substitute an equal quantity of natural (sun-dried) Muscat

or Valencia raisins for any portion or all of the reserve and surplus tonnage referable to his acquisitions of Layer Muscat raisins: *Provided*, That he shall have made arrangements satisfactory to each producer of the Layer Muscat raisins for such substitution. The handler shall report promptly to the committee any such substitution.

§ 989.70 *Storage of raisins held on memorandum receipt and of packer-owned tonnage.* All raisins stored by a handler for another person on memorandum or warehouse receipt, or raisins produced and stored by a handler, shall be stored separate and apart from other raisins and shall be clearly marked or tagged as raisins stored on memorandum or warehouse receipt or as raisins produced by the handler but not acquired by him in his capacity as a handler.

REPORTS AND RECORDS

§ 989.73 *Reports—(a) Inventory reports.* Each handler shall, upon request of the committee, file promptly with the committee a certified report, showing such information as the committee shall specify with respect to any raisins which were held by him on a date designated by the committee, which information as specified may include, but not be limited to: (1) The quantity of any raisins so held, segregated as to varietal type, natural condition, packed, standard quality or off-grade quality; and (2) the locations of the raisins.

(b) *Acquisition reports.* Each handler shall file with the committee in accordance with such rules and procedures as are prescribed by the committee, with the approval of the Secretary, certified reports, for such periods as the committee may require, with respect to his acquisitions of each varietal type of raisins during the particular period covered by such report, which report shall include, but not be limited to: (1) The total quantity acquired; (2) the quantity of off-grade raisins acquired as such for the account of the committee, and the reserve and surplus tonnages, separately, referable to his acquisitions of standard raisins; (3) the locations of such reserve, surplus and off-grade tonnages; and (4) cumulative totals of such acquisitions from the beginning of the then current crop year to and including the end of the period for which the report is made. In the case of a weekly report, it shall be filed not later than Wednesday of the week following the week which is covered by such report, and reports for any other period shall be filed as required by the committee. Upon written application made to the committee, a handler may be relieved of filing such reports upon completing his packing operations for the season. Upon request of the committee, each handler shall furnish to the committee, in such manner and at such times as it may require, the name and address of each person from whom he acquired raisins and the quantity of each varietal type of raisins acquired from each such person.

(c) *Other reports.* Upon the request of the committee, with the approval of the Secretary, each handler shall furnish to the committee such other information

as may be necessary to enable it to exercise its powers and perform its duties under this amended part.

§ 989.75 *Confidential information.* All reports and records furnished or submitted by a handler to the committee shall be received by, and at all times kept under the custody or control of, one or more employees of the committee, who shall disclose to no person, except the Secretary upon request therefor or to the committee in connection with its investigations of alleged violations, data or information obtained or extracted therefrom which would constitute a trade secret or the disclosure of which might affect the trade position, financial condition, or business operations of the particular handler from whom received: *Provided*, That the committee may require such an employee to disclose to it, or to any person designated by it or by the Secretary, information and data of a general nature, compilations of data affecting handlers as a group, and any data affecting one or more handlers, so long as to identity of the individual handlers involved is not disclosed.

§ 989.76 *Records.* Each handler shall maintain such records of all raisins acquired by him as prescribed by the committee. Such records shall include, but not be limited to, the quantity of raisins of each varietal type acquired from each person and the name and address of each such person, total acquisitions, total sales, and total other disposition of each varietal type which he handles, and each handler shall maintain such records for at least two years after the termination of the crop year in which the transactions occurred.

§ 989.77 *Verification of reports.* For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any raisins held by such handler, and any and all records of the handler with respect to the holding or disposition of raisins by him. Each handler shall furnish all labor and equipment necessary to make such inspections. Each handler shall store raisins in a manner which will facilitate inspection, and shall maintain storage records which will permit accurate identification of raisins held by him or theretofore disposed of. Insofar as is practicable and consistent with the carrying out of the provisions of this amended subpart, all data and information obtained or received through checking and verification of reports shall be treated as confidential information.

#### EXPENSES AND ASSESSMENTS

§ 989.79 *Expenses.* The committee is authorized to incur such expenses (other than those specified in § 989.82) as the Secretary finds are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the committee and the board. The funds to cover such expenses shall be obtained by levying assessments as pro-

vided in § 989.80. The committee shall file with the Secretary for each crop year and not later than October 1 thereof, a proposed budget of these expenses and a proposal as to the assessment rate to be fixed pursuant to § 989.80, together with a report thereon. Also, it shall file at the same time a proposed budget of the expenses likely to be incurred during the crop year in connection with reserve, surplus, or off-grade raisins held for the account of the committee, exclusive of the receiving, storing, and handling expenses which are covered by a schedule of payments to handlers effective pursuant to § 989.66 (f) or any rules and procedures established by the committee, and exclusive of any expenses it may incur in connection with the disposition of such raisins and which are unknown at the time. The said report shall also cover this proposed budget.

§ 989.80 *Assessments.* Each handler shall, with respect to all free tonnage acquired by him, and all reserve tonnage sold to him pursuant to § 989.67, pay to the committee, upon demand, his pro rata share of the expenses (exclusive of expenses for receiving, handling, holding, or disposing of any quantity of reserve and surplus tonnage and natural condition off-grade raisins held for the account of the committee) which the Secretary finds will be incurred, as aforesaid, by the committee during each crop year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total free tonnage acquired by such handler, plus all reserve tonnage sold to him for use as free tonnage during the applicable crop year and the total free tonnage acquired by all handlers, plus all reserve tonnage sold to all handlers for use as free tonnage during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handler on the basis of a specified rate per ton. At any time during or after a crop year, the Secretary may increase the rate of assessment to apply to all free tonnage acquired, plus all reserve tonnage sold to handlers as free tonnage, during such crop year to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. In order to provide funds to carry out the functions of the committee and the board, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler during the crop year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

§ 989.81 *Accounting.* (a) If, at the end of the crop year, the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, each handler's share of such excess shall be credited to him against, and may be used for, the operations of

the following crop year, unless such handler demands payment thereof, in which case his share shall be paid to him.

(b) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's prorata share of the expenses.

§ 989.82 *Expenses of reserve, surplus, and off-grade raisin operations.* The committee is authorized to incur such expenses as are reasonable and are necessary in discharging its obligations, pursuant to this part with respect to the receiving, handling, holding, or disposing of any quantity of reserve, surplus or off-grade raisins held for the account of the committee. The committee is authorized to pay any taxes assessed against raisins held by or for the account of the committee on the first Monday in March, in the reserve, surplus, or off-grade pools established pursuant to this part: *Provided*, That any equity holder may pay his own taxes upon giving notice to the committee on or before May 1 of each year of his intention to do so. All pool expenses shall be deducted from the proceeds obtained by the committee from the sale or other disposal of such reserve, surplus or off-grade raisins held for the account of the committee.

§ 989.83 *Funds.* All funds received by the committee pursuant to the provisions of this part, shall be used solely for the purposes authorized, and shall be accounted for in the manner provided, in this part. The Secretary may, at any time, require the committee and its members and alternate members to account for all receipts and disbursements.

#### MISCELLANEOUS PROVISIONS

§ 989.84 *Disposition limitation.* No handler shall dispose of any free, reserve, surplus tonnage raisins, or off-grade raisins except in accordance with the provisions of this subpart or pursuant to regulations and instructions issued by the committee.

§ 989.85 *Personal liability.* No member or alternate member of the committee or any employee or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any person, for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty.

§ 989.86 *Separability.* If any provision of this amended subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this amended subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 989.87 *Derogation.* Nothing contained in this amended subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such

powers, to act in the premises whenever such action is deemed advisable.

§ 989.88 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this amended subpart shall cease upon the termination of this amended subpart, except with respect to acts done under and during the existence of this subpart.

§ 989.89 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this amended subpart.

§ 989.90 *Effective time.* The provisions of this amended subpart, as well as any amendments to this amended subpart shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways specified in § 989.91.

§ 989.91 *Suspension or termination.* (a) The Secretary may, at any time, terminate the provisions of this amended subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine. (b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this amended subpart, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this amended subpart at the end of any crop year whenever he finds that such termination is favored by a majority of the producers of raisin variety grapes, who during a representative period determined by Secretary, have been engaged in the production for market of raisin variety grapes in the State of California. *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such raisin variety grapes produced for market within said State; but such termination shall be effective only if announced on or before August 31 of the then current crop year.

(d) The provisions of this amended subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 989.92 *Proceedings after termination.* (a) Upon the termination of the provisions of this amended subpart, the members of the committee then functioning shall continue as joint trustees for the purpose of liquidating the affairs of the committee, of all funds and property then in the possession or under the control of the committee, including claims for any funds, unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements

and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 989.93 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this amended subpart or any regulation issued pursuant to this amended subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this amended subpart or any regulation issued under this amended subpart, (b) release or extinguish any violation of this amended subpart, or of any regulation issued under this amended subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person, with respect to any such violation.

§ 989.94 *Amendments.* Amendments to this amended subpart may be proposed from time to time, by any person or by the committee.

§ 989.95 *Special agreement provisions—(a) Counterparts.\** This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

(b) *Additional parties.\** After the effective date hereof, any handler may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

(c) *Order with marketing agreement.\** Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of raisins in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.

§ 989.96 *Exhibit A. Producer members of the Raisin Advisory Board.* (a) One member for each of the following districts in Fresno County

CLOVIS—DISTRICT No. 1

All of T. 12 S., R. 20 E. in said county; all of T. 11 S., R. 20 E. in said county; all of T. 11 S., R. 21 E. in said county; all of

T. 12 S., R. 21 E.; all of T. 12 S., R. 22 E.; Secs. 1, 2, 11, 12, 13, and 14 of T. 13 S., R. 20 E.; Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 of T. 13 S., R. 21 E.; and Secs. 4, 5, 6, 7, 8, 9, 18, 19, 30, and 31 of T. 13 S., R. 22 E.

KERMAN—DISTRICT No. 2

All of T. 13 S., R. 14 E. in said county; all of T. 13 S., R. 15 E. in said county; all of T. 13 S., R. 16 E. in said county; all of T. 13 S., R. 17 E. in said county; Secs. 30 and 31 of T. 13 S., R. 18 E., all of T. 14 S., R. 14 E.; all of T. 14 S., R. 15 E., all of T. 14 S., R. 16 E., all of T. 14 S., R. 17 E., all of T. 14 S., R. 18 E., the west two-thirds of T. 14 S., R. 19 E.; all of T. 15 S., R. 14 E., all of T. 15 S., R. 15 E.; all of T. 15 S., R. 16 E., all of T. 15 S., R. 17 E., and all of T. 15 S., R. 18 E.

BIOLA—DISTRICT No. 3

All of T. 13 S., R. 18 E. in said county, except Secs. 30 and 31; all of T. 12 S., R. 19 E. in said county; and all of T. 13 S., R. 19 E., except Secs. 25, 26, 27, 28, 33, 34, 35, and 36.

FRESNO—DISTRICT No. 4

Secs. 25, 26, 27, 28, 33, 34, 35, and 36, T. 13 S., R. 19 E., all of T. 13 S., R. 20 E., except Secs. 1, 2, 11, 12, 13, and 14; Secs. 10, 20, 29, 30, 31, and 32 of T. 13 S., R. 21 E.; the east one-third of T. 14 S., R. 19 E.; all of T. 14 S., R. 20 E.; and Secs. 5, 6, and 7 of T. 14 S., R. 21 E.

SANGER—DISTRICT No. 5

The east one-half and Secs. 16, 17, 20, 21, 28, 29, 32, and 33, T. 13 S., R. 22 E.; all of T. 13 S., R. 23 E. lying north and west of the east channel of Kings River; all of T. 14 S., R. 23 E., lying west of the east channel of Kings River; and Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 35, and 36, T. 14 S., R. 22 E.; all of Secs. 5 and 6, T. 15 S., R. 23 E., lying north of Kings River.

LONE STAR—DISTRICT No. 6

All of T. 14 S., R. 21 E., except Secs. 5, 6, 7, and 36.

EASTON-OLEANDER—DISTRICT No. 7

The north one-half of T. 15 S., R. 19 E.; the north two-thirds of T. 15 S., R. 20 E., except Sec. 19; and Secs. 6, 7, 18, and 19, T. 15 S., R. 21 E.

FOWLER—DISTRICT No. 8

The south one-half of Sec. 1, and Secs. 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 26, 27, 28, 29, and 33, T. 15 S., R. 21 E., and Sec. 18, T. 15 S., R. 22 E.

DEL REY—DISTRICT No. 9

Secs. 29, 30, 31, 32, 33, and 34, T. 14 S., R. 22 E., Sec. 36, T. 14 S., R. 21 E., the north one-half of Sec. 1, T. 15 S., R. 21 E.; and Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, and 17, T. 15 S., R. 22 E.

PARLIER—DISTRICT No. 10

All of Secs. 4, 9, 16, and 21 lying west of Kings River, and all of Secs. 5 and 6 lying west and south of Kings River, and Secs. 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, T. 15 S., R. 23 E., Secs. 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 35, and 36, T. 15 S., R. 22 E., and Secs. 5 and 6, T. 16 S., R. 23 E.

REEDLEY—DISTRICT No. 11

All of T. 13 S., R. 24 E., lying east and south of the east channel of Kings River; all of T. 13 S., R. 23 E., lying east and south of the east channel of Kings River; all of T. 14 S., R. 23 E., lying east and south of the east channel of Kings River; T. 14 S., R. 24 E., T. 14 S., R. 25 E., all of T. 15 S., R. 23 E., lying east of the east channel of Kings River; all of Secs. 28 and 34, T. 15 S., R. 23 E., lying west of Kings River; Sec. 33,

T. 15 S., R. 23 E.; all of Sec. 4, T. 16 S., R. 23 E., lying within said county; and T. 15 S., R. 24 E.

**KINGSBURG—DISTRICT No. 12**

Secs. 11, 12, 13, 14, 15, 21, 22, 23, 27, 28, and 33, T. 16 S., R. 22 E., and those portions of Secs. 24, 26 and 34, T. 16 S., R. 22 E., lying within said county; Sec. 7, T. 16 S., R. 23 E., and those portions of Secs. 8 and 18, T. 16 S., R. 23 E., lying within said county; and those portions of Secs. 4, 5, 8, 9, and 17, T. 17 S., R. 22 E., lying within said county.

**SELMA—DISTRICT No. 13**

Secs. 25, 34, 35, and 36, T. 15 S., R. 21 E.; Secs. 19, 20, 28, 29, 30, 31, 32, 33, and 34, T. 15 S., R. 22 E., Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 29, 30, 31, and 32, T. 16 S., R. 22 E.; the east one-half of T. 16 S., R. 21 E.; Secs. 1 to 23, both inclusive, T. 17 S., R. 21 E., and that part of Secs. 24 to 30, both inclusive, T. 17 S., R. 21 E., lying within said county; Secs. 6, and 7, T. 17 S., R. 22 E.; and those portions of Secs. 18 and 19, T. 17 S., R. 22 E., lying within said county.

**MONMOUTH—DISTRICT No. 14**

Secs. 25, 26, 27, 34, 35, and 36, T. 15 S., R. 20 E.; Secs. 30, 31, and 32, T. 15 S., R. 21 E., and the west one-half of T. 16 S., R. 21 E.

**CARUTHERS—DISTRICT No. 15**

The south one-half of T. 15 S., R. 19 E.; Secs. 19, 28, 29, 30, 31, 32, and 33, T. 15 S., R. 20 E., T. 16 S., R. 15 E., T. 16 S., R. 16 E., T. 16 S., R. 17 E., T. 16 S., R. 18 E.; T. 16 S., R. 19 E.; T. 16 S., R. 20 E.; T. 17 S., R. 16 E.; T. 17 S., R. 17 E.; T. 17 S., R. 18 E.; T. 17 S., R. 19 E., T. 17 S., R. 20 E.; T. 18 S., R. 16 E., T. 18 S., R. 17 E.; T. 18 S., R. 18 E.; T. 19 S., R. 17 E.; T. 19 S., R. 18 E.; T. 20 S., R. 17 E.; and all of T. 20 S., R. 18 E., lying within said county.

(b) Three members for District No. 16 (Kings, Monterey, and San Benito Counties)

(c) Five members for District No. 17 (Tulare and Inyo Counties)

(d) Three members for District No. 18 (Kern, San Bernardino, Riverside, Imperial, San Diego, Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties)

(e) Three members for District No. 19 (Madera and Mono Counties)

(f) Three members for District No. 20 (Merced, Tuolumne, and Mariposa Counties)

(g) Three members for District No. 21 (Stanislaus, Santa Clara, San Francisco, San Mateo, Santa Cruz, Alameda, Contra Costa, Calaveras, and Alpine Counties)

(h) One member for District No. 22 (San Joaquin, Marin, Solano, Sacramento, Amador, Eldorado, Placer, Nevada, Sutter, Yolo, Napa, Sonoma, Mendocino, Lake, Colusa, Yuba, Sierra, Plumas, Butte, Glenn, Tehama, Shasta, Lassen, Modoc, Siskiyou, Del Norte, Humboldt, and Trinity Counties)

§ 989.97 *Exhibit B; minimum grade and condition standards for natural condition raisins.*

Raisins meeting the varietal standards set forth hereinafter shall be considered as standard raisins and those failing to meet such standards shall be considered as off-grade raisins. In each category, only those raisins which have been properly dried and cured in original natural condition, are free from active infestation, and are in such condition that they are capable of being received, stored, and packed without undue

deterioration or spoilage, shall be considered as storable raisins.

**A. Thompson Seedless raisins.**

Natural condition Thompson Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured and shall meet the following additional requirements:

1. Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury.

2. Shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins.

3. The moisture content shall not exceed 16 percent (except Golden Seedless, Sulfur Bleached, and Soda Dipped shall not exceed 14 percent), as determined by Dried Fruit Moisture Tester Method and the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet "U. S. Grade C" or better grade as defined in the effective United States Standards for Grades of Processed Raisins.

4. Golden Seedless and Sulfur Bleached raisins shall possess a characteristic bleached color (or choice color). "Choice color" (or "bleached color") means that the raisins may be variable in color and may range from yellowish green to dark amber or dark greenish amber; that not more than 15 percent, by weight, of all the raisins may be definitely dark berries.

5. Soda Dipped raisins shall possess a good typical color characteristic of such raisins.

**B. Muscat raisins.**

Natural condition Muscat raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured and shall meet the following additional requirements:

1. Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury.

2. Shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor and odor of properly prepared raisins.

3. The moisture content shall not exceed 16 percent (except Layer Muscats shall not exceed 18 percent) as determined by Dried Fruit Moisture Tester Method and the raisins (except Layer Muscats) shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet "U. S. Grade C" or better grade as defined in the effective United States Standards for Grades of Processed Raisins; and that with respect to Layer Muscat raisins in addition to the above requirements the raisins shall be:

a. Fairly free from shattered (or loose end) berries.

b. Uniformly cured.

c. 30 percent or more "3 Crown size" or larger.

d. Of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order, and that when processed in accordance with good commercial practice will meet "U. S. Grade B" or better grade as defined in the effective United States Standards for Grades of Processed Raisins.

4. Muscat (Valencia), soda dipped raisins shall possess a good typical color with not more than 10 percent, by weight, that may be dark reddish-brown raisins.

**C. Sultana raisins.**

Natural condition Sultana raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured and shall meet the following additional requirements:

1. Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury.

2. Shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins.

The moisture content shall not exceed 16 percent as determined by Dried Fruit Moisture Tester Method and the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet "U. S. Grade C" or better grade as defined in the effective United States Standards for Grades of Processed Raisins.

**D. Zante Currants.**

Natural condition Zante Currants shall have been prepared from sound, wholesome, matured grapes properly dried and cured and shall meet the following additional requirements:

1. Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury.

2. Shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor and odor of properly prepared raisins for the varietal type.

3. The moisture content shall not exceed 16 percent as determined by Dried Fruit Moisture Tester Method and the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet "U. S. Grade B" or better grade as defined in the effective United States Standards for Grades of Dried Currants.

Dated: July 6, 1955.

[SEAL] ROY W. LERNARTSON,  
Deputy Administrator  
Marketing Services.

[F. R. Doc. 55-5547; Filed, July 8, 1955; 8:45 a. m.]

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

**[ 21 CFR Part 120 ]**

**TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES**

**NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF MANEB**

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act as amended (sec. 408 (d) (1) 68 Stat. 512; 21 U. S. C. 348 (d) (1)) the following notice is issued:

A petition has been filed by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, for the establishment of the following tolerances for maneb (manganese ethylenebisdithiocarbamate)

1. Tolerances of 7 parts per million (calculated as zinc ethylenebisdithiocarbamate) on: apples, cranberries, figs, grapes, peaches, beans, carrots (with or without tops) or carrot tops, celery, cucumbers and summer squash, melons (including cantaloups and muskmelons) and winter squash, onions, peppers and eggplant, spinach, tomatoes.

2. A tolerance of 0.1 part per million (calculated as zinc ethylenebisdithiocarbamate) on potatoes and almonds.

The petition proposes that the analytical method described in "Analysis of Manganese Ethylenebisdithiocarbamate Compositions and Residues," by W. K. Lowen, published in the Journal of the Association of Official Agricultural

Chemicals, Volume 36, pages 484-492, May 1953, be used for determination of residues of Maneb.

Dated: July 1, 1955.

[SEAL] GEO. P. LARRICK,  
Commissioner of Food and Drugs.

[F. R. Doc. 55-5534; Filed, July 8, 1955;  
8:45 a. m.]

## NOTICES

### DEPARTMENT OF THE INTERIOR

#### Bureau of Indian Affairs

[Phoenix Area Office Redlegation Order 2]

#### REDELEGATIONS OF AUTHORITY WITH RESPECT TO CONSTRUCTION, SUPPLY AND SERVICE CONTRACTS

**SECTION 1. Authority.** The authority delegated to the Area Director by the Commissioner of Indian Affairs in Order No. 566 (19 F. R. 3971) pertaining to construction, supply and service contracts is hereby redelegated as indicated in this order.

**SEC. 2. Assistant Area Director Administration.** The Assistant Area Director, Administration, may enter into construction, supply and service contracts irrespective of the amounts involved, and perform the duties of contracting officer in regard to such contracts.

**SEC. 3. Authorized representative of contracting officer (a)** With respect to construction contracts entered into by the Area Director, the Assistant Area Director, Administration, is designated as the authorized representative of the contracting officer as such term is used in such contracts and may perform the duties of the contracting officer except as follows:

(1) Functions relating to the termination of a contract.

(2) Disputes concerning questions of fact which are not disposed of by agreement.

**SEC. 4. Appeals.** An appeal from a findings of fact or decision of a contracting officer shall be made by notice of appeal in writing addressed to the Board of Contract Appeals, Office of the Solicitor, Department of the Interior, Washington 25, D. C., and shall be mailed to or filed with the contracting officer, within the time allowed by the contract. The notice of appeal shall specify the portion of the findings of fact or decision from which the appeal is taken, and the reasons why the findings or decision are deemed erroneous. Immediately upon receipt of the notice of appeal, the contracting officer shall inform the Board by air mail that the appeal has been received. (Regulations governing appeals are published in 19 F. R. 9389.)

F. M. HAVERLAND,  
Area Director

Approved: July 5, 1955.

GLENN L. EMMONS,  
Commissioner

[F. R. Doc. 55-5535; Filed, July 8, 1955;  
8:45 a. m.]

### Bureau of Land Management

#### ALASKA

#### WITHDRAWING PUBLIC LANDS FOR SCHOOL PURPOSES; PARTIALLY REVOKING DEPARTMENTAL ORDER OF JANUARY 24, 1938, AS TO LANDS AT EKWAK

By virtue of the authority vested in the Secretary of the Interior by the act of May 31, 1938 (52 Stat. 593; 48 U. S. C. 353a) and pursuant to Departmental Order No. 2583, sec. 2.22 (a) of August 16, 1950, it is ordered as follows:

Subject to valid existing rights the following-described tracts of public land in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and reserved under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior, for school purposes:

a. Tanunak [59975].

Beginning at a point 102 feet southwest of the west corner of the school building, in approximate latitude 60°35' N., longitude 165°18' W., thence Northwesterly, 296 feet parallel with the northwest side of the school building; Northeasterly, 345 feet parallel with the shore of Hazen Bay; Northwesterly, 90 feet to a point on the shore of Hazen Bay; Northeasterly, 1020 feet along shore of Hazen Bay; Southeasterly, 550 feet; Southwesterly, 1365 feet parallel with shore of Hazen Bay; Northwesterly, 254 feet to the point of beginning.

The tract described contains approximately 19 acres.

b. Solomon [60154].

Beginning at a point in approximate latitude 64°33' N., longitude 164°25' W., from which the southeast corner of the school building bears North, 32 feet and west 100 feet, thence Northeasterly, 215 feet parallel with the school building; Northwesterly, 500 feet parallel with the school building; Southwesterly, 215 feet; Southeasterly, 500 feet to point of beginning.

The tract described contains 2.46 acres.

c. Napaskiak [60312].

Beginning at a point, from which the southwest corner of the school building at the village of Napaskiak, bears East, 180 feet, in approximate latitude 60°41' N., longitude 161°54' W., thence by metes and bounds: Southerly, 400 feet; Easterly, 500 feet; Northerly, 808 feet to a point on the left bank of the Kuskokwim River; Westerly, 540 feet along the left bank of the Kuskokwim River; Southerly, 208 feet to point of beginning.

The tract described contains approximately 7 acres.

d. Kalskag [60462].

Beginning at a point on the right bank of the Kuskokwim River at the Native Village of Kalskag, approximate latitude 61°35' N., longitude 160°18' W., from which the southeast corner of the school building bears North 110 feet, West, 110 feet, thence by metes and bounds: Westerly, 405 feet along the right bank of the Kuskokwim River;

Northerly, 500 feet; Easterly, 405 feet; Southerly, 500 feet to point of beginning, but excluding therefrom the Native cemetery located in the southwest corner of the tract.

The tract described contains 4.08 acres. e. Klana [60463].

Beginning at a point in the Native Village of Klana, approximate latitude 67°00' N., longitude 160°30' W., from which the southeast corner of the school building bears North 150 feet, West 50 feet, thence by metes and bounds: North, 600 feet; West, 600 feet; South, 600 feet; East, 600 feet to point of beginning.

The tract described contains 8.26 acres. f. Nondalton [60464].

Beginning at a point in the Native Village of Nondalton, approximate latitude 60°00' N., longitude 154°52' W., from which the southeast corner of the gasoline warehouse owned by the Alaska Native Service bears northwesterly, 25 feet, thence by metes and bounds: Northwesterly, 375 feet; Northwesterly, 275 feet; Southeasterly, 375 feet; Southwesterly, 275 feet to point of beginning.

The tract described contains 2.3 acres.

g. Nunapitchuk [62780].

Beginning at a point from which the Northeast corner of the school building at Nunapitchuk approximate latitude 60°50' N., longitude 162°45' W. bears south, 100 feet, thence East, 285 feet; South, 316 feet; West, 541 feet to a point on the east bank of the Johnson River; Northerly, 260 feet along said east bank; East, 141 feet; North, 50 feet; East, 115 feet to the point of beginning.

The tract described contains 3.9 acres.

h. Kasigluk [62787].

Beginning at a point from which the southwest corner of the school building bears Northeasterly, 74 feet; located in the native village of Kasigluk in the Kuskokwim River Delta area, thence N. 50° W., 53 feet to a point on Clam Slough; N. 40° E., 220 feet along the shore line of Clam Slough; S. 50° E., 350 feet to a point on the shore of a pond back of the school building; Southwesterly, 285 feet along the shore line of the pond; N. 50° W., 293 feet; N. 40° E., 63 feet; N. 50° W., 47 feet to the point of beginning.

The tract described contains 2.5 acres.

i. Minto [62788].

Beginning at a point from which the northeast corner of the school building bears West, 155 feet, approximate latitude 65°53' N., longitude 149°11' W., thence North, 340 feet; West, 600 feet; South, 800 feet to a point on the north bank of the Tanana River; Southeasterly, 620 feet, approximately, along north bank of Tanana River to a point due south of the point of beginning; North, 500 feet to the point of beginning.

The tract described contains 11 acres.

j. Deering [62789].

Beginning at a point on the north bank of Smith Creek and the east side of the Casadepaga Highway, approximate latitude 60°05' N., longitude 162°42' W., thence N. 35° E., 125 feet to a point on the line of mean high tide on Kotzebue Sound; S. 65° E., 180 feet along the line of mean high tide; S. 35° W., 125 feet to a point on the north bank of Smith Creek; N. 65° W., 180 feet along the north bank to the point of beginning.

The tract described contains 0.5 acre.

k. Holikachuk [62870].

Beginning at a point on the south bank of a slough from which the northeast corner of the school building bears South 180 feet, approximate latitude 62°55' N., longitude 159°30' W., thence Easterly, 175 feet along the south bank of the slough; S. 15° E., 280 feet to a point marked by a tree just east of the Shageluk trail; Southwesterly, 231 feet along the Shageluk trail to point marked by a tree; West, 535 feet to point marked by an 8 foot tripod; North, 500 feet to a point on the slough marked by an 8 foot tripod; Easterly, 425 feet along the south bank of the slough to point of beginning.

The tract described contains 7 acres.

1. Ekwak [62915].

Beginning at a point from which the southwest corner of the school building bears N. 24° E., 100 feet, in latitude 59°30' W., longitude 157°30' W., thence N. 66° W., 175 feet; N. 24° E., 380 feet; S. 66° E., 660 feet; S. 24° W., 180 feet; N. 66° W., 170 feet; S. 24° W., 200 feet; N. 66° W., 315 feet to the point of beginning.

The tract described contains 5.7 acres.

m. Kipnuk [62942].

Beginning at a point from which the northwest corner of the school building bears southeasterly 270 feet in approximate latitude 60° N., longitude 164° W., thence Southwesterly, 660 feet along the east shore of Kuguklik River; South, 540 feet; East, 270 feet; Northeasterly, 600 feet along a lake; Northeasterly, 300 feet; Northwesterly, 360 feet; West, 270 feet to the point of beginning.

The tract described contains approximately 13 acres.

n. Kapakak [63035].

Beginning at a point from which the northwest corner of the Alaska Native Service school building bears East, 108 feet, in approximate latitude 60°41' N., longitude 162° 07' W., thence North, 492 feet; East, 267 feet 9 inches; South, 623 feet 3 inches; West, 267 feet 9 inches; North, 131 feet 3 inches to the point of beginning.

The tract described contains 3.8 acres.

o. Chaniliut [63036].

Beginning at a point on a slough from which the southwest corner of the Alaska Native Service school building bears N. 57° E., 100 feet, N. 35° W., 80 feet in approximate latitude 63°02' N., longitude 163°24' W., thence N. 33° W., 500 feet; N. 57° E., 500 feet; S. 33° E., 500 feet to a point on an unnamed slough; Southwesterly, 520 feet along North bank of slough to the point of beginning.

The tract described contains 5.7 acres.

p. Afognak [63264].

Beginning at a point from which corner No. 2, Tract D, U. S. Survey No. 454 bears S. 6° 30' E., 885 feet, thence S. 83° 30' W., 600 feet; N. 6° 30' W., 345 feet; N. 83° 30' E., 320 feet; S. 6° 30' E., 100 feet; N. 83° 30' E., 80 feet; N. 6° 30' W., 100 feet; N. 83° 30' E., 200 feet; S. 6° 30' E., 345 feet to point of beginning.

The tract described contains 4.50 acres.

q. Newhalen [63265].

Beginning at a point from which corner No. 5, U. S. Survey No. 2644 bears N. 21° E., approximately 1¼ miles, thence S. 21° W., 30 chains; S. 69° E., 10 chains; N. 21° E., 30 chains; N. 69° W., 10 chains to the point of beginning.

The tract described contains 30 acres.

r. Ouzinkie [63266].

Tract No. 1 Beginning at a point from which corner No. 3, Tract A, U. S. Survey No. 470 bears N. 21° E., 541 feet, thence S. 6° W., 150 feet; N. 89° W., 331 feet; North, 138 feet; N. 57° E., 268 feet; S. 41° E., 186 feet to the point of beginning.

The tract contains 1.68 acres.

Tract No. 2. Beginning at a point from which the point of beginning of Tract No. 1 bears N. 46° E., 533 feet, S. 89° E., 331 feet, N. 6° E., 150 feet, thence S. 45° W., 450 feet; West, 450 feet; N. 45° E., 450 feet; East, 450 feet to the point of beginning.

The tract described contains 4.60 acres.

The Departmental order of January 24, 1958, which temporarily reserved certain lands at Ekwak, is hereby revoked so far as it affects the lands described in "1" above.

W. G. GUERNSEY,  
Associate Director

[F. R. Doc. 55-5536; Filed, July 8, 1955;  
8:46 a. m.]

## DEPARTMENT OF COMMERCE

### Bureau of Foreign Commerce

ARBUCKLE, SMITH & Co., Ltd.

#### ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

In the matter of: Arbuckle, Smith & Co., Ltd., Adelaide House, Lower Thames Street, London E. C. 3, England, respondent.

The respondent, Arbuckle, Smith & Co., Ltd., is the subject of an investigation concerning alleged transshipments to China of commodities exported from the United States under General License to certain European destinations, and the Director, Investigation Staff, Bureau of Foreign Commerce, has applied for an order temporarily denying to it all export privileges pending completion of the investigation and determination of any charges which may be brought against it. The application was made pursuant to § 382.11 (b) of the Export Regulations (Title 15, Chapter III, Subchapter B, CFR), and, in accordance with the practice thereunder was referred to a Compliance Commissioner of the Bureau of Foreign Commerce who, after considering evidence in support thereof, has recommended that the application be granted.

Now, upon receipt of the Compliance Commissioner's recommendation, after reviewing and considering the evidence submitted in support of the application and being of the opinion that there is reasonable ground to believe that the respondent has transshipped to China commodities exported from the United States under General License permitting their shipment to certain European destinations, and that it is a party to arrangements for the solicitation of orders from Chinese buyers for commodities subject to General License not permitting their transshipment to China, which orders are being solicited upon representations that it will ship such commodities to such buyers in spite of regulations prohibiting such shipment, and, having concluded (a) that it is advisable that all United States exporters be informed by publication of this order of the provisions hereafter set forth and (b) that this order is reasonable and necessary to protect the public interest and to achieve effective enforcement of the Export Control Act;

*It is hereby ordered.* (1) All outstanding validated export licenses in which the respondent appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation;

(2) The respondent, its successors or assigns, directors, officers, partners, representatives, agents, and employees, are hereby denied all privileges of participating directly or indirectly in any manner, form or capacity in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limit-

ation of the generality of the foregoing, participation in an exportation shall include and prohibit said respondent's and such other persons' and firms' participation (a) as a party or as a representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States;

(3) This denial of export privileges shall apply not only to the respondent, but also to any person, firm, corporation, or business organization with which it now or hereafter may be related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith;

(4) This order shall be published in the FEDERAL REGISTER, shall be effective forthwith and shall remain in effect until the completion of the investigation of the conduct of the respondent and until the final determination of any compliance proceeding which may be brought against this respondent, except insofar as this order may be amended or modified hereafter in accordance with the export control regulations or upon consideration of the answers by the respondent, if it shall answer, to certain interrogatories heretofore propounded to it.

(5) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, shall, without prior disclosure of the fact to, and specific authorization from, the Bureau of Foreign Commerce, directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities from the United States, or (b) order, receive, buy, use, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States or in a reexportation of any commodity exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (2) and (3) hereof have any interest or participation of any kind or nature, direct or indirect.

(6) A certified copy of this order shall be served upon the respondent by registered mail.

(7) In accordance with the provisions of § 382.11 (c) of the export control regulations, the respondent may move at any time prior to the entry of a final order of suspension to vacate or modify this temporary suspension order by filing an appropriate application therefor, supported by evidence, with the Compliance Commissioner and it may request oral hearing thereon, which, if requested, shall be held before the Compliance

Commissioner at Washington, D. C., at the earliest possible date.

Dated: July 1, 1955.

JOHN C. BORTON,  
Director

Office of Export Supply.

[F. R. Doc. 55-5546; Filed, July 8, 1955;  
8:48 a. m.]

### Foreign-Trade Zones Board

[Order 40]

PORT OF NEW ORLEANS, LA.

APPLICATION OF BOARD OF COMMISSIONERS  
TO EXPAND BOUNDARIES OF FOREIGN-TRADE  
ZONE NO. 2

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 993-1003; 19 U. S. C. 81a-81u) the Foreign-Trade Zones Board has adopted the following order which is promulgated for the information and guidance of all concerned:

Whereas, the Board of Commissioners of the Port of New Orleans, as grantee of Foreign-Trade Zone No. 2, filed an application dated March 11, 1955 for permission to expand the boundaries at the east end of the zone to include that area now occupied by the sand pit and the Napoleon Avenue lumber yard; and

Whereas, the Board of Commissioners of the Port of New Orleans requests, that the area now occupied by the Napoleon Avenue Lumber Yard be temporarily withdrawn from the zone area by a fence that will separate the lumber yard from that portion of the expanded area which will be used for foreign-trade zone operations until the lumber yard and its storage buildings can be relocated out of the zone area; and

Now, therefore, the Foreign-Trade Zones Board, after full consideration and a finding that the proposal is in the public interest, hereby orders:

That the Boundaries of Foreign-Trade Zone No. 2 be, and they hereby are re-established, to include that area at the east end of the zone now occupied by the sand pit and the Napoleon Avenue Lumber Yard, in conformity with revised Exhibits Nos. 1 and 10 (b) dated February 15, 1955, made a part of the application, provided that the grantee segregates such area in a manner that will comply with the requirements of the Collector of Customs and the District Engineer, Corps of Engineers, at New Orleans, Louisiana, and provided further, that the changes in boundaries shall not become effective until such time as the two flumes through the front levee downstream of the new Napoleon Avenue wharf are either removed or closed to the satisfaction of the District Engineer, Corps of Engineers.

It is found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (5 U. S. C. 1003) is unnecessary in connection with the issuance of this order, because its application is restricted to one foreign-trade zone, and is of a nature that it imposes no burden on the parties of in-

terest. The effective date of this order is, therefore, upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 30th day of June 1955.

FOREIGN-TRADE ZONES  
BOARD,

[SEAL] SINCLAIR WEEKS,  
Secretary of Commerce, Chairman  
and Executive Officer  
Foreign-Trade Zones Board.

Attest:

JOSEPH M. MARRONE,  
Executive Director  
Foreign-Trade Zones Board.

[F. R. Doc. 55-5533; Filed, July 8, 1955;  
8:45 a. m.]

### FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11163; FCC 55-697]

VILLAGE BROADCASTING CO. (WOPA)

CORRECTED ORDER DESIGNATING APPLICATION  
FOR HEARING ON STATED ISSUES<sup>1</sup>

In re Application of Richard Goodman, Mason Loundy and Egmont Sonderling, a partnership d/b as Village Broadcasting Company (WOPA) Oak Park, Illinois, Docket No. 11163, File No. BP-9271, for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of June 1955,

The Commission having under consideration the above-entitled application for a construction permit to change the transmitter location of Station WOPA, Oak Park, Illinois, from on roof of Oak Park Hotel, Oak Park Avenue and Washington Boulevard, Oak Park, Illinois, to 4723 West Madison Street, Chicago, Illinois; and specify remote control point as 408 S. Oak Park Avenue, Oak Park, Illinois; and

It appearing, that the applicant is legally, technically, financially and otherwise qualified, except as set forth below, to operate Station WOPA as proposed, but that the application would not comply with the Commission's Standards of Good Engineering Practice in that it would not provide a minimum field intensity of 25 mv/m over the business area of the City of Oak Park and would only provide interference-free nighttime service to approximately 62.5 percent of the City of Oak Park; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated April 28, 1955 of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that in a timely reply filed by the applicant it was contended that in spite of the above deficiencies a grant of the application would serve the public interest; and

<sup>1</sup> This order is a correction of the order published at 20 F. R. 4597 (F. R. Doc. 55-5183).

It further appearing, that the Commission, after consideration of the reply, is of the opinion that a hearing is necessary.

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WOPA, and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation of Station WOPA would provide a minimum field intensity of 25 mv/m over the business area of the City of Oak Park, Illinois, in accordance with section 4 of the Standards of Good Engineering Practice.

3. To determine whether the installation and operation of Station WOPA as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to providing adequate nighttime coverage of the City of Oak Park, Illinois.

4. To determine whether, in the light of evidence adduced under the foregoing issues, a grant of the application would be in the public interest.

Released: July 5, 1955.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] MARY JANE MORRIS,  
Secretary.

[F. R. Doc. 55-5549; Filed, July 8, 1955;  
8:48 a. m.]

### FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED STATE BANKS NOT MEMBERS OF  
THE FEDERAL RESERVE SYSTEM, EXCEPT  
BANKS IN THE DISTRICT OF COLUMBIA  
AND MUTUAL SAVINGS BANKS

CALL FOR REPORT OF CONDITION.

Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, is requested, pursuant to the provisions of section 10 (e) of the Federal Deposit Insurance Act, to send to the Federal Deposit Insurance Corporation within ten days after receipt of this notice a Report of Condition as of the close of business Thursday, June 30, 1955, on Form 64—Call No. 43.<sup>1</sup>

Said Report of Condition shall be prepared in accordance with, "Instructions for the Preparation of Report of Condition on Form 64",<sup>1</sup> dated June, 1951.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
[SEAL] E. F. DOWNEY,  
Secretary.

[F. R. Doc. 55-5538; Filed, July 8, 1955;  
8:46 a. m.]

<sup>1</sup> Filed as part of the original document.

**INSURED MUTUAL SAVINGS BANKS NOT MEMBERS OF THE FEDERAL RESERVE SYSTEM**

**CALL FOR REPORT OF CONDITION**

Each insured mutual savings bank not a member of the Federal Reserve System is requested, pursuant to the provisions of section 10 (e) of the Federal Deposit Insurance Act, to send to the Federal Deposit Insurance Corporation within ten days after receipt of this notice a Report of Condition as of the close of business Thursday, June 30, 1955, on Form 64 (Savings) <sup>1</sup>

Said Report of Condition shall be prepared in accordance with, "Instructions for the Preparation of Report of Condition on Form 64 (Savings) and Report of Income and Dividends on Form 73 (Savings) <sup>1</sup> dated June, 1951.

**FEDERAL DEPOSIT INSURANCE CORPORATION,**

[SEAL] E. F. DOWNEY,  
Secretary.

[F. R. Doc. 55-5539; Filed, July 8, 1955; 8:47 a. m.]

**INTERSTATE COMMERCE COMMISSION**

**FOURTH SECTION APPLICATIONS FOR RELIEF  
JULY 6, 1955.**

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

**LONG-AND-SHORT-HAUL**

FSA No. 30818: Silicate of sodium—Chester, Pa., to Savannah and Port Wentworth, Ga. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on silicate of sodium (soda) dry, carloads, from Chester, Pa., to Savannah and Port Wentworth, Ga.

Grounds for relief: Rail-Seatrain competition and circuitry.

Tariff: Supplement 79 to Agent Boin's I. C. C. No. A-968.

FSA No. 30819: Clay—Florida points to Shawnee, Ohio. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on clay, kaolin or pyrophyllite, carloads, from Crossley and Edgar, Fla., to Shawnee, Ohio.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 81 to Agent Spaninger's I. C. C. 1323.

FSA No. 30820: Clay between points in southern territory. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on clay, kaolin or pyrophyllite, carloads, from specified origin groups in Alabama, Georgia, North Carolina, and South Carolina to destinations in Alabama, Louisiana, South Carolina, and West Virginia, as more fully described in the application.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 81 to Agent Spaninger's I. C. C. 1323.

<sup>1</sup>Filed as part of the original document.

FSA No. 30821. Cotton—Mississippi Valley to southern territory. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on cotton, in bales, compressed or uncompressed, carloads, from specified points in Alabama, Arkansas (Helena only), Illinois, Kentucky, Louisiana (east of the Mississippi River) and Tennessee to specified points in southern territory.

Grounds for relief: Motor-truck competition and circuitry.

Tariff: Supplement 47 to Agent Spaninger's I. C. C. 1215.

FSA No. 30822: Crushed stone—Canon City and Salida, Colo., to Texas. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on crushed stone, and ground or pulverized limestone, carloads, from Canon City and Salida, Colo., to specified points in Texas.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 100 to Agent Kratzmeir's I. C. C. 4046.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 55-5545; Filed, July 8, 1955; 8:48 a. m.]

**FEDERAL POWER COMMISSION**

[Docket No. G-8780]

**CITIES SERVICE GAS Co.**

**NOTICE OF APPLICATION AND DATE OF HEARING**

**JUNE 30, 1955.**

Take notice that Cities Service Gas Company (Applicant) a Delaware corporation with a principal office in Oklahoma City, Oklahoma filed on April 21, 1955, an application for a certificate of public convenience and necessity and a supplement thereto on June 6, 1955, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to construct and operate facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection. The facilities are:

(1) 93 miles of 26 inch transmission pipeline extending from Blackwell Compressor Station in Kay County, Oklahoma to Graham Compressor Station in Montgomery County, Kansas.

(2) 2,700 horsepower compressor station (new) to be located near Alva, Woods, Woods County, Oklahoma on Cities Service's existing 26 inch main transmission line extending from the Oklahoma Hugoton Field in Texas County, Oklahoma to Blackwell Compressor Station.

(3) Gas gathering and transmission system consisting of 22 miles of 20-inch pipeline, 15 miles of 16-inch pipeline, 65 miles of 8-inch pipeline, 14 miles of 6-inch pipeline and 29 miles of 4-inch pipeline to be located in Woods County, Oklahoma and Barber County, Kansas, connecting a new gas supply in Barber County with the Alva Compressor Station (Item 2, above).

The application recites that the proposed facilities and the new gas reserves to be attached to Applicant's system will increase system daily capacity by approximately 50,000 Mcf in 1955, 100,000 Mcf thereafter.

The estimated capital cost of the proposed facilities is \$8,422,000 which will be defrayed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 18, 1955, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 15, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 55-5540; Filed, July 8, 1955; 8:47 a. m.]

[Docket No. G-8910]

**WATSON OIL AND GAS Co., Inc.**

**NOTICE OF APPLICATION AND DATE OF HEARING**

**JUNE 30, 1955.**

Take notice that Watson Oil and Gas Company, Inc. (Applicant) with a principal office in Jane Lew, Lewis County, West Virginia, filed on May 16, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas in the Court House District, Lewis County, West Virginia, and to sell it in interstate commerce to Hope Natural Gas Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject

to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 15, 1955, at 9:40 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 5, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 55-5541; Filed, July 8, 1955;  
8:47 a. m.]

[Docket No. G-8926]

E. MAX BEREN ET AL.

NOTICE OF APPLICATION AND DATE OF  
HEARING

JUNE 30, 1955.

Take notice that E. Max Beren, individually and for Lois Blazer Beren, Ella B. Hersch, Arthur Beren and Harry Beren (Applicant) with a principal office in Wichita, Kansas filed on May 19, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas in the Whelan Field, Barber County Kansas and to sell it in interstate commerce to Cities Service Gas Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 15, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the

Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 5, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 55-5542; Filed, July 8, 1955;  
8:47 a. m.]

[Docket Nos. G-3012, G-3049, G-3197, G-3268, G-3601, G-3611, G-3689, G-3694, G-3839, G-3890, G-4000, G-4027 and G-4169, G-4029, G-4031 and G-4220, G-4032, G-4081, G-4083 and G-4096, G-4095, G-4104, G-4137, G-4230, G-4291, G-4322, G-4324, G-4355, G-4584]

B. W. KLINGEMAN ET AL.

NOTICE OF FINDINGS AND ORDER

JULY 1, 1955.

In the matters of B. W. Klingeman, et al., Docket No. G-3012; E. A. Gabriel dba Gabriel Oil Company, Docket No. G-3049; The B & A Pipe Line Company, Docket No. G-3197; J. P. Evans, East-West Syndicate, Docket No. G-3268; John H. Crichton, et al., Docket No. G-3601, Glassell and Glassell, Docket No. G-3611, Dorothy Hewit Blakeney, et al., Docket No. G-3689; Winona H. Brinkoeter, et al., Docket No. G-3694; Joe W. Brown, Docket No. G-3839; Dan Russak, Docket No. G-3890; Hawn Bros., et al., Docket No. G-4000; Sam Sklar, Docket Nos. G-4027 and G-4169; Jay Simmons,

Description	Purchaser	Rate schedule designation	Effective date <sup>1</sup>
Notice of change, dated Apr. 19, 1955.	Louisiana Nevada Transit Co.	Supplement No. 2 to Applicant's FPC Gas Rate Schedule No. 1.	July 10, 1955

<sup>1</sup> The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by applicant if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR Ch. I) a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges, and, pending such hearing and decision

et al., Docket No. G-4029; Leonard W. Phillips, Docket Nos. G-4031 and G-4220; August Erickson, et al., Docket No. G-4032; Republic National Bank of Dallas, Executor of the Estate of Harry J. Strief, Docket No. G-4061, States Oil Company, et al., Docket Nos. G-4083 and G-4096; States Oil Company, Docket No. G-4095; W. L. Pickens, Docket No. G-4104; C. R. Schuster, Docket No. G-4137; W. C. Woolf, Docket No. G-4230; Frank W. Michaux, Docket No. G-4291, Heep Oil Corporation, et al., Docket No. G-4322; Farrell and Company of Louisiana, Docket No. G-4324; Crow Drilling Company, Inc., Docket No. G-4355; Sohio Petroleum Company, Docket No. G-4584.

Notice is hereby given that on June 27, 1955, the Federal Power Commission issued its findings and order adopted June 22, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 55-5543; Filed, July 8, 1955;  
8:47 a. m.]

[Docket No. G-9092]

FLOYD H. BROWN

ORDER SUSPENDING PROPOSED CHANGES  
IN RATES

Floyd H. Brown (Applicant), on June 10, 1955,<sup>1</sup> tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until December 10, 1955, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f))

Adopted: June 29, 1955.

Issued: July 1, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 55-5544; Filed, July 8, 1955;  
8:48 a. m.]

<sup>1</sup> This filing was originally tendered on April 25, 1955, but was incomplete at that time. The filing was supplemented and completed on June 10, 1955.