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Title 3—THE PRESIDENT

Executive Order 10861

SUSPENSION OF CERTAIN PROVISIONS OF SECTION 5762 OF TITLE 10 OF THE UNITED STATES CODE WHICH RELATE TO THE PROMOTION OF OFFICERS OF THE SUPPLY CORPS, CHAPLAIN CORPS, CIVIL ENGINEER CORPS, AND MEDICAL SERVICE CORPS OF THE NAVY

By virtue of the authority vested in me by section 5785(b) of title 10 of the United States Code, it is ordered as follows:

SECTION 1. Except as to the provision which reads

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers, not restricted in the performance of duty, other than women officers appointed under section 5590 of this title, that may be recommended for promotion to the grade of captain or commander in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, Dental Corps, or the Medical Service Corps * * *

the provisions of section 5762(a) of title 10 of the United States Code, to the extent that such provisions are applicable to promotions to the grade of captain in the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Medical Service Corps, are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

Sec. 2. Except as to the provision which reads

The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male officers in the Supply or the Civil Engineer Corps, not restricted in the performance of duty, that may be recommended for promotion to the grade of lieutenant commander or lieutenant * * *

the provisions of section 5762(b) of title 10 of the United States Code, are hereby suspended until June 30 of the fiscal year following that in which the national

emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
February 11, 1960.

[F.R. Doc. 60-1469; Filed, Feb. 12, 1960; 10:10 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart B—Standards

OFFICIAL UNITED STATES STANDARDS FOR LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

On October 21, 1959, a notice of rule making was published in the FEDERAL REGISTER (24 F.R. 8499) regarding the proposed amendment of the official United States standards for lamb, yearling mutton, and mutton carcasses (7 CFR 53.114-53.118) under the provisions of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622 and 1624).

After due consideration of all relevant material submitted, and under the provisions of the aforesaid sections of the Agricultural Marketing Act of 1946, as amended, the provisions in 7 CFR 53.114 through 53.118 are hereby amended to read as follows:

LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

§ 53.114 Differentiation between lamb, yearling mutton, and mutton carcasses.

Differentiation between lamb, yearling mutton, and mutton carcasses is made on the basis of differences that occur in the development of their muscular and skeletal systems. Typical

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(As of January 1, 1960)

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lamb carcasses tend to have slightly wide and moderately flat rib bones and a light red color and fine texture of lean. To be classed as lamb, a carcass must have break joints on both its front shanks. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Yearling mutton carcasses may have either break joints or "spool" joints on their front shanks. Typical mutton carcasses have wide, flat rib bones and a dark red color and coarse texture of lean. They always have spool joints on their front shanks. Regardless of their other characteristics, carcasses from which the front shanks have been removed will be assumed to have had "spool" joints and will be classed as yearling mutton or mutton on the basis of their other characteristics. In determining the maturity class of ovine carcasses, more consideration is given to the characteristics of the flesh than is given to the characteristics of the skeleton.

§ 53.115 Application of standards.

(a) Lamb, yearling mutton, and mutton carcasses are graded on a composite evaluation of two general grade factors—conformation and quality. These factors are concerned with the proportions of the various wholesale cuts and the proportions of meat and bone in the carcass and the quality of the lean, respectively.

(b) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems, although it is also influenced, to some extent, by the quantity and distribution of external finish. The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Best conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very wide and thick in relation to their length and which have a very plump and full and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very narrow in relation to their length and which have a very angular and thin and sunken appearance. External fat in excess of that normally found on retail cuts is not considered in evaluating conformation.

(c) Quality of the lean flesh is best evaluated from consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading carcasses direct observation of these characteristics is not possible. Therefore, the quality of the lean is evaluated indirectly by giving

equal consideration to (1) the quantity of fat intermingled within the lean between the ribs called "feathering," (2) the streaking of fat within and upon the inside flank muscles; and (3) the firmness of the fat and lean—all in relation to the apparent evidence of maturity.

(d) The lamb standards are intended to cover the full range of maturity within which lambs are marketed. The standards for Prime, Choice, and Good grades of lamb specify two general levels of development of the quality-indicating characteristics described in this section, dependent upon the apparent evidence of maturity attained by the lamb at the time of slaughter. The standards for Utility and Cull grades of lamb and for each grade of yearling mutton and mutton specify only one general level of development of the quality-indicating characteristics described, and these characteristics apply only to carcasses which are typical in maturity for their class. In order to qualify for a specific grade, yearling mutton or mutton carcasses with evidence of more advanced maturity than typical for their class are required to have a slightly greater development of these characteristics than described. Conversely, such carcasses with evidence of less maturity than typical for their class may qualify for a given grade with a slightly lesser development of these characteristics.

(e) Carcasses qualifying for any particular grade may vary with respect to the relative development of the various characteristics that contribute to their conformation and quality, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be typical of other grades. Because it is impractical to describe the nearly limitless numbers of such recognizable combinations of characteristics, the standards for each grade describe only carcasses which have a relatively similar development of individual conformation and quality factors and which are also representative of the lower limit of each grade. However, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering are also indicated.

(f) The standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses which have thick, heavy necks and shoulders typical of uncastrated males are discounted in grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(g) The standards for lamb, yearling mutton, and mutton carcasses contained in this subpart together provide for grading carcasses within the full range of maturity of the ovine species. Although the grade standards for this full range

of maturity are contained in three separate standards, it is the intent that the three standards be considered as a continuous series. Therefore, in determining the grade of a carcass which has a degree of maturity that is not typical of that specified in one of the three standards, it is necessary to interpolate between the standard for the kind of carcass (lamb, yearling mutton, or mutton) being graded and the standard for the kind of carcass which is most closely adjacent to it in maturity.

§ 53.116 Specifications for official United States standards for grades of lamb carcasses.

(a) *Prime.* (1) Lamb carcasses possessing minimum qualifications for the Prime grade are moderately wide and thick in relation to their length and have moderately plump and full legs; moderately wide and thick backs; and moderately thick and full shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a slightly dark pink color of inside flank muscles. Such carcasses have a modest amount of feathering between the ribs and a small quantity of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be firm, and their flanks tend to be moderately full and firm.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a light red color of inside flank muscles. Such carcasses have a moderate amount of feathering between the ribs and a modest amount of fat streaking within and upon the inside flank muscles. Their lean flesh and external finish are firm, and their flanks are moderately full and firm.

(4) Regardless of the extent to which other grade factors may exceed the minimum requirements for Prime, to be eligible for Prime a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. In addition, a carcass must have a composite development of quality-indicating factors equivalent to that specified as minimum for Prime to be eligible for that grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conforma-

tion inferior to that specified as minimum for the Choice grade.

(b) *Choice.* (1) Lamb carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a moderately dark pink color of inside flank muscles. Such carcasses have a slight amount of feathering between the ribs and traces of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be moderately firm, and their flanks tend to be slightly full and firm.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a moderately light red color of inside flank muscles. Such carcasses have a small amount of feathering between the ribs and a slight amount of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish are moderately firm, and their flanks are slightly full and firm.

(4) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(5) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum for the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(c) *Good.* (1) Lamb carcasses possessing minimum qualifications for the Good grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous

break joints; and a dark pink color of inside flank muscles. Such carcasses have traces of feathering between the ribs but practically no fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish are slightly firm, and their flanks are slightly thin and soft.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a slightly dark red color of inside flank muscles. Such carcasses have a slight amount of feathering between the ribs and traces of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be moderately firm, and their flanks tend to be slightly full and firm.

(4) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility.* (1) Lamb carcasses possessing minimum qualifications for the Utility grade are very angular and very narrow in relation to their length and have thin, slightly concave legs; very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible.

(2) Although evidences of quality vary slightly with changes in maturity the differences are so small as to make their separate descriptions impractical. There is practically no feathering between the ribs and no fat streaking in the inside flank muscles. The lean in the inside flank muscles and between the ribs is a dark red in color. Their lean flesh and exterior finish are soft, and the flanks are soft and slightly watery.

(3) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have

conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull.* Typical Cull grade lamb carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and a very dark red in color.

§ 53.117 Specifications for official United States standards for grades of yearling mutton carcasses.

(a) *Prime.* (1) Yearling mutton carcasses possessing minimum qualifications for the Prime grade are moderately wide and thick in relation to their length and have moderately plump and full legs; moderately wide and thick backs; and moderately thick and full shoulders. They have slightly abundant feathering between the ribs, a moderate amount of fat streaking within and upon the inside flank muscles, and a slightly dark red color of inside flank muscles. Their lean flesh and exterior finish tend to be very firm, and their flanks tend to be full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Prime, to be eligible for Prime a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. In addition, a carcass must have a composite development of quality-indicating factors equivalent to that specified as minimum for Prime to be eligible for that grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(3) Yearling mutton carcasses which are otherwise eligible for the Prime grade but which have excessive quantities of combined external and kidney and pelvic fat are not eligible for Prime.

(b) *Choice.* (1) Yearling mutton carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders. They have a modest amount of feathering between the ribs, a small amount of fat streaking within and upon the inside flank muscles, and a color of

inside flank muscles which tends to be moderately dark red. Their lean flesh and external finish tend to be firm, and their flanks tend to be moderately full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(3) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum of the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(4) Yearling mutton carcasses which are otherwise eligible for the Prime grade but which have excessive quantities of combined external and kidney and pelvic fat are included in the Choice grade.

(c) *Good.* (1) Yearling mutton carcasses possessing minimum qualifications for the Good grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders. They have a small amount of feathering between the ribs, a slight amount of fat streaking within and upon the inside flank muscles, and a moderately dark red color of inside flank muscles. Their lean flesh and external finish are moderately firm, and their flanks are slightly full and firm.

(2) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for

Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility.* (1) Yearling mutton carcasses possessing minimum qualifications for the Utility grade are very angular and very narrow in relation to their length and have thin, slightly concave legs; very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible. They have practically no feathering between the ribs, no fat streaking in the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and external finish are moderately soft, and the flanks are soft and slightly watery.

(2) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull.* Typical Cull grade yearling mutton carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and a very dark red in color.

§ 53.118 Specifications for official United States standards for grades of mutton carcasses.

(a) *Choice.* (1) Mutton carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders. They have a moderate amount of feathering between the ribs, a modest amount of fat streaking within and upon the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and external finish tend to be firm, and their flanks tend to be moderately full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs,

and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(3) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum of the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(4) Mutton carcasses which are otherwise eligible for the Choice grade but which have excessive quantities of combined external and kidney and pelvic fat are not eligible for Choice.

(b) *Good.* (1) Mutton carcasses possessing minimum qualifications for the Good grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders. They have a modest amount of feathering between the ribs, a slight amount of fat streaking within and upon the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and external finish are moderately firm, and their flanks are slightly full and firm.

(2) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(3) Mutton carcasses which are otherwise eligible for the Choice grade but which have excessive quantities of combined external and kidney and pelvic fat are included in the Good grade.

(c) *Utility.* (1) Mutton carcasses possessing minimum qualifications for the Utility grade are very angular and very

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 5]

PART 722—COTTON

Subpart—Regulations Pertaining to Acreage Allotments for the 1960 Crop of Upland Cotton

FARM BASE ADJUSTMENTS; FEDERALLY OWNED LAND

Basis and purpose. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.) (hereinafter referred to as the "act"). The purpose of this amendment is to provide that the farm base for federally owned land shall not be adjusted under section 344(f)(8) of the act.

Public Law 86-172 (73 Stat. 393, approved August 18, 1959) amended sections 344(f)(8) and 377 of the act. The provisions of section 377 of the act preserve farm history for federally owned land even though the farm allotment is not actually planted. Section 125 of the Soil Bank Act (7 U.S.C. 1813) restricts the production of cotton on federally owned land and § 722.318(a)(2) of the regulations restricts release of cotton allotment on federally owned land. It is clearly the intent of the above-cited statutes and regulations that cotton allotment on federally owned land shall be preserved thereon for history purposes and that such allotment shall not be transferred to other farms. In order to effectuate such intent, it is necessary to prohibit any adjustment of the farm base pursuant to section 344(f)(8) of the act on federally owned land because of failure to actually plant or release the farm allotment.

In order that Federal agencies and tenants on federally owned land may be fully advised as to the applicability of section 344(f)(8) of the act and plan accordingly, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

Section 722.319(a)(1) of the regulations pertaining to acreage allotments for the 1960 crop of upland cotton (24 F.R. 8430, 8628, 9693, 9778, 10056, 10135, 10136) is amended by addition of the following at the end thereof: "Notwithstanding the provisions of this subparagraph, the farm base on federally owned land shall not be adjusted under section 344(f)(8) of the act."

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply secs. 344, 63 Stat.

narrow in relation to their length and have thin, slightly concave legs; very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible. They have traces of feathering between the ribs but practically no fat streaking in the inside flank muscles, and a very dark red color of inside flank muscles. Their lean flesh and external finish are slightly soft, and the flanks are soft and slightly watery.

(2) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(d) *Cull.* Typical Cull grade mutton carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and very dark red in color.

These amendments reduce both the conformation and quality requirements for the Prime and Choice grades. The importance of conformation is increased, and the emphasis that is placed on internal factors considered in evaluating quality is decreased by reducing the emphasis on feathering between the ribs, eliminating consideration of overflow fat, and increasing the emphasis on firmness of fat and lean. In addition, a minimum degree of external fat covering is prescribed for the Prime and Choice grades.

These amendments should be made effective as soon as possible in order to be of maximum benefit to those affected. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendments shall become effective on March 1, 1960.

Done at Washington, D.C., this 10th day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1404; Filed, Feb. 12, 1960; 8:46 a.m.]

670, as amended; 377, 73 Stat. 393; 7 U.S.C. 1344, 1377; sec. 125, 70 Stat. 198; 7 U.S.C. 1813)

Done at Washington, D.C., this 10th day of February 1960.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 60-1426; Filed, Feb. 12, 1960; 8:49 a.m.]

[Amdt. 3]

PART 722—COTTON

Subpart—Regulations Pertaining to Acreage Allotments for the 1960 Crop of Extra Long Staple Cotton

FARM BASE ADJUSTMENTS; FEDERALLY OWNED LAND

Basis and purpose. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.) (hereinafter referred to as the "act"). The purpose of this amendment is to provide that the farm base for federally owned land shall not be adjusted under section 344(f)(8) of the act.

Public Law 86-172 (73 Stat. 393, approved August 18, 1959) amended sections 344(f)(8) and 377 of the act. The provisions of section 377 of the act preserve farm history for federally owned land even though the farm allotment is not actually planted. Section 125 of the Soil Bank Act (7 U.S.C. 1813) restricts the production of ELS cotton on federally owned land and § 722.368(a)(2) of the regulations restricts release of ELS cotton allotment on federally owned land. It is clearly the intent of the above-cited statutes and regulations that ELS cotton allotment on federally owned land shall be preserved thereon for history purposes and that such allotment shall not be transferred to other farms. In order to effectuate such intent, it is necessary to prohibit any adjustment of the farm base pursuant to section 344(f)(8) of the act on federally owned land because of failure to actually plant or release the farm allotment.

In order that Federal agencies and tenants on federally owned land may be fully advised as to the applicability of section 344(f)(8) of the act and plan accordingly, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

Section 722.369(a)(1) of the regulations pertaining to acreage allotments for the 1960 crop of extra long staple

cotton (24 F.R. 8481, 9703, 10056, 10138) is amended by addition of the following at the end thereof: "Notwithstanding the provisions of this subparagraph, the farm base on federally owned land shall not be adjusted under section 344(f) (8) of the act."

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply secs. 344, 63 Stat. 670, as amended; 377, 73 Stat. 393; 7 U.S.C. 1344, 1377; sec. 125, 70 Stat. 198; 7 U.S.C. 1813)

Done at Washington, D.C., this 10th day of February 1960.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 60-1425; Filed, Feb. 12, 1960;
8:49 a.m.]

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

[Navel Orange Reg. 184]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.484 Navel Orange Regulation 184.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel 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 hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) 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 committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; 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 were 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 navel 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 hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 11, 1960.

(b) *Order.* (1) The respective quantities of navel 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., February 14, 1960, and ending at 12:01 a.m., P.s.t., February 21, 1960, are hereby fixed as follows:

- (i) District 1: 600,000 cartons;
- (ii) District 2: 450,000 cartons;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 12, 1960.

S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing
Service.

[F.R. Doc. 60-1488; Filed, Feb. 12, 1960;
11:39 a.m.]

[Lemon Reg. 833]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.940 Lemon Regulation 833.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended mar-

keting agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons 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 hereof 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 becomes 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 committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; 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 were 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 lemons; 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 hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 10, 1960.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., February 14, 1960, and ending at 12:01 a.m., P.s.t., February 21, 1960, are hereby fixed as follows:

- (i) District 1: 9,300 cartons;
- (ii) District 2: 176,700 cartons;
- (iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 11, 1960.

S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing
Service.

[F.R. Doc. 60-1463; Filed, Feb. 12, 1960;
9:00 a.m.]

PART 989—RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

Approval of Expenses of Raisin Administrative Committee for 1959-60 Crop Year and Fixing Rate of Assessment for Such Crop Year

Notice was published in the January 21, 1960, issue of the FEDERAL REGISTER (25 F.R. 515), that consideration was being given to the approval of certain expenses of the Raisin Administrative Committee for the 1959-60 crop year and the fixing of a rate of assessment for that year, as recommended by the committee. Such actions would be pursuant to the provisions of §§ 989.79 and 989.80 of Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California. The said amended marketing agreement and order (hereinafter referred to as the "order") are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Within the period reserved therefor, a producer filed data, views, or arguments protesting the administration of the order program and certain items of expense that may be included in the aggregate amount of the committee's expenses for the 1959-60 crop year. The specific matters protested which relate to the notice include: (1) Certain legal expense in connection with contemplated order amendment proceedings; (2) expense for certain foreign travel in behalf of the committee; and (3) failure of the notice to include certain expenses likely to be incurred on surplus tonnage raisins which are pooled and held by handlers for disposition by the committee. For the reasons hereinafter given, the expenses and related rate of assessment should be as hereinafter set forth.

(1) In the proposed budget of expenses (other than those with respect to the receiving, handling, holding, or disposing of any quantity of reserve or surplus raisins) submitted by the committee in accordance with § 989.79 of the order, the sum of \$6,000 was allotted for expenses which may be incurred in connection with a promulgation proceeding during the current crop year leading toward an amendment of the raisin order and other amendatory proceedings with respect to the implementing rules and regulations. The last amendment to the order occurred in 1956, and since that time a number of matters have arisen which show present need for revision of the program. In connection with this \$6,000 item, the committee explained in its supporting report that (a) the raisin order and the implementing rules and regulations require extensive study and revision to improve operation of the program, and (b) expense would be involved in the preparation of proposed amendments, meetings of subcommittees, and legal assistance necessary to prepare for, and participate in, the required public hearing. The committee is authorized pursuant

to § 989.49(d) to recommend to the Secretary amendments to the order and the implementing rules and regulations. The amount of \$6,000 is to cover all such amendment expense that may be incurred by the committee, including fee for an attorney if the committee employs any. With respect to the promulgation proceeding relating to a proposed amendment of the order, there will be involved the drafting of proposed amendments, representation of the committee at the public hearing, and the preparation of committee's briefs or exceptions in connection therewith.

(2) In view of the quantity of 1959 crop raisins produced in California which remains to be sold in export outlets in competition with record productions abroad, there is definite need to improve the marketing, distribution, and consumption of the California raisins, whether free tonnage or surplus tonnage, in foreign countries. That this will be a continuing need in the years immediately ahead is indicated by the prospective levels of raisin production both in California and in raisin producing countries overseas. To assist in meeting this need, it is likely that the committee will need to incur some foreign travel expense during the current crop year. To the extent that such travel is undertaken in connection with a marketing research or development project approved by the Secretary, pursuant to § 989.53, designed to assist, improve, or promote the marketing, distribution, and consumption of raisins, the expense of such travel properly attributable to such project would be paid from funds collected pursuant to § 989.79.

(3) The notice appropriately pertained only to the proposed expenses which the Secretary may find, pursuant to § 989.79, are reasonable and likely to be incurred by the committee for the maintenance and functioning of the committee and the Raisin Advisory Board (established under the order) and the assessment which, pursuant to § 989.80, would be fixed, and levied on handlers, to defray such expenses. As required by § 989.79, such expenses did not include expenses for receiving, handling, holding, or disposing of any quantity of reserve or surplus raisins. These expenses, however, are already governed by the provisions of §§ 989.66(f) and 989.82 of the order and § 989.166 (g), (h), and (i) of the implementing rules and regulations which were made effective after previous rule making proceedings.

After consideration of all relevant matters presented (including the data, views, and arguments filed pursuant to the aforesaid notice, the information and recommendation submitted by the committee, and other available information), it is hereby found and determined and, therefore, ordered, that the expenses of the Raisin Administrative Committee which it is authorized to incur pursuant to § 989.79, and the rate of assessment that is to be fixed for the crop year beginning September 1, 1959, pursuant to § 989.80, shall be as follows:

§ 989.310 Expenses of the Raisin Administrative Committee and rate of assessment for the 1959-60 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of \$112,000 are reasonable and likely to be incurred by the Raisin Administrative Committee for the maintenance and functioning of the committee and the Raisin Advisory Board during the crop year beginning September 1, 1959.

(b) *Rate of assessment.* Each handler shall pay to the Raisin Administrative Committee, in accordance with the provisions of § 989.80, his pro rata share of the aforesaid expenses at an assessment rate of 70 cents (\$0.70) per ton of free tonnage raisins acquired by him, plus all reserve tonnage sold to him pursuant to § 989.67 for use as free tonnage, during the crop year beginning September 1, 1959, which assessment rate is hereby fixed, pursuant to § 989.80, as the rate of assessment to be paid by each such handler.

It is hereby further found that good cause exists for making the effective time hereof the date of publication in the FEDERAL REGISTER and not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that: (1) Under the order, the assessment applies to raisins acquired during the crop year (commencing September 1, 1959) and handlers have been acquiring such raisins since the beginning of the crop year; and (2) the rate of assessment fixed hereby should be effective promptly so as to enable the Raisin Administrative Committee to bill handlers for their assessments on tonnage already acquired and thus enable the committee to obtain assessment revenue promptly to defray expenses already incurred during the current crop year in the administration of the program and for the continued maintenance and functioning of the committee and the board.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 10, 1960, to become effective upon publication in the FEDERAL REGISTER.

S. R. SMITH,
Director,

Fruit and Vegetable Division.

[F.R. Doc. 60-1423; Filed, Feb. 12, 1960; 8:48 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

PART 464—TOBACCO

Subpart—1959 Tobacco Loan Program

PUERTO RICAN TOBACCO

Set forth below is the schedule of advance rates, by grades, for the 1959 crop

of type 46 tobacco under the tobacco loan program formulated by Commodity Credit Corporation and Commodity Stabilization Service, published July 26, 1958 (23 F.R. 5645).

§ 464.1137 1959 crop; Puerto Rican tobacco, Type 46, advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Price block	Advance rate
C1F.....	I.....	42
C1P.....		
C1M.....		
C2F.....		
C2P.....		
C3F.....		
C3P.....	II.....	35
C3M.....		
C3T.....		
C3S.....	III.....	25
X1F.....		
X1P.....		
X2F.....	IV.....	22
X2P.....		
X2PT.....		
X3F.....	V.....	17
X3P.....		
X3S.....		
X4.....	VI.....	13
Y1.....		

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat 1051, as amended, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421; sec. 125, 70 Stat. 198, 7 U.S.C. 1813)

Issued this 10th day of February 1960.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-1424; Filed, Feb. 12, 1960; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER G—PERSONNEL

PART 887—APPOINTMENT OF OFFICER PERSONNEL

Appointment of Medical and Dental Officers in the Regular Air Force

In Part 887, §§ 887.1 to 887.8 are rescinded and the following substituted therefor:

- Sec.
- 887.1 Purpose.
- 887.2 Grade determination.
- 887.3 Eligibility for appointment.
- 887.4 Probationary period.
- 887.5 Application period.
- 887.6 Action by the applicant.
- 887.7 Selection.

AUTHORITY: §§ 887.1 to 887.7 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply 10 U.S.C. 8284, 8294.

SOURCE: AFR 36-21, April 29, 1959.

¹The cooperative associations through which price support is made available to growers are authorized to deduct \$1.00 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advances only if consigned by the original producer. No advance is authorized for tobacco found to be in unsafe keeping order, unsound, or damaged.

§ 887.1 Purpose.

Sections 887.1 to 887.7 tell who is eligible to apply for appointment as a commissioned officer in the Regular Air Force, and how to make application for Regular Air Force appointment with a view to designation as a medical officer or a dental officer.

§ 887.2 Grade determination.

(a) *Service credit*—(1) *Professional service date.* Doctors of medicine and dentistry will be given a professional service date based upon the date they completed formal academic requirements for graduation. Those who completed the requirements:

(i) During December, January, or February will be given a date of March 1 following the date they completed the requirements.

(ii) During May or June, a date of July 1.

(iii) During any other period, the first day of the month following completion of academic requirements.

(2) *Promotion list service date.* The promotion list service date will be determined by subtracting four years from the professional service date determined in subparagraph (1) of this paragraph. For example, if the professional service date is July 1, 1952, the promotion list service date would be July 1, 1948.

(3) *Promotion list service credit.* The promotion list service credit will be determined by subtracting the promotion list service date from date of appointment. For example, if the promotion list service date is July 1, 1948, and the person was appointed on July 1, 1958, his promotion list service credit would be 10 years.

(i) Notwithstanding any other provisions of law, no person who was a cadet at the United States Air Force Academy or the United States Military Academy, or a midshipman at the United States Naval Academy, may be originally appointed in a commissioned grade in the Regular Air Force before the date on which his classmates at the Academy are graduated and appointed as officers.

(ii) No person who was enrolled at an Academy but did not graduate may be credited upon appointment as a commissioned officer of the Regular Air Force with longer service than that credited to any member of his class at that Academy whose service in the Air Force, or in the Army and the Air Force, has been continuous since graduation.

(b) *Permanent grades.* (1) Based on promotion list service credit:

<i>Appointees with service credit of:</i>	<i>Will be appointed in the grade of:</i>
Less than 7 years.....	First Lieutenant.
7 but less than 14 years..	Captain.
14 but less than 21 years..	Major.
21 or more years.....	Lieutenant Colonel.

(2) If the Surgeon General, USAF, determines that the applicant has had outstanding professional training or experience and recommends that the applicant be appointed in a higher grade, the applicant may be appointed in a higher grade than shown in subparagraph (1) of this paragraph, but not to exceed that of colonel.

(3) Each person appointed under the provisions of §§ 887.1 to 887.7 will be given date of rank, as appropriate, and his name will be placed on the promotion list below any other officer who has the same or the next greater amount of service credit.

(c) *Temporary grade.* (1) Medical and dental officers initially appointed in the permanent grade of first lieutenant will be appointed in the temporary grade of captain if they have completed 12 months professional experience since graduation from a medical or dental school. The temporary grade of captain will be effective the date they are ordered to active duty.

(2) Appointment in the Regular Air Force will not affect a higher temporary grade or date of rank in temporary grade held by appointee.

(3) A Reserve of the Air Force commission or Regular warrant officer appointment will be vacated on the day before date of execution of oath of office as a Regular Air Force officer.

(4) An officer accepting a Regular Air Force appointment who is serving on active duty in a Reserve grade equivalent to or higher than his Regular grade will be given a temporary USAF appointment in a grade equal to his Reserve grade, with no change in current active duty date of rank.

(5) Officers appointed in a Regular grade higher than their temporary grade will vacate their temporary grade and assume the higher grade on date of acceptance of Regular appointment.

§ 887.3 Eligibility for appointment.

Each person selected for appointment under §§ 887.1 to 887.7 must meet the eligibility requirements in this section and in separate instructions to be issued as required by Hq USAF.

(a) *Age.* time of appointment, an applicant may not exceed the age of 35 by more than the number of years, months, and days he has served on active duty as a commissioned officer in the Armed Services of the United States. This age requirement may be waived upon recommendation of the Surgeon General, USAF.

(b) *Education*—(1) *Medical.* Each applicant must:

(i) Be a graduate of a medical school acceptable to the Surgeon General, USAF.

(ii) Have completed or be engaged in an internship acceptable to the Surgeon General, USAF, or its equivalent in practical or professional experience as determined by the Surgeon General, USAF.

(2) *Dental.* Each applicant must be a graduate of a dental school acceptable to the Surgeon General, USAF, or be within nine months of completing the requirements for graduation. An applicant not on extended active duty who graduated from dental school more than one year before the date of application must possess a license to practice dentistry in a state or territory of the United States or in the District of Columbia.

(c) *Citizenship.* To be eligible for appointment an individual must be a citizen of the United States. If he is not a citizen by birth, he must furnish a cer-

tificate by an officer, notary public, or other person authorized by law to administer oaths, giving the following information:

I certify that I have this date seen the original Certificate of Citizenship No. _____ (or certified copy of court order establishing citizenship) stating that _____
 (Full Name)
 was admitted to United States citizenship by the _____ Court of _____
 (District or County) (State)
 on _____
 (Date)

NOTE: Facsimiles or copies, photographic or otherwise, will not be made of naturalization certificates under any circumstances. 18 U.S.C. 1426(h) provides that "whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declarataon of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(d) *Medical.* After selection, an applicant must be qualified in accordance with the physical standards for commission. Determination of such qualification will be made by the Surgeon General, USAF.

(e) *Background.* The appointee must be of such background, character and reputation to insure that appointment into the Regular Air Force is clearly consistent with the interests of the Air Force. Each selectee for Regular Air Force will meet security requirements before appointment. Each Regular Air Force officer will be the subject of a background investigation during the three year probationary period if the officer has not had such an investigation.

§ 887.4 Probationary period.

The appointment of any person under §§ 887.1 to 887.7 is probationary for three years, and may be revoked by the Secretary of the Air Force at any time before the third anniversary of the acceptance of such appointment.

§ 887.5 Application period.

(a) Application may be submitted under §§ 887.1 to 887.7 at any time. About 6 to 9 months are normally required to process an application and tender a Regular Air Force appointment. This should be kept in mind by applicants who desire to participate in Air Force-sponsored residency training programs.

(b) An applicant who is not favorably considered may reapply not sooner than one year after date of previous application, provided all eligibility requirements are met at that time. All required documents must be submitted when reapplying.

§ 887.6 Action by the applicant.

An applicant must comply with the following instructions:

(a) He must file an application consisting of the following completed documents:

(1) Two copies of AF Form 17, "Application for Appointment in the Regu-

lar Air Force," and AF Form 17A, "Supplement to Application for Commission in the USAF—Medical Service."

(2) A current photograph, head and shoulders type, not smaller than 3 by 5 inches. The applicant's name and current service number, if any, will be printed or typed on the back of the photograph.

(3) Five completed copies of DD Form 398, Statement of Personal History, and one completed FD Form 258, "FBI Applicant Fingerprint Card."

(4) If applicable, certificate verifying citizenship by naturalization as required by § 887.3(c).

(5) Applicant will forward a copy of the following letter to each person listed in paragraph 5 of his AF Form 17A. One of these persons must be the Dean of the appropriate medical or dental school.

Dear _____:

I am submitting an application for a commission in the Regular Air Force.

In seeking this appointment, it is required that my application be indorsed by members of our profession who can render a personal evaluation of my suitability for such an appointment, professional capabilities and potential (relative class standing),¹ personal attributes, and any other comments deemed appropriate. I have listed your name for such reference. May I, therefore, request that you furnish this information which will be held in strict confidence. The contents of your letter will not be made known to me.

It should be addressed to: Hq USAF (AFCSG-25.2), Washington 25, D.C.

May I express my appreciation for your prompt and considerate cooperation in this matter.

Sincerely,

(b) In addition to paragraph (a) of this section, each applicant will submit the following:

(1) Copy of diploma awarding MD or DDS degree.

(2) Evidence of internship (physicians only).

(3) Evidence of State license by the dental applicant when required by § 887.3(b)(2).

(4) If applicable, copy of discharges and certificates of service for prior military service.

(5) If applicable, documentary evidence of post-graduate or residency training.

(6) An approved conditional resignation from the parent service, if applicant holds a Reserve commission under the jurisdiction of any department other than the Air Force.

(c) Applications will be submitted to Hq USAF (AFPTR-P-3A).

(d) *Withdrawing applications.* An applicant may withdraw his application any time before acceptance of Regular appointment. This is done by submitting a written request to Hq USAF (AFPTR-P-3A). Hq USAF will return the application and allied papers.

(e) *Change of address.* If an applicant has a permanent change of address between submission of application and notification of final action, he must notify Hq USAF (AFPTR-P-3A).

(f) *Replying to communications.* An applicant who does not promptly reply to

¹(Include only in letter to the dean.)

and comply with all communications and instructions regarding his application will be considered as no longer interested in a Regular commission and his application will be returned.

§ 887.7 Selection.

(a) A board of senior Regular officers will be convened at Hq USAF to select the best qualified applicants within each promotion list service group to meet the requirements of the Regular Air Force structure. The board will be instructed to select the best qualified applicants.

(b) After selection, Hq USAF (AFPTR-P-3A) will:

(1) Notify each selected applicant of his selection, and request any additional information required before consummation of appointment.

(2) Prepare nomination lists, containing the names of the successful applicants, for submission to the President of the United States and the Senate for confirmation.

(3) Following confirmation by the United States Senate, tender appointments.

[SEAL] CHARLES M. McDERMOTT,
 Colonel, U.S. Air Force, Deputy
 Director of Administrative
 Services.

[F.R. Doc. 60-1396; Filed, Feb. 12, 1960;
 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

[Reg. Docket No. 278; Special Recordation Reg. 1]

SUBCHAPTER A—PROCEDURAL REGULATIONS

PART 406—CERTIFICATION PROCEDURES

PART 414—FEES FOR COPYING, CERTIFICATION AND SEARCH OF RECORDS

SUBCHAPTER C—AIRCRAFT REGULATIONS

PART 501—AIRCRAFT REGISTRATION CERTIFICATES

PART 502—DEALER'S AIRCRAFT REGISTRATION CERTIFICATES

PART 503—RECORDATION OF AIRCRAFT OWNERSHIP

PART 504—RECORDATION OF ENCUMBRANCES AGAINST SPECIFICALLY IDENTIFIED AIRCRAFT ENGINES

PART 505—RECORDATION OF ENCUMBRANCES AGAINST AIRCRAFT ENGINES, PROPELLERS, APPLIANCES, AND SPARE PARTS

Transfer of Aircraft Records to Oklahoma City, Okla.

In accordance with previous public announcement, the Aircraft and Airmen

Records Branch of the Federal Aviation Agency will move from Washington, D.C. to Oklahoma City, Oklahoma, beginning on or about March 1, 1960.

While the personnel and records of the Branch will be unavailable to the public during the several days necessary to accomplish the move, provision has been made for continual filing for recordation under the Federal Aviation Act of 1958, of all documents affecting the title to, or interest in, civil aircraft.

This notice of the move of the Aircraft and Airmen Records Branch to Oklahoma City should provide ample time to members of the public that may engage in aviation transactions requiring contact with the Branch to plan their transactions to lessen any inconvenience to themselves that may otherwise be occasioned by reason of the unavailability to them of the records and services of the Branch during the period of the move.

The Federal Aviation Act of 1958 provides that the protection granted any document, the recording of which is provided for in that statute, shall be effective "from the time of its filing for recordation." For this purpose, "filing for recordation" is considered to be stamping the incoming documents as to time and date of receipt by the FAA at the Aircraft and Airmen Records Branch. Documents are subsequently recorded in the aircraft record folder in the order filed for recordation. As indicated, provision is made for continuous filing for recordation during the move to Oklahoma City and thus the protection provided a recorded document by law will be assured even though the actual physical recordation of the document in the aircraft record folder may be delayed due to the physical movement from Washington to Oklahoma City of the records and personnel of the Aircraft and Airmen Records Branch.

Since a situation exists requiring the immediate adoption of this regulation in the public interest and for the protection of financial security arrangements in private transactions relating to aircraft, I find that good cause exists for making this regulation effective without compliance with the notice, procedures and effective data provisions of the Administrative Procedure Act.

In consideration of the foregoing the following special regulation is adopted:

Effective 0800 hours, CST, March 14, 1960, the Aircraft and Airmen Records Branch of the Federal Aviation Agency will be located at Home State Life Building, 621 North Robinson Avenue, Oklahoma City 2, Oklahoma. Therefore, all provisions of the Regulations of the Administrator (particularly Parts 400, 406, 414, 501-505) pertaining to the location of the Aircraft and Airmen Records Branch at Washington, D.C., shall be deemed as of that time to refer to the Branch at its new location. All mail addressed to the Branch, including documents and fees as required by the Regulations of the Admin-

istrator,¹ shall be thereafter addressed to the Branch at its new location.²

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on February 12, 1960:

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-1470; Filed, Feb. 12, 1960; 10:12 a.m.]

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 273; Amdt. 101]

PART 507—AIRWORTHINESS DIRECTIVES

Lockheed 049, 149, 649, and 749 Series Aircraft

Investigation of failures in the main landing gear outer cylinder on Lockheed 049, 149, 649, and 749 aircraft has established that fatigue cracks are likely to occur in the radius under the removable collar. In order to prevent further failures resulting from such cracks, inspection and rework must be accomplished on all main landing gears which have accumulated 25,000 or more hours in service. In the interest of safety the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

LOCKHEED. Applies to all Model 049, 149, 649, and 749 Series aircraft which have the Cleveland Pneumatic-Model 8298 Series main landing gear struts installed with the removable side brace attachment collar.

Compliance required as indicated.

Due to fatigue failures found in the above main landing gear outer cylinder, the follow-

¹For fees for copying, certification of search of records, see Part 414; for fees pertaining to registration and recordation, see Parts 501-505, as appropriate. Payment of such fees should be mailed to the Aircraft and Airmen Records Branch at Oklahoma City. Payment of FAA fees not pertaining to the services of the Branch (see for example Part 414.2 for fees for search of an air carrier safety records, or for furnishing copies of medical certificates) are not affected by this Regulation and should be forwarded as currently prescribed.

²Documents recordable under the Federal Aviation Act of 1958 may continue to be filed for recordation at the Washington office until close of business on March 11, 1960. The Washington office of the Aircraft and Airmen Records Branch will thereafter be closed for all public business. At the beginning of the next business day, March 14, 1960, all such documents may be filed for recordation only at the Oklahoma office. Documents received in the Washington office after close of business on March 11, 1960, will be forwarded by the Federal Aviation Agency to the Oklahoma City office. They will not be filed for recordation until received in the latter office.

ing inspections and rework must be accomplished on all main landing gears which have accumulated 25,000 or more hours time in service.

(a) Unless already accomplished in the last 1,000 hours time in service, within 400 hours time in service inspect for cracks in the main landing gear outer cylinder surface, at the 0.125 inch radius of the shoulder against which the drag strut-side brace collar retaining nut bears, by means of one of the three methods in (b). Reinspect every 1,000 hours time in service thereafter, until the rework in (c)(2) is accomplished. Outer cylinders with cracks must be replaced prior to further flight. Cracked cylinders may be returned to service after repair and rework is accomplished in accordance with (c). Rework on all uncracked outer cylinders must be accomplished in accordance with (c)(2) not later than the total accumulated hours time in service indicated in (b).

(b) Inspection and rework:

1. *Ultrasonic shear wave detection method.* This procedure may be used on cylinders with piston and oil in the cylinder or the cylinder only. Rework in accordance with (c)(2) must be accomplished within 4,000 hours time in service if the ultrasonic method is used.

2. *Magnetic particle detection method.* This method requires removing and dismantling of the strut assembly. Rework in accordance with (c)(2) must be accomplished within 4,000 hours time in service if the magnetic particle method is used.

3. *Radiographic method.* This method requires the removal of the piston from the cylinder and complete 360° coverage. Rework in accordance with (c)(2) must be accomplished within 3,000 hours time in service if the radiographic method is employed.

(c) Repair and rework instructions:

1. Outer cylinders with cracks in the radius described in (a) and for a distance of 0.5 inch below the radius tangency point circumferentially around the cylinder may be repaired by grinding out to a maximum depth of 0.017 inch. Complete removal of cracks must be verified by magnetic particle inspection or equivalent. Outer cylinders with cracks that cannot be removed by grinding to a depth of 0.017 inch must be rejected. If cracks are completely removed as verified by such inspection, remove an additional 0.008 inch of material from the repaired area.

2. On all cylinders, whether cracks are found or not, rework the area described in (c)(1) above as follows:

(i) Clean and polish the above cylinder area to remove all tool marks and corrosion.

(ii) Shotpeen the above area using steel shot 0.019-0.028 inch diameter to an intensity of .012-0.016 A₂ ALEMENT (Reference LAC Process Bulletin 217M, Revision 1).

(d) Upon completion of the rework described in (c)(2), all Model 8298 cylinders shall be reinspected for cracks at periods not to exceed 9000 hours time in service using one of the inspection methods noted in (b). Cracked cylinders must be replaced prior to further flight. Cracked cylinders may be returned to service after repair and rework is accomplished in accordance with (c).

(Lockheed Service Letter FS/239304 covers this same subject.)

(Sec. 313(a), 601, 603; 72 Stat 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on February 9, 1960.

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-1398; Filed, Feb. 12, 1960; 8:45 a.m.]

[Reg. Docket No. 209; Amdt. 102]

**PART 507—AIRWORTHINESS
DIRECTIVES**

Sikorsky S-52-3 Helicopters

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive establishing service lives of various components of Sikorsky S-52-3 helicopters, was published in 24 F.R. 10118.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

SIKORSKY. Applies to all Sikorsky S-52-3 helicopters.

Compliance required as indicated.

Investigation of the service history of the HO5S-1 (S-52-3) helicopters, shows that the following components must be retired after 100 hours time in service as a safety measure, pending further investigation to establish final service lives.

- (a) Main rotor assembly including rotating and stationary azimuth stars.
- (b) Main rotor blades.
- (c) Tail rotor assembly.
- (d) Tail rotor blades.
- (e) Main gear box.
- (f) Main rotor shaft.
- (g) Intermediate gear box.
- (h) Clutch.
- (i) Tail gear box.
- (j) Fan assembly.
- (k) Tail rotor drive shaft.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on February 9, 1960.

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-1399; Filed, Feb. 12, 1960; 8:45 a.m.]

**Chapter V—National Aeronautics
and Space Administration**

**PART 1240—INVENTIONS AND
CONTRIBUTIONS**

**Subpart 1—Awards for Scientific and
Technical Contributions**

- Sec.
- 1240.100 Scope of subpart.
 - 1240.101 Criteria for granting awards.
 - 1240.102 Submittal of contributions.
 - 1240.103 Hearings.
 - 1240.104 Evaluation of contributions.
 - 1240.105 Recommendation to the Administrator.
 - 1240.106 Action by the Administrator.
 - 1240.107 Proposed awards in excess of \$100,000.00.

AUTHORITY: §§ 1240.100 to 1240.107 issued under 42 U.S.C. 2457(f), 2458, and 2473 (b)(1).

§ 1240.100 Scope of subpart.

This subpart prescribes regulations for the granting of monetary awards by the Administrator, National Aeronautics and Space Administration, for scientific and technical contributions of significant

value in the conduct of aeronautical and space activities.

§ 1240.101 Criteria for granting awards.

The following criteria, as specified in section 306(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458(a)), will be the basis for the evaluation of contributions and determining the terms of awards therefor:

- (1) the value of the contribution to the United States;
- (2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;
- (3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and
- (4) such other factors as the Administrator shall determine to be material.

§ 1240.102 Submittal of contributions.

(a) *Submittal eligibility.* Applications for awards may be submitted by any "person" (any individual, partnership, corporation, association, institution, or other entity) as that term is defined in the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(j)).

(b) *Information required.* Communications submitting contributions and applying for awards should be addressed to the Inventions and Contributions Board (hereinafter referred to as the "Board"), National Aeronautics and Space Administration, Washington 25, D.C. Such communications shall contain the following:

- (1) Name and address of the contributor;
- (2) A complete written description of the contribution, in the English language, accompanied by drawings, sketches, diagrams, or photographs illustrating the nature of the contribution and the technical and scientific principles upon which it is based, and any available test or performance data or observations of pertinent scientific phenomena;
- (3) The name and address of the contributor, and the names and addresses of any others having an interest in the contribution;
- (4) The date and manner of any previous submittal of the contribution to another United States Government agency, and the name of such agency;
- (5) The aggregate amount of any sums which have been expended by the contributor for the development of the contribution;
- (6) The amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the contributor for or on account of the use of such contribution by the United States;

(7) The nature and extent of any known use of the contribution by any agency of the United States Government; and

(8) Identification of any United States or foreign patents applied for or issued relating to the contribution.

(c) *General.* (1) Each contribution should be made the subject of separate

correspondence in order that each may be evaluated individually.

(2) Models should not be submitted unless specifically requested by the Board.

(3) Material submitted under this § 1240.102 will not be returned to the contributor.

(4) No material constituting a possible hazard to safety or requiring unusual storage facilities will be accepted.

(5) Contributions received by the Board will not be disclosed to any but authorized Government personnel concerned with their evaluation except with prior approval of the contributor. NASA cannot guarantee the protection of any rights which the contributor may have or which he may be entitled to acquire under the patent or copyright laws of the United States. Should a decision be made that a patentable but unpatented contribution will be made the subject of an award, action will be initiated by the Office of General Counsel, NASA, to protect the interests of the United States by means of suitable patent action.

§ 1240.103 Hearings.

(a) The Board will afford each applicant for an award an opportunity for a hearing. Hearings on applications for awards will be granted only upon receipt of a written request therefor.

(b) Board hearings will be conducted in an orderly manner. Testimony will be under oath or affirmation. Strict rules of evidence will not apply, but reasonable grounds of materiality, relevance, and admissibility will be observed. The contributor may be represented by counsel or a representative of his own choosing, and the Government may be represented by counsel appointed by the General Counsel of NASA. Attendance at hearings will be held to a minimum number of persons consistent with the purpose of the hearing and with the protection of the interests of the applicant and those of the Government.

(c) Hearings will be held before the full membership of the Board or before any Board member(s) designated by the Chairman.

(d) The Board will provide for a verbatim transcript of the hearing. Copies of such transcript will be furnished the contributor at cost, if requested.

§ 1240.104 Evaluation of contributions.

(a) All appropriate sources will be utilized by the Board for review and evaluation of the contribution except that non-Government sources will not be consulted without the prior approval of the contributor.

(b) If the contributor has not requested a hearing, the Board will evaluate the contribution on the basis of the opinion that the contribution does not have significant value in the conduct of aeronautical and space activities, the contributor will be so notified. The contributor may, within 30 days of such notification, file a written request with the Board for a hearing. If no such request is received, the application for award will be denied.

§ 1240.105 Recommendation to the Administrator.

Upon a determination by the Board that a contribution merits an award, the Board will recommend to the Administrator the terms and conditions of the award proposed. This recommendation shall contain information of the respective interests of all other persons determinable by the Board. The recommendations of the Board to the Administrator will reflect the views of the majority of the Board members. Dissenting views may be transmitted with the majority opinion.

§ 1240.106 Action by the Administrator.

(a) *On Board's recommendation.* After action by the Administrator on the Board's recommendation, the contributor will be informed of the terms and conditions of the award. No payment of the award will be made to the contributor until he submits a duly executed release, in the form specified by the Board, of all claims he may have to receive any compensation (other than the award recommended) from the United States Government for the use of his contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or any other place, in compliance with subsection 306(b)(1) of the National Aeronautics and Space Act of 1958.

(b) *On own initiative.* Nothing in the foregoing shall be construed as precluding the granting of an award by the Administrator on his own initiative.

§ 1240.107 Proposed awards in excess of \$100,000.00.

If the proposed award is in excess of \$100,000.00, a full and complete report concerning the terms of, and the basis for, such award shall be prepared by the Board for the Administrator for submittal to the appropriate committees of the Congress, in compliance with the National Aeronautics and Space Act of 1958.

Effective date. These regulations are effective February 15, 1960.

T. KEITH GLENNAN,
Administrator.

[F.R. Doc. 60-1413; Filed, Feb. 12, 1960; 8:47 a.m.]

**Title 36—PARKS, FORESTS,
AND MEMORIALS**

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

PART 7—SPECIAL REGULATIONS

**Mammoth Cave National Park Fishing
and Speed Regulations**

By notice of proposed rule making published in the FEDERAL REGISTER on September 11, 1959 (24 F.R. 7335-6), interested persons were invited to submit written comments, suggestions, or objections on the proposed changes, re-

visions and amendments of § 7.36 (published as § 20.36) special regulations covering Fishing and Speed within Mammoth Cave National Park. Such written comments, suggestions, or objections were required to be filed with the Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky, within thirty days from the publication of the notice in the FEDERAL REGISTER.

No comments, suggestions, or objections having been received in response to the said notice, the following regulations, to become effective thirty days following publication in the FEDERAL REGISTER, are adopted:

§ 7.36 Mammoth Cave National Park.

(a) *Fishing*—(1) *General*—(i) *Season.* Fishing with pole and line, rod, and reel, trot and throw lines is permitted all year. Use of "snag lines", "jug lines", fish nets and baskets, minnow traps and bows and arrows is not permitted.

(ii) *Definitions.* For the purpose of this regulation a trot line is defined as a stationary line containing any number of baited hooks which are spaced at least 30 inches apart. A throw line, like the trot line, may contain a number of baited hooks spaced at least 30 inches apart. It is usually attached to some fixed object along the bank and then cast into the river.

(iii) *Commercial fishing.* Fishing for merchandise or profit is prohibited within the park.

(2) *Size limit.* There shall be no size limit.

(3) *Creel limit.* There shall be no creel limit.

(4) *Seines and minnows.* (i) Seines may not be used on Green and Nolin Rivers at any time. They may be used in the following runs and creeks to catch minnows and crawfish for bait: Bylew, First, Second, Pine, Big Hollow, Buffalo, Ugly, Cub, Blowing Spring, Floating Mill Branch, Dry Branch, and Mill Branch.

(ii) *Size.* Seines shall not exceed 4 x 6 feet and the mesh shall not be larger than ¼ inch.

(iii) *Minnows.* Minnows shall not be caught or taken for commercial purposes. As used in this section "minnow" means any member of the family "Cyprinidae" such as Chub, Carp, Goldfish, Dace, Shiner Minnow, which are less than 6 inches long. (Small fish of any game species may not be used for bait.)

(5) *Live bait*—(i) *Ponds.* Worms are the only form of live bait which may be used in the Sloans Crossing, Green and Doyle ponds.

(b) *Speed.* (1) Speed on all gravel or dirt roads within the park shall be limited to 35 miles per hour as provided in § 1.42(a) (3) of this chapter.

(d) *Boating*—(1) *Rules of the road.* The following rules of the road shall apply to all boat operators within this park:

(i) No person shall operate a boat on the Green or Nolin Rivers in a reckless or negligent manner, so as to endanger, or be likely to endanger, the life, limb and property of another.

(ii) All persons operating boats shall slow down on approaching or passing

other boats so that their wake does not endanger the other craft.

(iii) Slow speeds shall be maintained in docking, fishing or swimming areas to avoid endangering persons or other boats.

(iv) In narrow channels boats shall be operated to the right of the middle of the channel.

(v) Right-of-way shall be given to larger craft.

(2) *Restricted uses.* Airboats, water skiing, boat racing, water pagaments and other spectacular or unsafe types of recreation are prohibited within 1,000 feet of the ferries at Mammoth Cave and Houchins Ferry landings.

(3) *Definition.* For the purpose of the regulations in this part, "boat" shall mean any water borne craft.

(4) *Safety.* Minimum safety requirements established by the United States Coast Guard, or any other federal or state regulatory agency, shall be observed by all boat operators within the park.

(39 Stat. 535 as amended; 16 U.S.C., 1952 ed. sec. 3)

Issued this 9th day of December 1959.

PERRY E. BROWN,
Superintendent,
Mammoth Cave National Park.

[F.R. Doc. 60-1401; Filed, Feb. 12, 1960; 8:45 a.m.]

Title 46—SHIPPING

**Chapter I—Coast Guard, Department
of the Treasury**

SUBCHAPTER 5—NUMBERING OF UNDOCUMENTED VESSELS, STATISTICS ON NUMBERING, AND "BOATING ACCIDENT REPORTS" AND ACCIDENT STATISTICS

[CGFR 60-9]

PART 172—NUMBERING REQUIREMENTS UNDER ACT OF JUNE 7, 1918

**Subpart 172.25—Termination
Requirements**

**ILLINOIS SYSTEM OF NUMBERING
APPROVED**

Acting under the authority delegated by Treasury Department Order 167-32, dated September 23, 1958 (23 F.R. 7605), the Commandant, United States Coast Guard, on January 21, 1960, approved the Illinois system for the numbering of motorboats, which was established pursuant to the Federal Boating Act of 1958.

As provided in this approval, the Illinois system shall be operative on and after March 1, 1960. On that date the authority to number motorboats principally used in the State of Illinois will pass to that State and simultaneously the Coast Guard will discontinue numbering such motorboats. Those motorboats presently numbered should continue to display the Coast Guard number until renumbered by Illinois. On and after March 1, 1960, all reports of "boating accidents" which involve motorboats numbered in Illinois will be required to be reported to the Department of Conservation, State of Illinois, Springfield,

Illinois, pursuant to the Illinois Boat Registration and Safety Act and the rules and regulations of the Illinois Department of Conservation.

Because § 172.25-15(a)(22), as set forth in this document, is an informative rule about official actions performed by the Commandant, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof) is unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), and 167-17, dated June 29, 1955 (20 F.R. 4976), to promulgate rules in accordance with the statutes cited with the informative rule below, the following § 172.25-15(a)(22) is prescribed and shall be in effect on and after the date set forth therein:

§ 172.25-15 Effective dates for approved State systems of numbering.

(a) * * *

(22) Illinois—March 1, 1960.

(Sec. 3, 60 Stat. 238, and sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633)

Dated: February 8, 1960.

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 60-1414; Filed, Feb. 12, 1960; 8:47 a.m.]

[CGFR 60-10]

PART 172—NUMBERING REQUIREMENTS UNDER ACT OF JUNE 7, 1918

Subpart 172.25—Termination Requirements

WISCONSIN SYSTEM OF NUMBERING APPROVED

Acting under the authority delegated by Treasury Department Order 167-32, dated September 23, 1958 (23 F.R. 7605), the Commandant, United States Coast Guard, on January 22, 1960, approved the Wisconsin system for the numbering of motorboats, which was established pursuant to the Federal Boating Act of 1958.

As provided in this approval, the Wisconsin system shall be operative on and after April 1, 1960. On that date the authority to number motorboats principally used in the State of Wisconsin will pass to that State and simultaneously the Coast Guard will discontinue numbering such motorboats. Those motorboats presently numbered should continue to display the Coast Guard number until renumbered by Wisconsin. On and after April 1, 1960, all reports of "boating accidents" which involve motorboats numbered in Wisconsin will be required to be reported to the Wisconsin Conservation Department, Madison, Wisconsin, pursuant to Chapter 505, Laws of 1959 of the State of Wisconsin, and Chapter WCD 5 of the Wisconsin Administrative Code.

Because § 172.25-15(a)(23), as set forth in this document, is an informative rule about official actions performed by the Commandant, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof) is unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), and 167-17, dated June 29, 1955 (20 F.R. 4976), to promulgate rules in accordance with the statutes cited with the informative rule below, the following § 172.25-15(a)(23) is prescribed and shall be in effect on and after the date set forth therein:

§ 172.25-15 Effective dates for approved State systems of numbering.

(a) * * *

(23) Wisconsin—April 1, 1960.

(Sec. 3, 60 Stat. 238, and sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633)

Dated: February 4, 1960.

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 60-1415; Filed, Feb. 12, 1960; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12054; FCC 60-β1]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments; Television Broadcast Stations; Columbus, Ga.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 29th day of January 1960;

The Commission has under consideration: (1) Its Report and Order adopted herein July 15, 1959 (FCC 59-721, released July 17, 1959), inter alia amending § 3.606 of the Commission's rules so as to provide for the addition of Channel 4 to Dothan, Alabama, the addition of Channels 3 and 9 to Columbus, Georgia, and the deletion of Channel 9 at Dothan; and ordering corresponding modification of the licenses of Stations WTVY, Dothan and WRBL-TV and WTVM, Columbus; (2) "Petition for Reconsideration," "Motion for Stay", and "Demand for Hearing", filed between August 14 and August 21, 1959, by WTVY, Inc., inter alia asserting that WTVY had previously withdrawn its consent to the modification of its license, and did not now consent thereto but demanded a hearing pursuant to section 316 of the Communications Act; (3) the Commission's Order adopted September 2, 1959 (FCC 59-910, released September 4, 1959), staying, pending consideration of the matters raised by WTVY, that portion of the earlier Report and Order

amending § 3.606 of the rules as described above; (4) the Memorandum Opinion and Order adopted herein on December 9, 1959 (FCC 59-1247, released December 14, 1959), which granted WTVY's request for a hearing on the proposed modification and ordered the hearing; (5) "Consent to Modification of License and Request for Termination of Show Cause Proceedings" and "Request for Removal of Stay" filed herein by WTVY on January 25, 1960, withdrawing its demand for a hearing under section 316, consenting to the modification of its license, and requesting that the stay of the amendment to the rules be lifted; and (6) the Memorandum Opinion and Order adopted today (FCC 60-80) terminating the proceeding ordered in the December 14, 1959 Memorandum Opinion and Order.

The licensees of the three stations involved have thus now all consented to the modifications of their licenses under which Station WTVY (Dothan) will change from Channel 9 to Channel 4, WRBL-TV (Columbus) will change from Channel 4 to Channel 3, and WTVM (Columbus) will change from Channel 28 to Channel 9. Today, by separate Order, we have terminated the proceeding instituted on December 14, 1959, in the above referenced Memorandum Opinion and Order. Under the circumstances, there is no reason to delay further the effectiveness of the amendment to § 3.606 of the rules.

In view of the foregoing: *It is ordered*, That the stay of the effective date of the amendment to § 3.606 of the Commission's rules imposed by our Order of September 2, 1959 (FCC 59-910, 24 F.R. 7276) is lifted, effective February 1, 1960, and the amendment to § 3.606 contained in Paragraph 29 of the Report and Order adopted July 15, 1959 (FCC 59-721, 24 F.R. 5834), and the modifications of the licenses of Stations WTVY, WRBL-TV and WTVM set forth in paragraph 30 of that Report and Order, are made effective February 1, 1960.

Released: February 1, 1960.

It is further ordered, That this proceeding is terminated.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1427; Filed, Feb. 12, 1960; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

SUBCHAPTERS K-R—INTERNATIONAL MAIL

**AMENDMENTS TO CHAPTER;
CORRECTION**

The introductory paragraph in Federal Register document 60-1246, appearing at page 1095 of the issue for Tuesday, February 9, 1960, is corrected to read as follows:

The regulations of the Post Office Department are amended to read as follows:

1. Insert a new Subchapter R heading, Directory of International Mail, to apply to Part 168, Directory of International Mail.
2. Subchapters K, L, M, N, O, P, and Q embracing Parts 100 through 167 are

revoked; and the following Subchapters are inserted in lieu thereof:

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-1416; Filed, Feb. 12, 1960;
8:47 a.m.]

the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 10th day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1420; Filed, Feb. 12, 1960;
8:48 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 943, 982]

[Docket Nos. AO-231-A13, AO-238-A11]

MILK IN NORTH TEXAS AND CENTRAL WEST TEXAS MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Rose Room, Dallas Hotel, Dallas, Texas, beginning at 9:30 a.m., c.s.t., on February 17, 1960, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the North Texas and Central West Texas marketing areas.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the North Texas Producers Association:

Proposal No. 1. Amend § 943.27, § 943.41, § 943.43 through § 943.46, § 943.51 and conforming changes in other sections of the Order necessary to provide for:

(a) Classification and pricing of skim milk and butterfat used to produce cottage cheese as Class II milk.

(b) The classification and pricing of skim milk and butterfat used to produce products, other than cottage cheese, which are now classified and priced as Class II milk as Class III milk, and

(c) The price for skim milk and butterfat used to produce cottage cheese shall be the price per hundredweight for milk now classified and priced as Class II, but to be classified and priced as Class III milk, plus 70 cents per hundredweight.

Proposal No. 2. Delete the word "producer" in § 943.70 preceding subpara-

graph (a) and substitute the word "producer" for the word "such" in § 943.70 (a).

Proposal No. 3. Delete § 943.80 and substitute therefor the following:

§ 943.80 Computation of daily average base for each producer.

Subject to the rules set forth in § 943.81 the daily average base of each producer shall be calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of August through January immediately preceding by the number of days from the first day milk is received from such producer during said month to the last day of January, inclusive, but not less than 154.

Proposal No. 4. Amend § 943.81(b) by adding a second proviso as follows: "And provided further, That if one or more bases are transferred to a producer already holding a base which was either earned by such a producer or transferred to him, a new base shall be computed by adding together the total producer milk deliveries during the base-forming period of all persons in whose names such bases were earned and dividing the total by the number of days from the earliest date of delivery during the base-forming period by any of such persons to the last day of January, inclusive, but not less than 154 days".

Proposed by the Central West Texas Producers Association:

Proposal No. 5. Amend § 982.51 by deleting the following: " * * * for the months of April, May and June, and for each of the other months the price computed pursuant to subparagraph (1) of this paragraph * * *".

Proposal No. 6. Add as § 982.54 the following:

§ 982.54 Use of equivalent prices.

If for any reason the price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 7. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 35225, Airlawn Station, Dallas, Texas, or from

[7 CFR Part 960]

[AO-315]

WHITE POTATOES GROWN IN FLORIDA

Decision With Respect to Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Hastings, Florida, November 3-6, 1959, pursuant to notice thereof which was published in the FEDERAL REGISTER (24 F.R. 8414), upon proposed Marketing Agreement No. 137 and Order No. 60 regulating the handling of white potatoes grown in the State of Florida south or east of the Suwannee River.

On the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on January 6, 1960, filed with the Hearing Clerk, U.S. Department of Agriculture, the recommended decision in this proceeding. The notice of the filing of such recommended decision affording opportunity to file written exception thereto was published January 9, 1960 in the FEDERAL REGISTER (25 F.R. 183).

Rulings. Within the period provided therefor, exceptions to the proposed marketing agreement and order program were filed by interested parties as listed below, protesting the adoption of a marketing agreement and order program for white potatoes grown in the State of Florida south and east of the Suwannee River. Each point in the exceptions was given careful consideration in conjunction with the evidence pertaining thereto in arriving at the findings and conclusions set forth herein.

(a) Exceptions filed by L. S. Cellon, Alachua, Florida:

Exception No. 1 objects to the Marketing Agreement and Order on the grounds that growers and handlers in the Alachua, Union and Bradford County section were not consulted prior to the public hearing. Evidence in the hearing discloses that all known growers of white skin potatoes in the production area were mailed copies of the notice of hearing and that Department of Agriculture representatives discussed with growers in this section, including Mr. Cellon, the terms and provisions con-

tained in the notice of hearing prior to the date of hearing. Since the hearing record shows that widespread notice of the hearing was given this exception is without merit and is denied.

Exception No. 2 objects to the proposed program on the grounds that the Alachua, Union and Bradford section represents a small minority and expresses fear that equitable representation will not be available to that section on any "regulating or advisory body" that may be designated under the Marketing Agreement and Order. Testimony in the record discloses that adequate representation will be provided for all producing districts and that representation is expressly provided for this specific section. Furthermore, the committee authorized by the proposed Marketing Agreement and Order makes recommendations to the Secretary and serves in an advisory and administrative capacity. All regulations will be issued by the Secretary of Agriculture. This exception, therefore, is based essentially on assumptions and is denied.

Exception No. 3 objects to the proposed Marketing Agreement and Order on the grounds that the area to be included is arbitrary. Testimony in the record clearly establishes that the area defined in the proposal is the smallest practicable area. Witnesses from the Alachua, Union, and Bradford County section testified at the hearing to the effect that the potatoes subject to regulation in their section are marketed during the same time period as potatoes grown in the Hastings section, the major producing section of the production area, and are in fact considered by the trade as "Hastings" potatoes. Hence, this exception is without foundation and is denied.

Exception No. 4 objects to the proposal on the grounds that potatoes grown in the Alachua, Union, and Bradford County section are harvested in competition with "Alabama and Carolina" potatoes and not with potatoes grown in Florida counties south of that section. As stated above, the potatoes grown in the Alachua, Union, and Bradford County section are harvested and marketed during the same time period in which Hastings' potatoes are harvested and marketed and are in fact considered by the trade as Hastings potatoes. There is substantial testimony in the record for the inclusion of this section in the production area. This exception, therefore, is denied.

Exception No. 5 objects to the proposed program on the grounds that it does not regulate red skin potatoes. The proposed program excludes red skin potatoes from regulation for reasons that are adequately supported in the hearing record, including the following: During the authorized period of regulation (April 10–November 1) less than 10 percent of the potatoes marketed are red skin potatoes; and the predominant economic problem represented by depressed prices for potatoes in the production area resulted from marketing practices associated with white skin potatoes. Since the record shows that regulation of red skin potatoes at this time is not justified, this exception is denied.

Exception No. 6 objects to the proposed program on the grounds that it does not prevent the marketing of immature potatoes. The proposed Marketing Agreement and Order provides authority for regulation according to grade, size, and other means which were adequately supported in the hearing. The testimony received does not support regulation on the basis of maturity. Consequently, no authority can be provided for such regulation. Therefore, this exception is denied.

(b) Exceptions filed by Charles R. Usina, P.O. Box 162, St. Augustine, Florida (and four other persons). Exception No. 1 indicates that the marketing season for the production area is extremely short.

The hearing record shows that the marketing season for white skin potatoes grown in Florida begins generally about April 10 and extends into June or July and adequate justification is given in the record for regulations during the marketing season. This exception is based upon an assumption that regulations for such period will not tend to accomplish the purposes of the act. There is inadequate testimony in the record to support this assumption and, consequently, the exception is denied.

Exception No. 2 argues that the proposed marketing agreement and order is discriminatory in that it would permit southern Florida growers to vote on the proposal while at the same time exempting them from its provisions. Testimony in the record shows that most of the potatoes grown in southern Florida are of the red skin varieties which are not subject to regulations under this program. The procedure for conducting any referendum for marketing agreement and order programs is based upon the provisions of the Agricultural Marketing Agreement Act of 1937, as amended. The procedure is published in the FEDERAL REGISTER of August 10, 1950 (15 F.R. 5176). The Act and the procedure require that producers who have been engaged, during a representative period determined by the Secretary, within the specified production area, in the production of the commodity specified for market shall be given the opportunity to cast their ballots. Growers of only red skin potatoes in all areas of Florida would not be eligible to vote in any referendum held on this proposal. Growers of white skin potatoes would be eligible if their potatoes are handled during the period for which proposed regulations are authorized and would be affected whether they are in south Florida or north Florida. To exclude such growers would not be in accordance with the Act and regulations issued pursuant thereto. This exception, therefore, is denied.

Exception No. 3 contends that the proposed marketing agreement and order is discriminatory in exempting red skin potatoes. Testimony in the hearing record shows that the predominant type of potatoes grown in the period for which regulation is authorized are potatoes of the white skin varieties, that less than 10 percent of the crop marketed during the specified time for regulation are of the red skin varieties.

Furthermore, testimony in the record does not justify regulation of red skin potatoes, whereas regulation of white skin potatoes is adequately justified. Therefore, this exception is overruled.

Exception No. 4 objects to the program on the grounds that regulating the grade, size and type of container would be detrimental to growers and chippers. Testimony in the record shows that the shipment of mixed grades and sizes or field-run potatoes have contributed materially to the economic plight of the Florida potato growers, the loss of a prior favorable reputation in the markets, and low farm prices. The testimony further demonstrates that by limiting the grade and size of potatoes, and by regulating the pack or containers which promote more orderly marketing, there is substantial evidence to conclude that economic conditions affecting growers may be improved through increasing the return for potatoes. There was inadequate testimony in the record to support the argument that such regulations would be detrimental to growers or others. Consequently, this exception is denied.

Exception No. 5 argues that the proposed marketing agreement and order would of necessity entail extensive capital investments to acquire necessary packing equipment not needed for the production and distribution of the potato crop. Testimony in the record shows that there are adequate packing facilities currently in existence in the area for the grading and packing of the potatoes. There was inadequate testimony in the record to indicate that the proposed program would cause extensive capital outlays for additional packing equipment or other equipment utilized in the production and distribution of a potato crop. Consequently, this exception is denied.

(c) Exception filed by Orville A. Ose, Nalley's Inc., Tacoma, Wash. This firm opposes the proposed marketing agreement and order on the ground that (1) "It is definitely discriminatory against the potato chip industry" and (2) "would establish precedent for similar agreements throughout other parts of the United States". The first ground asserted is essentially a conclusion without assignment of reason or citation for the exemption, and furthermore, there is substantial evidence in the record for regulating potatoes for chipping on the same basis as potatoes for fresh market. Therefore, this exception is denied. The second ground appears to be based upon the assumption stated in the first ground that the proposed program would be discriminatory. It is argumentative and irrelevant to the issues involved in this decision. The exception, therefore, is denied.

(d) Exceptions filed by W. Frank Wolfe, P.O. Box 102, Hastings, Florida.

Exception No. 1 objects to the proposed marketing agreement and order on the grounds that it is not practical due to the short potato harvest season in the north Florida district and that regulations issued pursuant to the marketing agreement and order may delay harvesting which would adversely affect growers.

The hearing record shows that the marketing season for white skin potatoes grown in Florida begins generally about April 10 and extends into June or July and adequate justification is given in the record for regulation during the marketing period which is specified for purposes of the marketing agreement and order as April 10 to November 1 of each year. This exception, therefore, is based upon an assumption that regulation for the period specified will not tend to accomplish the purposes of the Act but there is inadequate testimony in the record to support this assumption. This exception also assumes that the issuance of regulations or the existence of regulations may delay harvesting which would adversely affect the growers. This argument is likewise based upon an assumption that this would occur. Since the hearing record does not support these assumptions or arguments this exception is denied.

Exception No. 2 contends that growers of white potatoes in other areas of the United States harvesting potatoes at the same time Florida potatoes are being harvested are not regulated by marketing agreements and orders and that this would give an unfair advantage to such other potato growers over Florida growers.

The testimony in the record is to the effect that Florida growers, instead of being at a disadvantage, would gain an advantage over competitive areas by adopting the proposed program. Since the exception is inadequately supported by the hearing record, it is denied.

Exception No. 3 objects to the program on the ground that the exclusion of red skin potatoes from regulation is discriminatory and unfair to the growers of white potatoes. This exception is substantially the same as exception (b) 3 listed above, accordingly the same ruling made there is applicable here and this exception is therefore, denied.

Exception No. 4 objects to the program on the grounds that Florida growers do not have outlets for off-grade potatoes and consequently the cost for harvesting and marketing potatoes permitted to be shipped under regulations would be increased. Testimony in the hearing record shows that there is good reason to believe that regulations imposed pursuant to the program would enhance returns to growers for the marketable proportion of the crop and would otherwise tend to accomplish the purposes of the Act. Existing marketing practices according to the record have contributed to adverse economic conditions detrimental to the interest of growers and the economy of the area. There is inadequate testimony in the record to support the argument that the program would adversely affect growers' returns as contended in this exception but instead the record offers substantial proof that growers' prices would be improved, hence, this exception is denied.

Exception No. 5 objects to the program on the grounds that "chippers are not considered as processors" in the proposed marketing agreement and order although they are so considered in other marketing agreements and orders with

the implication that the proposed program discriminates against the potato chip industry referred to as "one of the greatest users" of Florida white potatoes.

It was testified at the hearing that marketing agreements and orders in effect in other potato producing areas are tailored to the marketing problems arising in such area. For example, the marketing agreement and order in the State of Maine is designed to effectuate the policies of the act under the conditions arising in Maine, and the problems encountered there. This is likewise true as to the marketing agreement and order effective in certain potato producing areas of the State of Washington and in other producing areas. Similarly, the proposed marketing agreement and order for that part of the State of Florida defined in the production area is tailored to the problems arising therein and is designed to effectuate the policies of the act by meeting the problems in that specific production area.

Since the marketing agreement and order in effect in Maine is tailored to marketing conditions and problems in that State, the issuance of an identical marketing agreement and order for Florida must be based, necessarily, on a finding that the same marketing conditions and problems exist in Florida that exist in Maine. The hearing record discloses the opposite to be true. The differences and distinctions are numerous and are recognized throughout the entire potato industry. Among the significant distinctions is the fact that the vast majority of Maine potatoes are stored after harvest and sold from storage while virtually all Florida potatoes are sold upon harvesting with few, if any, being placed in storage. Similarly, differences and distinctions existing between Maine and Florida also exist between Florida and the State of Washington and Florida and other producing areas. While the programs in effect in Maine and the State of Washington and other producing areas function under the same authority as the proposed program in the State of Florida, it does not follow that application of the same (identical) regulatory program in all of these areas would accomplish the same result in each of these areas. On the contrary, the imposition of a standard pattern of regulation in the several producing areas would ignore the existence of different economic conditions, marketing problems, and other factors and would not be in accordance with section 608c(11)(C) (7 U.S.C. 608c(11)(C)) of the act which requires that "All orders issued under this section which are applicable to the same commodity * * * shall, so far as practicable, prescribe such different terms, applicable to different production areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity * * * in such areas."

Since there is a lack of appropriate analogy between the marketing conditions and problems existing in other potato producing areas under regulation and those existing in the State of Flor-

ida, there is no basis for contending that the Florida program is discriminatory since discrimination as here implied necessarily connotes a different treatment, or more favorable treatment of one as against another, under circumstances that are identical. As to the Florida program, substantial testimony in the hearing record supports the application of the same regulation to potatoes sold for the fresh market and potatoes sold for chipping. Both outlets utilize essentially the same grades and sizes and each bids competitively for its share of a common source of supply. There is no adequate justification in the record for treating them differently. Accordingly, this exception is denied.

Exception No. 6 objects to the proposal on the grounds that the dates set forth during which regulations may be authorized are unfair to the growers in north Florida in relation to white skin potatoes grown in south Florida because normally south Florida growers will have completed harvesting by April 10, the earliest date regulations are authorized under the program. The record adequately supports the period beginning on April 10 and ending November 1 as the appropriate regulatory period as there is substantial testimony that it is during this period that the great majority of marketing problems arise which, in recent years, have resulted in depressed prices to growers. Proponents' witnesses testified that white potato production in south Florida is normally negligible and is not a contributing cause of the problems that the proposed program is designed to meet and alleviate. There is insufficient evidence in the record to support establishment of a regulatory period different from that proposed. This exception, therefore, is denied.

(e) Exceptions were filed by Barnes West, F. M. Leonard & Co., Hastings, Florida, four of which are substantially the same as exceptions (d) 4, (d) 5, (a) 5, and (d) 6. Accordingly the exceptions are denied for the same reasons. The fifth exception states an opinion that a large percentage of growers, referred to as opposed to the proposed program, were reluctant to appear and testify against it. Opportunity was offered to all interested parties to appear and testify. The exception is, therefore, denied.

(f) M. E. Barnes of J. H. Barnes Farm, Hastings, Florida, filed a statement that weather conditions resulted in depressed growers' returns during the past two years and that the proposed program is being promoted by special groups who are interested in controlling independent growers. There is inadequate evidence in the hearing record that weather conditions during the past two years were the main contributing cause of depressed prices during the past two years. The exception is, therefore, denied.

(g) Exceptions filed by Wm. Gordon, Gordon Foods, P.O. Box 1278, Atlanta, Georgia.

Exception No. 1 objects to the proposal on the grounds that it is discriminatory to the potato chip industry and is not in the best interest of the growers. This exception is essentially the same as

exception (c) 1. Accordingly, the ruling on that exception also applies here, and the exception is denied.

Exception No. 2 indicates the "regulatory committee" would be composed of 12 members, the majority of which produce and reside in the Hastings area and would not be representative of all Florida producers. Testimony in the record discloses that adequate representation will be provided for all producing districts. Also, the proposal contains provisions for redistricting and realignment of representation among districts should it be found that such changes are desirable in the future for more complete representation. Furthermore, the committee authorized by the proposal makes recommendations to the Secretary and serves in an advisory and administrative capacity. All regulations would be issued by the Secretary of Agriculture. This exception is based essentially on assumptions and therefore is denied.

Exception No. 3 objects that the proposal does not regulate red varieties (same as (a) 5 and (b) 3), and excludes white potatoes shipped prior to April 10 (same as (d) 6). As indicated, these exceptions in substance have been ruled upon and the same rulings apply here. The remainder of the points expressed in this exception are based on assumption, are argumentative, and therefore are denied.

Exception No. 4 objects to the exclusion of all counties north and west of the Suwannee River. As indicated in the rulings with respect to (a) 3 above, testimony in the record clearly establishes that the area defined in the proposal is the smallest practicable area. Testimony in the record further shows that production of white potatoes north and west of the Suwannee River largely is limited to Escambia County adjacent to the Alabama line. The testimony revealed that this production is marketed through marketing agencies located in Alabama and that the Escambia County area is considered a part of the Alabama deal. There is no basis in the record for including the area north and west of the Suwannee River in the production area. Therefore, this exception is denied.

The remainder of the points expressed as a part of this exception are based on assumptions, are argumentative, and therefore denied.

Exception No. 5 indicates chippers could obtain their requirements elsewhere and as a result the production area would suffer. This exception assumes that regulations would discriminate against chippers and other users of potatoes from the production area and cause them to look elsewhere for their supplies. Testimony in the record does not provide a reasonable basis for this assumption. Therefore, this exception is denied.

Exception No. 6 expresses an opinion that some provision should be made in the Act to protect the potato chip industry as was done for other processors.

This exception is an opinion on matters beyond and outside the scope of the record of hearing and is not relevant to

the issues involved in this decision, hence, the exception is denied.

(h) Exceptions filed by M. P. Fetterman, Wise Potato Chip Company, Berwick, Pennsylvania.

Exception No. 1 objects to the proposal on the grounds that it is discriminatory to the potato chip industry and is not in the best interests of "our company", the growers, or the potato chip industry. This exception is essentially the same as (c) 1. Accordingly, the ruling on that exception also applies here, and the exception is denied.

Exception No. 2 indicates that "the regulatory committee" would not be representative of all Florida producers. This exception is essentially the same as (g) 2. Accordingly the ruling on that exception also applies here, and the exception is denied.

Exception No. 3 objects to the proposal on the grounds that it does not regulate red varieties and excludes white potatoes shipped prior to April 10. These objections are essentially the same as (a) 5, (b) 3, and (d) 6. Those exceptions have been ruled upon and the same rulings on those exceptions also apply here, and the exceptions are denied.

Exception No. 4 objects to the exclusion of all counties north and west of the Suwannee River. This exception is essentially the same as (g) 4. Accordingly, ruling on that exception also applies here.

Exception No. 5 indicates that chippers could obtain their requirements elsewhere and as a result the production area would suffer. This exception is essentially the same as (g) 5. Therefore, the ruling on that exception also applies here, and the exception is denied.

Exception No. 6 expresses an opinion that some provision should be made in the Act to protect the potato chip industry as was done for other processors. This exception is essentially the same as exception (g) 6. Accordingly, the ruling on that exception also applies here, and the exception is denied.

(i) Exceptions filed by W. L. Fortner, P.O. Box 606, Hastings, Florida. All exceptions noted herein are substantially identical to exceptions (d) 1-5, and the same rulings thereon also apply to these exceptions, and the exceptions are denied.

(j) Exceptions filed by Marvin J. Rubin, Jack Rubin and Son, 1425 South Western Avenue, Chicago, Illinois. This exception assumes the proposal will place regulatory powers in the hands of a committee, that this committee will issue regulations detrimental to the interests of the Florida potato growers and their buyers, and further that the committee will issue rules that will mainly benefit the committee members. This exception is conjectural, without foundation, and not based upon evidence contained in the hearing record. Therefore, it is denied.

(k) Exception filed by Lloyd Halstead of Scott and Halstead, Hastings, Florida. This exception is merely a statement that this firm does not favor the issuance of the proposal and a ruling is not necessary. Opportunity will be afforded in the referendum for such expressions.

(l) Exceptions filed by Superior Potato Chips, Inc., 14245 Birwood, Detroit, Michigan.

Exception No. 1 contends that the proposal will discriminate against the potato chip industry. This is essentially the same as (c) 1, accordingly the same ruling made there is applicable here and this exception is, therefore, denied.

Exception No. 2 contends that the interests of "this consumer" have not been considered and that the proposal will seriously endanger his potato supply. The hearing record shows that adequate notice was provided and that the interest of consumers was thoroughly considered. The remainder of the exception is based on an assumption not supported by the record. The exception, therefore, is denied.

Exception No. 3 states that the proposal fails to recognize the potato chip industry and to provide different treatment for this outlet. Substantial testimony is contained in the record for equal treatment of potatoes for chipping and table stock uses. This exception, therefore, is denied.

Exception No. 4 assumes that the affect of the proposal will be to increase the cost of potatoes to the consumer, without benefit to the grower, with resultant harm to the potato chip industry. The hearing record contains substantial testimony that the proposal will benefit the grower and otherwise accomplish the purposes of the Act and that the interests of consumers will be protected. This exception is based on such assumptions and is denied.

(m) Exceptions filed by George R. Calhoun, Buckeye Potato Chip Co., 2687 East Fifth Avenue, Columbus, Ohio. Exception No. 1 assumes the chipping industry would be endangered by decisions of a group disinterested in, and ignorant of, processing problems.

The assumption that the committee would not be interested in the problems of potato buyers is not supported by the record. Furthermore, the committee would not issue regulations but would recommend them. This exception is based wholly on such assumptions and is denied.

Exception No. 2 indicates examples of washing potatoes and branding of bags as desirable for the fresh market but detrimental to chippers. Since this exception assumes that detrimental restrictions would be imposed on shipments to chippers and adequate justifications for those provisions are included in the record, it is denied.

(n) Exceptions filed by Tri Sum Chip Co., Leominster, Mass., object to the proposal on the grounds that it discriminates against potato chippers who "should be exempted under the Act as are canners and freezers." The first ground is similar to exception (c) 1, and the second is outside the scope of the issues involved in this decision, therefore, this exception is denied.

(o) Three exceptions filed by J. B. McCallum, Hastings, Florida, are similar to (a) 5, and (c) 1, and (d) 6 above. Accordingly, the same rulings made there are applicable here and the exceptions are denied.

(p) George D. Montgomery, Attorney for Tom Black, Inc., of Knoxville, Tennessee, and Roanoke, Virginia, filed 20 exceptions in opposition to the proposed marketing agreement and order.

Exception No. 1 implies that since a large proportion of white potatoes shipped from the Hastings area go to chip processors, chippers should be exempted from the terms of the proposed order. Substantial testimony contained in the hearing record supported inclusion of white potatoes grown for chipping on the grounds that buyers of potatoes for shipping and fresh market uses obtain their supplies competitively from common sources in the area of production, that the marketing of pick-outs from supplies of potatoes grown under contract with chippers tends to undermine the market structure for all potatoes whether for fresh market or purchased for chipping on the open market, and for other reasons. Therefore, this exception is denied.

Exception No. 2 contends that the composition of the committee to be created by the proposal will not be representative of potato growers in the State as a whole, and is similar to (g) 2. Therefore, the ruling on that exception also applies here and the exception is denied.

Exception No. 3 argues that potatoes sold and shipped for use as potato chips should be excluded from regulation in the same manner and for the same considerations given to canners and freezers of potatoes. Section 608c(2) (7 U.S.C. 608c(2)) of the Act sets forth the commodities to which the Agricultural Marketing Agreement Act of 1937, as amended, is applicable and specifically excludes vegetables "for canning or freezing." It does not exclude potatoes handled for use as potato chips; hence this exception is denied.

Exception No. 4 contends that the contracts made by chippers for the 1960 marketing season may be jeopardized, that without "exceptions for chippers" their investments would be endangered and that the committee to be established under the proposal would not be sufficiently informed as to the needs and problems of the potato chip industry. This exception is an expression of an opinion not supported by evidence adduced at the hearing. Furthermore, the committee would not issue regulations but would only recommend them to the Secretary of Agriculture. This exception is based wholly on assumptions not supported by the hearing record and is, therefore, denied.

Exception No. 5 states that growers producing for chippers seem to be in good financial position. Testimony in the record shows conclusively that the financial condition of growers in the area has been seriously impaired over the past few years and makes no distinction between those who grow for chippers from other producers. The record shows that prices for fresh market potatoes have been impaired by the marketings of the residue of production after fulfilling contracts with chippers, that these residue potatoes generally were of lower grades and tended to undermine potato

prices on the open market; thus contributing to the poor economic conditions of all growers and the declining reputation for North Florida white skin potatoes on the markets. This exception, therefore, is based on assumptions unsupported by the hearing record and is denied.

Exception No. 6 objects to the proposal on the grounds that maturity regulations are excluded from it. This exception is essentially the same as (a) 6 and it is denied for the same reasons.

Exception No. 7 objects to the program on the grounds that it is discriminatory in that it excludes all red potatoes produced in the State of Florida. This exception is essentially the same as (a) 5 and it is denied for the same reasons.

Exception No. 8 objects to the exclusion of "some potato counties in the State of Florida (Escambia County)". This exception is essentially the same as (g) 4. Therefore, the same ruling made there applies here and it is denied.

Exception No. 9 refers to a "Colorado marketing agreement in process of modification to enable processors to operate in their market." This exception is unrelated to any evidence adduced at the hearing, hence, is denied.

Exception No. 10 is a statement that "U.S. grade standards for potatoes do not measure the internal quality of any given load of potatoes used for processing into potato chips" and that "external defects are not so important to the potato chip industry." The hearing record reflects that this statement is partially correct and partially incorrect. The U.S. Standards for Potatoes cover internal discoloration, hollow heart, and internal defects. However, it is not an issue in this decision and no ruling is necessary.

Exception No. 11 objects to the proposal indicating an analogy with a potato marketing agreement and order program for the State of Maine. This exception is essentially the same as (d) 5. Therefore, the same ruling made there applies here and it is denied.

Exception No. 12 argues that the proposal if placed into effect may create a hardship on farmers in the Florida area because of possible changes in buying policies as a result of the program. This exception is similar to (g) 5. Therefore, the same ruling made there applies here and it is denied.

Exception No. 13 submits that because of the short marketing season for potatoes grown in the area, and that potatoes are susceptible to rot, a two or three day delay occasioned by the program could cause great hardship on some growers and would "be wholly controlled by the committee of nine (9) men". This is an exception inadequately supported by the evidence adduced at the hearing. It is also inaccurate in referring to controls by the committee. Only the Secretary may issue regulations. This is an exception not justified by the evidence adduced at the hearing. Therefore, this exception is denied.

Exception No. 14 objects to the program on grounds that there were no plans for diversion of potatoes which fail to meet grade regulations which may

be placed in effect as a result of the program. This exception is similar to (d) 4. Therefore, the same ruling made there applies here and the exception is denied.

Exception No. 15 asserts that a State marketing order for potatoes in California excludes the Kennebec variety grown for chipping only from regulation under the order and appears to argue that for this reason the Kennebec variety grown for chipping only in Florida should be excluded from the proposed program. This argument is not related to any testimony in the record of hearing; presupposes that the California program and the proposed Florida program are designed to attain the same objectives; and ignores the fact that the respective programs are authorized by different legislation. Since it is without merit the exception is denied.

Exception No. 16 is a statement pertaining to the inherent quality of the Sebago variety of potatoes, the amount of yield (presumably) for chips and that the variety does make chips of acceptable color if grown under proper conditions in the Hastings area. The statement does not appear to bear in any way on the issues involved in this decision.

Exception No. 17 asserts that "any rules or regulations established can be impractical in less than a week" due to unusual and unpredictable weather conditions prevalent in the production area and, accordingly, suggests that any regulation is impractical. This argument by way of suggestion is speculative and it ignores the authority of the Secretary to consider changed conditions in the issuance of regulations; hence, it is denied.

Exception No. 18 cites national statistics showing the volume of potatoes by hundredweight utilized for "Chip and Shoestring," "Dehydration," and other purposes. It appears to have no bearing on the issue involved in this decision.

Exception No. 19 assumes that regulations that may be issued pursuant to the proposal may require shipments in containers of less than 100 lb. burlap bags and that such regulations may be made suddenly and "could prove to be a disastrous disruption of a normal marketing of the crop". This exception indulges in speculation unsupported by the hearing record. Therefore, it is denied.

Exception No. 20 states that the "Committee has the power to require all potatoes to be washed before the handlers can ship the potatoes" and that this procedure would add to the expense of the grower as the potato chip industry does not generally require washed potatoes. The statement is inaccurate as the Committee has no such power as stated. Only the Secretary may issue regulations. The exception, therefore, is without merit.

(q) Mr. and Mrs. Jody W. Rhodes, Hastings, Florida, filed six exceptions opposing the proposal which are essentially the same as exceptions (b) 2; (d) 1, (d) 2, (b) 3, (d) 4, and (d) 5, hence, the same rulings apply and the exceptions are denied.

(r) Exceptions filed by the Potato Chip Institute, a corporation incorpo-

rated in the State of Ohio, 946 Hanna Building, Cleveland 15, Ohio, by Charles O. Pratt, Attorney. These exceptions are referred to and ruled upon in the same numerical order the exceptions are identified by this opponent. As hereinafter indicated certain of the exceptions filed by this opponent pertain to specific provisions of the proposed order.

1. This exception is a statement that the Potato Chip Institute and each of its members are interested parties within the meaning of interested parties referred to in the recommended decision issued January 9, 1960 (24 F.R. 183) because they are, and represent, consumers of an estimated 50-60 percent of white skin potatoes grown in the production area, which potatoes are produced with the expectation of being marketed in potato chip outlets. Evidence in the hearing record indicates that approximately 50-60 percent of white skin potatoes grown in the production area are purchased for use as potato chips. Further, that no red skin potatoes are purchased for use as potato chips.

2. Exception is taken to the need for the proposed program without a statement of reasons or citation of evidence in support of the exception. The record contains substantial evidence showing need for the program as set forth with particularity in the recommended decision. Especially convincing is the testimony that during the past 3 seasons from 1956-57 through 1958-59 the unpaid balances on loans made to potato growers in the production area by a production credit association operating in north Florida amounted to 39 percent in 1956-57, increased to 50 percent in 1957-58, and declined to 39 percent again in 1958-59. The exception is without merit and is denied.

3. Exception is taken to the finding that "no distinction between potatoes grown in the production area can be drawn on the basis of differentiation in outlets to fresh markets or to outlets for chipping or prepeeling since these outlets compete for the same potatoes." No reasons are assigned for the exception. According to the record evidence potato chippers, in general, purchase the same grade and size potatoes that are sold in fresh market outlets. The exception is denied.

4. Exception is taken to § 960.38(d) which provides that potatoes for use either as potato chips or prepeeling shall be considered as potatoes for fresh market, without assignment of reasons to support the exception. It is essentially the same as other exceptions ruled upon herein and is denied for the same reasons.

5. Exception is taken to the exclusion of red skin potatoes from the definition of potatoes contained in § 960.5. This is essentially the same exception as an exception filed by L. S. Cellon (a)5, supra. The exception is denied for the same reasons stated there.

6. This exception argues that the Agricultural Marketing Service failed "to take every reasonable step to give timely and actual notice" of the public hearing at Hastings, Florida on November 3, 1959 on the proposed program

and that "it would have been reasonable and appropriate for either the (North Florida Potato Council or the Agricultural Marketing Service) to notify the members of the potato chip industry in time sufficient to allow the members to appear and testify and present evidence at said hearing." The record evidence discloses that a witness (Arthur Goldstein) appeared at the hearing, identified himself as representing the Potato Chip Institute, testified at the hearing, and was afforded, and did, cross-examine witnesses. Another witness, W. F. Thompson, identified himself as a grower in the production area and with Chesty Foods, Terre Haute, Indiana, a potato chip firm. Mr. Thompson was also indicated as a representative of the Potato Chip Institute in a telegram from Harvey S. Noss, Executive Vice President of the Institute which was read into the record by Arthur Goldstein. Mr. Thompson also examined witnesses. Mr. Bill Robertson, who identified himself as with Gordon Foods, a potato chip firm of Atlanta, Georgia also attended the hearings and examined witnesses. Notice of the hearing was given in accordance with the requirements of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900). This argument, therefore, is without merit.

7. This exception states a belief that the notice set forth in the FEDERAL REGISTER of October 16, 1959 (24 F.R. 8414) "while in compliance with the law, was inadequate." Further, that members of the Potato Chip Institute "should have been notified of the hearing in the same practicable manner and form as were the members of the North Florida Potato Council representing growers and chippers." This assertion is substantially the same as the argument made in Exception No. 6 above and is denied for the same reasons.

8. Exception is taken to the exclusion of red skin potatoes which are primarily tablestock from the definition contained in § 960.5, whereas § 960.58 provides "that potatoes for use either as potato chips or prepeeling shall be considered as being for the same purpose as potatoes for fresh market" without assignment of reasons for this exception. For the reasons stated above the exception based on the exclusion of red skin potatoes is denied. The remainder of the exception is essentially the same as Exceptions 3 and 4 above and is denied for the same reasons.

9. This exception argues that potatoes sold and shipped for use as potato chips should be excluded from regulation in the same manner and for the same considerations given to canners and freezers of potatoes. Section 608c(2) (7 U.S.C. section 608(c)(2)) of the Act sets forth the commodities to which the Agricultural Marketing Agreement Act of 1937, as amended, is applicable and specifically excludes vegetables "for canning or freezing." It does not exclude potatoes handled for use as potato chips; hence this exception is denied.

10. Exception is taken to the failure to include potatoes for potato chips and

prepeeling with other special purpose shipments contemplated in § 960.58 such as export, or relief, or for charity. This exception is essentially the same as other exceptions filed by this opponent and is denied for the same reasons.

11. This exception argues that grade, size and quality regulation does not provide the practicable means of carrying out the declared policy of the act to establish and maintain such orderly marketing conditions for potatoes as will tend to establish for growers the equivalent parity price for such potatoes. Substantial testimony in the record adequately supports such regulations. Hence, it is denied.

12. This exception argues that the proposed program could increase cost to the potato producer by reason of handling charges or commissions and assessments to meet administrative expenses of the program and that these expenses could cut seriously into the producer's profit since the proposed program would likely interfere with or prevent direct purchase agreements between potato chippers and producers. This contention indulges in speculation as to future events and is otherwise based on conjecture. Hence, it is denied.

13. This exception argues that the proposed program is likely to benefit handlers and "result in higher charges to producers." This contention is likewise argumentative and indulges in speculation. Accordingly, it is denied.

14. This exception states the potato chip industry has reason to believe that producers of potatoes for chippers "are in good financial condition because the chippers contract for all the crop." The remainder of this exception states it is "difficult to understand" certain alleged factors relating to the purchasing power of producers who sell all of their production to chippers and poses the question as to how the purchase of all the production for use by the chipping industry could have adversely affected the level of prices returned to other producers selling for the fresh market. No testimony is cited to support the Institute's reason to believe that producers of potatoes for chippers are in good financial condition. With respect to the assertion that chippers contract for "all" of the crop, evidence in the hearing record shows that potatoes produced for chippers under contract is estimated to amount to less than 15 percent of the annual crop or ranging between 8 and 22 percent of the volume sold to processors between 1955 and 1958. Usually the contract calls for a specific volume of U.S. No. 1, Size A, potatoes with a price range, rather than a specific price, depending upon existing price quotations on the day of delivery to the potato chipper. About 80 percent of the contracts specify a price on a sliding scale giving a minimum and maximum price, stating that the contract price will be the market price if the market price is in between the minimum and maximum price. In grading and packing potatoes for shipment to the potato chippers under contract the pick-outs are re-sorted and offered competitively to chippers and fresh market buyers alike. The marketing of the pick-outs, which usually sell considerably be-

low the U.S. No. 1 and U.S. No. 1, Size A, prices, tends to undermine the market structure for all potatoes whether for the fresh market or for purchases by chippers on the open market. The undermining effect of the marketing of these pick-outs lowers the entire price structure for Florida white skin potatoes and in turn has an effect on the price paid for potatoes grown under contract by tending to lower the price to the lower limits of the price range specified in the contract. The exception, accordingly, is denied.

15. Exception is taken to the exclusion of red skin potatoes from the definition of potatoes set forth in § 960.5. For reasons heretofore stated this exception is denied.

16. This exception asserts that a State marketing order for potatoes in California excludes the Kennebec variety grown for chipping only from regulation under the order and appears to argue that for this reason the Kennebec variety grown for chipping only in Florida should be excluded from the proposed program. This argument is not related to any testimony in the record of hearing; presupposes that the California program and the proposed Florida program are designed to attain the same objectives; and ignores the fact that the respective programs are authorized by different legislation. Since it is without merit the exception is denied.

17. This exception is a statement pertaining to the inherent quality of the Sebago variety of potatoes, the amount of yield (presumably) for chips and that the variety does make chips of acceptable color if grown under proper conditions in the Hastings area. The statement does not appear to bear in any way on the issues involved in this decision.

18. This exception asserts that "any rules or regulations established can be impractical in less than a week" due to unusual and unpredictable weather conditions prevalent in the production area and, accordingly, suggests that any regulation is impractical. This argument by way of suggestion is speculative and it ignores the authority of the Secretary to consider changed conditions in the issuance of regulations; hence, it is denied.

19. This exception states that the potato chip industry customarily used 100-pound bags; that farmers are generally equipped to package potatoes in 100-pound burlap only; and that any sudden deviation from this practice which the Committee has the power and authority to institute could prove to be a disastrous disruption of normal marketing and result in higher costs to the producer. The statement is inaccurate in that the Committee has no authority to institute, i.e., place in effect, regulations establishing pack specifications or requiring the use of specific containers. Only the Secretary has this authority. The argument also assumes that the Committee would recommend action detrimental to farmers. Since it is without merit, the exception is denied.

20. This exception states that the "Committee has the power to require all potatoes to be washed before the han-

dlers can ship the potatoes" and that this procedure would add to the expense of the grower as the potato chip industry does not generally require washed potatoes. The statement is inaccurate as the Committee has no such power as stated. Only the Secretary may issue regulations. The exception, therefore, is without merit.

21. This exception states that the proposed program could jeopardize potato producers as well as the potato chip industry because the potato chip industry has already made its contacts and entered into contracts for the 1960 potato marketing season. This argument is an assertion of a fact unsupported by evidence in the hearing record; is speculative; and ignores the fact that the Potato Chip Institute through representation at the hearing on November 3, 1959, in Hastings, Florida, was on notice, at least as early as November 3, 1959, that a program had been proposed and was under consideration. The exception, therefore, is denied.

22. This exception argues (1) that the absence of "exceptions" in the proposed program to or for producers selling to chippers "could endanger the investment of members of the industry", presumably, the potato chip industry, and (2) that a "committee of twelve (12) may not permit the potatoes to be shipped" referring to the "powerful prerogative of twelve (12) farmers who may not be well informed as to the special needs any problems of the potato chip industry." As to (1) this exception is speculative and unrelated to any evidence in the hearing record. As to (2) the exception is inaccurate as the Committee has no authority to prohibit shipment of potatoes. Only the Secretary may issue regulations. The exception, therefore, is denied.

23. This exception argues for the inclusion of red skin potatoes in the definition of potatoes in § 960.5 in order that all potato producers may participate in the referendum on the program. Without assigning reasons therefor this argument is related to the finding in the recommended decision that "no distinction between potatoes grown in the production area can be drawn on the basis of differentiation in outlets to fresh markets or to outlets for chipping or prepeeling since these outlets compete for the same potatoes." Red skin potatoes are excluded from the program for reasons heretofore stated, hence, it would be inequitable for producers of red skin potatoes only to participate in the referendum. This exception, accordingly, is denied.

24. This exception argues that the potato chip industry may seek sources of supply other than potatoes produced in the proposed production area due to various factors which it is asserted may occur under the proposed program. It indulges in speculation and conjecture and where reference is made to the possibility that the committee "will issue regulations for enforcement by the handlers which will tie up the sale, marketing and shipment of their (the growers) potatoes based on the committee's discretion" it is inaccurate. Only the

Secretary may issue regulations. The exception is otherwise unrelated to evidence adduced at the hearing and is without merit.

25. This exception, in different form, again argues for inclusion of red potatoes in the definition of potatoes (§ 960.5) and, by inference, argues for an extension of the regulatory period beyond that proposed. These points have received careful consideration and have heretofore been ruled upon and as here presented are also denied.

26. This exception argues that the failure of the proposed program to contain exceptions for chippers "could endanger the investment of any or all of the potato chip manufacturers and adversely affect the industry to a serious extent." This argument is speculative and unsupported by the evidence in the hearing record and, accordingly, is denied.

27. This exception questions the representation on the Committee as adequate to represent the proposed production area. Committee representation has been carefully devised to afford appropriate and proper representation based on potato production in the production area and related to marketing problems in the production area. The exception, therefore, is denied.

28. This exception contends that the proposed program is discriminatory in that it excludes Escambia County, Florida, from the production area. Escambia County was excluded from the production area for reasons set forth with particularity in the recommended decision. The exception, therefore, is denied.

29. This exception inaccurately states that the Committee can require potatoes to grade U.S. No. 1. Only the Secretary may issue regulations. The exception also opposes the use of U.S. Standards for potatoes because such standards "do not measure the internal quality of any given lot of potatoes used for processing into potato chips." The record evidence discloses that potato chippers usually buy potatoes on the basis of U.S. Standards. This exception is also similar to (p)10 ruled upon above. Accordingly, this exception is denied.

30. This exception is essentially the same as Exception No. 19 above and is denied for the same reasons.

31. This exception cites national statistics showing the volume of potatoes by hundredweight utilized for "Chip & Shoe string", "Dehydration", and other purposes. It appears to have no bearing on the issues involved in this decision.

32. This exception, in essence, argues that potatoes that may not be shipped due to failure to meet a grade "required by the committee" could create "a great hardship to the grower and the potato chip industry." Since only the Secretary may issue regulations it is inaccurate to refer to grades "required by the committee." Otherwise, the exception indulges in speculation and is denied.

33. This final exception of this opponent argues at length against the proposed program and contains alternative suggestions. The points and arguments made here received careful considera-

tion in conjunction with the evidence in the hearing record at the time the recommended decision was issued. For the reasons set forth with particularity in the recommended decision the arguments and alternative suggestions made in this exception are denied.

(s) Ansley Hall, Miles Potato Corporation, Hastings, Florida, filed four exceptions opposing the proposal which are essentially the same as exceptions (a)5; (b)1; and (c)1, above. The rulings made on these exceptions are equally applicable here. The exceptions are denied.

(t) Milo B. Wilson, Jr., of the Colorado Potato Flake and Manufacturing Company, Denver, Colorado, filed 2 exceptions in opposition to the proposal.

The first exception is similar to exception (c)1. Therefore the ruling on that exception also applies here and it is denied.

The second exception expresses the opinion that the proposal should specifically exclude potatoes for chipping in the same way that potatoes for canning and potatoes for freezing have been excluded by the Act. Mr. Wilson explains that his plant experienced two shut downs in the summer of 1959 because of "arbitrary and discriminatory market orders which cut off normal supplies for potatoes" and put employees of his plant out of work. The hearing record contains substantial evidence in support of including potatoes grown for chipping within the terms of the proposal. The exclusion of potatoes grown for canning and freezing is a requirement of the Act, is beyond the scope of the record of hearing, and is based upon an assumption that the proposal is discriminatory to the potato chip industry. The exception therefore is denied.

(u) James S. Herr, Herr's Potato Chips, Nottingham, Pennsylvania, filed seven exceptions in opposition to the proposal which are essentially the same as exceptions (a)5; (g)5, (g)6; (p)1, (p)5, and (p)10, above. The rulings made on those exceptions are equally applicable here. The exceptions are denied.

(v) J. E. Ausley, Hastings, Florida, filed three exceptions opposing the proposal which are essentially the same as exception (a)5; (d)6 and (c)1, above. The rulings made on those exceptions are also applicable here. The exceptions are denied.

(w) Exceptions filed by So Good Potato Chip Company, 2931 Gravois, St. Louis, Missouri. This company filed nine exceptions in opposition to the proposed marketing agreement and order. These exceptions are essentially the same as (p)1, (g)2, (g)6, (r)21, (a)6, (a)5, (d)4, (r)19, and (r)20, respectively. Accordingly, the same rulings made for those exceptions are applicable here and the exceptions are denied.

(x) Exceptions filed by H. E. Wolfe, P.O. Box 1361, St. Augustine, Florida. Mr. Wolfe filed three exceptions which are essentially the same as (d)6, (d)5, and (d)1, respectively. Accordingly, the same rulings made for those exceptions are applicable here and the exceptions are denied.

(y) Exceptions filed by John F. Tenney, Hastings, Florida. Mr. Tenney filed three exceptions essentially the same as (d)6, (d)5, and (d)1, respectively. Accordingly, the same rulings made for those exceptions are applicable here and the exceptions are denied.

(z) Exceptions filed by Utz Potato Chip Company, Hanover, Pennsylvania. Exception No. 1 alleges that the proposed Florida potato marketing agreement and order will be discriminatory, implying that it will be discriminatory to potato chippers. This exception is essentially the same as (c)1. Accordingly, the same ruling made for that exception is applicable here and the exception is denied.

Exception No. 2 asserts that regulations of the kind contemplated by the proposal will give suppliers complete monopolistic control of a vital commodity. This exception is a statement of an opinion unsupported by any evidence in the hearing record. This exception, therefore, is denied.

(aa) Exception filed by J. E. Arnold, Moore's Manufacturing Company, 918 Moore Street, Bristol, Virginia. This exception is essentially the same as (c)1. Accordingly, the same ruling made for that exception is applicable here and the exception is denied.

(bb) Exception filed by Jerome F. Szymaszek, Cross & Peters Company, 10148 Gratiot, Detroit, Michigan. Mr. Szymaszek filed two exceptions. The first exception is essentially the same as (c)1. Accordingly, the same ruling made for that exception is applicable here and the exception is denied.

Exception No. 2 contends that the committee to be established under the proposed program would be authorized to recommend regulations that would seriously reduce the "profit picture" of his Company because it would materially affect the Company's "potato processing procedure, thereby increasing costs." This is a statement of opinion unsupported by evidence contained in the hearing record. This exception, therefore, is denied.

(cc) Exception filed by T. Peszynski, Jays Inc., 825 East 99th Street, Chicago, Illinois. Mr. Peszynski filed three general exceptions and six specific exceptions. The first two general exceptions are essentially the same as (m)1 and (g)6 and the six specific exceptions are essentially the same as (a)5, (g)4, (p)10, (d)1, (r)18, and (r)20. Accordingly, the same rulings made for those exceptions are applicable here and the exceptions are denied.

The third general exception is a statement of an opinion that the proposal could jeopardize the investments of members of the industry "inasmuch as 60 percent of the white potatoes shipped from the Hastings area go to chip processors." The opinion that the proposal could jeopardize the investments of the potato chip industry is speculative and is unsupported by any evidence in the hearing record. This exception, therefore, is denied.

(dd) Exceptions filed by Frank J. Lynch, F & L Food Products, Inc., P.O. Box 2139, Colorado Springs, Colorado. Mr. Lynch filed one exception which was

essentially the same as (c)1. Accordingly, the same ruling for that exception is applicable here and the exception is denied.

(ee) Supplemental exception filed by Gordon Foods, Atlanta, Georgia. Gordon Foods' supplemental exception No. 1 is essentially the same as (c)1. Accordingly, the same ruling for that exception is applicable here. The second supplemental exception is a statement of an opinion that the proposal "would cause a tremendous hardship in our industry." This is an expression of an opinion not supported by the record. Therefore, this exception is denied.

(ff) Exception filed by D. J. Myers, Seifert Potato Chip Company, Columbus, Ohio. Mr. Myers filed two exceptions, the first of which is essentially the same as (c)1. Accordingly, the same ruling for that is applicable here and the exception is denied. The second exception is a statement of an opinion that the proposal "tends to obstruct free enterprise and is monopolistic in structure." This is a statement of an opinion unsupported by evidence contained in the hearing record. Therefore, the second exception is, also, denied.

(gg) Exception filed by Joe Hill, Acting General Manager, Dali-Fresh Foods, Tampa, Florida. Mr. Hill filed three exceptions which are essentially the same as (c)1, (c)2, and (m)1. Accordingly, the same rulings made on those exceptions are applicable here and the exceptions are denied.

(hh) Exception filed by Russell W. Wilson, Jr., EL-GE Potato Chip Company, York, Pa. Mr. Wilson filed one exception which is essentially the same as (c)1. Accordingly the same ruling for that exception is applicable here and the exception is denied.

(ii) Exception filed by Truman W. and Walter J. Creamer, Creamer Potato Chip, 2407 North 17th Street, Waco, Tex. Messrs. Creamer filed one exception based upon four reasons for filing the exception. The central objection to the proposed program contends that the proposal is discriminatory to the potato chip industry. This exception is essentially a conclusion not justified by factual evidence contained in the hearing record. Messrs. Creamer argued that the proposal would be discriminatory because (a) the quality of the finished potato chips has no direct correlation to the U.S. grades; (b) the chipping potatoes are not put on public display until they are finished in manufactured form as potato chips; (c) their firm can only store 100-pound sacks or larger; and (d) the potato chip industry uses "better than 60 percent of the potatoes grown in the area" and thus should automatically be exempt. Explanations (a) and (b) are not justified by factual evidence adduced at the hearing. Explanation (c) apparently is based on an assumption that regulations that may be issued will require shipments in containers smaller than 100-pound sacks. This explanation is conjectural. The final explanation argues that since the potato chip industry is a large and important user of the potatoes grown in the production area it should, automatically, be exempt

from the proposed marketing agreement and order. Evidence contained in the record shows conclusively that the potato chip industry draws from the same supplies of white potatoes grown in the area as tablestock potatoes and is a part of the total market structure for such potatoes. Therefore the exception, together with each of the explanations for the exception, is denied.

(jj) Exception filed by Forrest A. Parmenter, Hunt Potato Chip Company, Braintree, Massachusetts.

Mr. Parmenter filed two exceptions that are essentially the same as (m)1 and (c)1. Accordingly the same rulings made on those exceptions are applicable here and the exceptions are denied.

(kk) Exception filed by K. T. Salem, K. T. Salem, Inc., Akron, Ohio.

Mr. Salem filed two exceptions. The first exception is essentially the same as (c)1. Accordingly the same ruling for that exception is applicable here and the exception is denied.

The second exception contends that the proposal "will prove harmful to the American economy * * * by jeopardizing the jobs of thousands of workers who depend on the potato chip industry for their livelihood." This exception is speculative and is without reference to any of the testimony adduced at the hearing. Therefore, it is denied.

(ll) Exception filed by Bemo Foods, Inc., Kalamazoo, Michigan.

This company filed one exception which is essentially the same as (c)1. Accordingly, the same ruling on that exception is applicable here and the exception is denied.

(mm) Exceptions filed by John I. Gearhart, Brown Brothers Potato Chip Co., Inc., Altoona, Pa.

These exceptions are essentially the same as (c)1 and (c)2, and (m)1, respectively. Accordingly, the same rulings for those exceptions are applicable here and the exceptions are denied.

(nn) Exceptions filed by Harold B. Cregar, Easton Potato Chip Company, Easton, Pennsylvania.

Mr. Cregar filed three exceptions which are essentially the same as (c)1, (c)2 and (m)1 respectively. Accordingly the same rulings for those exceptions are applicable here and the exceptions are denied.

(oo) Supplemental exceptions filed by Tri-Sum Potato Chip Company, Inc., Leominster, Mass. This supplemental exception contains twenty points identical to the exceptions filed in (p), above. Accordingly, the same rulings for those exceptions are applicable here and the exceptions are denied.

(pp) Exception filed by Charles Strum, Plant Manager, Chesty Foods, Inc., Terre Haute, Ind. Mr. Strum filed seven exceptions and added some additional comments by way of explanation.

Exception Nos. 1, 2, and 3 are essentially the same as (r)9, (p)10, and (m)1. Therefore, the same rulings made for those exceptions apply here and these exceptions are denied.

Exception No. 4 is similar to the exception (r)21. Accordingly, the same

ruling made there applies here and the exception is denied.

Exception No. 5 contains three points which are essentially the same as (r)26, (m)1, and (p)13. Accordingly, the same rulings made for those exceptions apply here and this exception is denied.

Exception No. 6 is essentially the same as (r)7. Therefore, the same ruling made for that exception applies here and the exception is denied.

Exception No. 7 is essentially the same as (d)4. Therefore, the same ruling made for that exception applies here and the exception is denied.

In the discussion, Mr. Strum presented additional arguments which in some respects are unnumbered exceptions. He argues that the proposal would alter existing arrangements under which his company provides bags to farmers for delivery of potatoes purchased by his company and would require potatoes delivered to his company to be washed. This argument is conjectural. Therefore this exception is denied. The remainder of the discussion contains arguments essentially the same as those covered elsewhere, particularly with respect to the exceptions filed by the Potato Chip Institute. Accordingly, the rulings made on those exceptions are equally applicable to these exceptions and they are denied.

In addition to the above, exceptions were filed by the following: Arthur P. Daniel, President, Perfect Potato Chip, Inc., Decatur, Illinois, Carrie C. Tyler, Tyler's Superfine Potato Chip Co., Akron, Ohio, F. A. Cunningham, President, The Facs Co., Inc., San Antonio, Texas, Cyril C. Nigg, Bell Brand Foods, Ltd., Los Angeles, California, James P. Hickey, Vice-President and General Manager, Bell Brand Foods, Ltd., Los Angeles, California, contending that the proposed program discriminates against the potato chip industry and, as heretofore pointed out, this is a statement by way of an assumption and is unsupported by any evidence adduced at the hearing and, consequently, is denied; by B. J. Erwin, Secretary-Treasurer, White Tower Farms, Inc., St. Augustine, Florida, which are identical with exceptions filed by H. E. Wolfe identified in (x) above, and are denied for the same reason there stated; by Sam Holvitz, President, Boston Food Products Co., Inc., Pueblo, Colorado and Frank E. Mann, President, Potato Chip Institute International and the Mann Company, Washington, D.C., which have been carefully considered and found to be repetitious of exceptions listed above, and accordingly, the exceptions are denied for the same reasons.

Some exceptions were filed with the hearing clerk subsequent to the time provided in the notice of recommended decision for filing exceptions. Inasmuch as such exceptions were not filed within the time provided therefor, they may not be considered.

To the extent that any exceptions taken by opponents of the proposed program may otherwise be at variance with the findings and conclusions decided upon herein such exceptions are hereby denied.

Material issues. Material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the marketing agreement and order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the marketing agreement and order including:

(a) Definitions and terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and conditions;

(b) The establishment, maintenance, composition, powers, duties and operation of a committee which shall be the administrative agency for assisting the Secretary in the administration of the program.

(c) The establishment, composition and operation of a shippers advisory board to confer with and advise the committee with respect to recommendations for regulations.

(d) The authority to incur expenses and to levy assessments on shipments;

(e) The authority for the establishment of research and development projects;

(f) The methods for limiting the handling of potatoes grown in the production area;

(g) The methods for establishing minimum standards of quality;

(h) The methods for authorizing special regulations applicable to the handling of potatoes for specified purposes or to specified outlets under special regulations that are modifications of, or amendments to, grade, size, quality regulations;

(i) The necessity for inspection and certification of the commodity handled;

(j) The relaxation of regulations in hardship cases, and the methods and procedures applicable thereto;

(k) The procedure for establishing reporting requirements upon handlers;

(l) The requirements of compliance with all provisions of the marketing agreement and order and regulations issued pursuant thereto;

(m) Additional terms and conditions as set forth in § 960.82 through § 960.95, and published in the FEDERAL REGISTER (24 F.R. 8414), on October 16, 1959, which are common to marketing agreements and orders.

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

(1) The major portion of the potatoes grown in the Florida production area enter commercial market channels with the great bulk of such shipments going to destinations outside of Florida. It is estimated that approximately 90 percent

of the production within the production area is shipped in interstate commerce. The 1956 Florida potato production is estimated at 6,766,000 hundredweight for the winter and spring crops. Estimates for the Florida spring production were 3,998,000 hundredweight. The 1957 Florida potato production is estimated at 7,610,000 hundredweight, the 1958 production 5,977,000 hundredweight and the 1959 production at 4,944,000 hundredweight. Production estimates for the Florida spring crop were 4,390,000 hundredweight, 4,681,000 hundredweight and 3,084,000 hundredweight, respectively. Estimates of the 1959-60 production were not available at the time of the hearing. From the 1956 Florida potato crop of 6,766,000 hundredweight, 19,837 carlot equivalents (including trucks) or approximately 5,951,100 hundredweight were shipped in interstate or foreign commerce. The distribution of Florida potatoes for the 1957 and 1958 calendar years was also widespread. Shipments were made in both of these years to essentially all of the States east of the Mississippi River, including the District of Columbia, and to the provinces of Quebec, Ontario, and British Columbia in Canada, as well as to points within Florida. The major portion of the market for potatoes grown in the production area lies outside the area.

Any handling of potatoes grown in the State of Florida exerts a direct influence upon all other handling of potatoes. It is a primary objective of potato handlers, as it is also of handlers of other commodities, to seek the highest return obtainable for the potatoes or other commodities they have to sell. In assessing the market outlook and in making sales, sellers survey all accessible markets with a view to accepting the most advantageous opportunities and offers to market their potatoes. Successful handlers are forced by competition to maintain and keep abreast of all possible market information, particularly the level and trend of prices in specific markets both within the area of production and beyond its borders. Markets within the production area provide opportunities for handlers to effect sales the same as markets outside the State. The opportunity for advantageous sales are eagerly sought by handlers and such opportunities are accepted regardless of whether the potatoes are sold at shipping point, or at destination, or in consuming markets within the State of Florida, or in such terminal markets as Washington, Philadelphia, New York, Chicago, or Atlanta, or in any other market beyond the production area. Both buyers and sellers use the latest and most modern means of communication to keep abreast of their competitors and to maintain the closest possible association with market conditions at every point where there may be potential sales opportunities. Shipping point handlers and receiving market handlers through close attention and modern communications, quote, offer, bargain, buy and sell, potatoes and thereby create an institution commonly referred to in the trade as "the potato market".

The potato market is a combination of all the phenomena that relate to the

supply of, and demand for, potatoes in the potato producing area, the supply that is available for immediate marketing from other areas, the supply for marketing later, the quantity of such supplies, the supply of potatoes in the various ramifications of quality and size and their availability, prices quoted by sellers at shipping point and in receiving markets as well as the sundry points between, and the great variety of additional factors that influence both buyers and sellers in helping them to arrive at a meeting of minds, a closing of contracts of sale, and a final consummation of contract through exchange of potatoes and consideration. Florida white skin potatoes have occupied a unique position in the potato market since they are a new crop competing largely with storage crop supplies. These white skin Florida potatoes enjoy marketing opportunities for processing into potato chips as well as for sale for use in fresh form. They chip well and produce a desirably white potato chip after cooking and consequently are desired by many chippers throughout the eastern half of the U.S. and to some extent in Canada. The desirable qualities of being "good chippers" and providing a new potato for other consumers has enabled Florida potatoes to compete with storage potatoes grown in other States.

The factors affecting the potato market are interdependent as between shipping point and receiving markets. A factor or factors which influence the market at shipping point soon are reflected in prices in terminal markets, subject to the effect of location factors and, in turn, factors influencing prices in receiving markets are soon reflected in the market at shipping point. For example, adverse weather conditions at shipping point may slow down the rate of harvesting, grading, packing or loading to such an extent that buyers will experience difficulty in filling orders and they will bid higher than otherwise for remaining available supplies. In turn, the increase in price of potatoes at shipping point will soon be reflected in the market at receiving points both outside the production area as well as within the area. An alternative to the above example may involve a similar set of circumstances at shipping point with adverse weather conditions, but if competing supplies in terminal markets take advantage of such situations by increasing the volume available, the price of potatoes in the terminal markets may not increase appreciably, if at all, and in turn prices at shipping point may fail to rise.

It is a well established fact, and well recognized in the potato market, that sale of potatoes in a market within that portion of the State of Florida comprising the production area exerts a direct influence upon all other sales of such potatoes, as also does the sale of potatoes in a market within any other state. The movement and sale of potatoes grown in Florida, whether to a market within or outside the production area, affects the price structure for all potatoes grown in Florida. The availability of supplies of potatoes of good chipping quality both

within and outside the production area may have an additional effect upon the market for white skin potatoes grown in Florida. Even though supplies of storage potatoes held in other states may be heavy, unless those potatoes have equal chipping quality and will produce the white color desired after cooking, the price of Florida potatoes, both within the State of Florida and outside thereof, may be higher than otherwise. Conversely, if the supplies held in storage in states outside the production area is smaller than usual but has the desirable chipping and cooking quality sought by potato chippers, the price of Florida white skin potatoes may be lower than otherwise.

Changes in the supply of potatoes being marketed at any particular time and changes in estimates of potato supplies available for market affect the price of potatoes. Changes in the supply of potatoes grown in the Florida production area, or any part thereof, have a direct effect on both terminal market and shipping point prices for all potatoes. Potatoes grown in one portion of the production area and marketed at any given season whether winter crop or spring season compete with other potatoes marketed during such season whether such other potatoes are grown inside, or outside, of the production area.

Public agencies supply daily information relative to terminal potato markets such as Philadelphia, New York, Boston, Chicago, Atlanta, and during the active shipping season the same agencies supply similar information relevant to market information at shipping points in Florida as well as shipping point prices for potatoes grown in other producing areas. This published market information and information which handlers receive through private communications are closely followed by all handlers in an effort to keep up with competition and to maintain particular advantage to themselves so that they may continue to operate successfully. It is estimated that 50-60 percent of the white skin potatoes grown within the production area are produced with the expectation that they will be marketed for potato chip outlets largely outside the production area and located in other states. The remaining supplies are produced with the expectation that they will be marketed for fresh use. A small part of the potatoes grown for potato chip processing outlets is grown under contract with the chippers. The contracts usually specify a particular volume of potatoes of a particular grade and size. The acreage grown to supply this contract is premised upon the assumption that average yields will be obtained. The production in excess of the contract volume is marketed for the fresh market or other potato chip outlets on a strictly competitive basis. While it is estimated that normally 50-60 percent of the total production of white skin potatoes is sold to chip processors, however, because of low yields in the spring of 1959, the percentage of the crop marketed to potato chip outlets may have been considerably higher. A very small percentage of the

crop is marketed for canning. These usually are potatoes of small size and the sale of such potatoes to canners is a salvage operation by the industry. Such salvage operations are performed by the packing houses usually on a special order basis. After the larger potatoes have been segregated from the smaller potatoes, the packer will load small quantities of the small potatoes for sale to canners, hucksters, or hog feeders and sell or donate these potatoes for such purposes as a convenient means of disposing of them and to remove them from the packing house premises.

It is a common practice for handlers to load potatoes at shipping points within the state and to ship such potatoes to markets within the state particularly Jacksonville, Tampa, or Miami. Frequently the sales are made at the packing house and loaded on trucks or cars under the control of the buyer. The decision concerning the destination of the supplies whether within the state or outside thereof is frequently under the control of the buyer. The handler may also load cars or trucks with potatoes for shipment to such points as Jacksonville and before or upon arrival divert the shipments to markets outside the state. Conversely, shipments originally directed to markets outside the state may be diverted to markets within the state for final disposition. This diversion from intended destinations outside the state to markets within the state is a common practice, especially among truckers who are able to divert quickly in response to attractions from local prices. It is impossible in many cases at the time the potatoes are sold to a trucker to determine finally whether such potatoes will be marketed by the trucker within the production area or at a point, or even several points, outside the production area. Any such sale and movement of potatoes grown within the production area inevitably affects the market for potatoes irrespective of whether the sale or movement occurs within the production area or outside thereof.

The phenomena of sale and movement constitute the market for potatoes grown within the production area and, demonstrably, the interdependency of the markets both within and outside the production area directly burdens, obstructs, or affects interstate commerce. Phenomena making up the "market" for potatoes constitute commerce which is so inextricably intermingled that all sale and movement of such potatoes are either in the current of interstate or foreign commerce or directly burden, obstruct, or affect such commerce and, therefore, all such movement and sale of white skin potatoes grown in the production area should be subject to the authority of the act and of the marketing agreement and order which may be issued pursuant thereto.

(2) Prices for potatoes grown in Florida have fluctuated rather widely during the past several years, reflecting disorderly marketing conditions that have adversely affected growers returns. Production and price statistics for Florida potatoes are reported by the Agri-

cultural Marketing Service of the U.S. Department of Agriculture, on the basis of two seasons within each crop year; namely, winter and early spring. During the past 10-crop years, 1949-58, the average farm price paid for Florida potatoes has exceeded the Florida parity equivalent price in only two seasons. The farm price for the 1958 season for Florida potatoes averaged \$2.65 per hundredweight, reflecting 75 percent of parity. During the 1958 early spring season, the average price paid was \$1.96 per hundredweight or 57 percent of parity for the Hastings section and \$2.25 per hundredweight or 60 percent of parity for other spring crop sections. The comparable price reported for the 1958 winter crop was \$4.75 per hundredweight or 134 percent of parity. The season average farm price for Florida potatoes has varied from \$1.97 per hundredweight in 1957 to \$4.11 per hundredweight in 1952. Winter season prices have varied from \$2.14 per hundredweight in 1957 to \$4.75 per hundredweight in 1958. Early spring prices have varied from \$1.85 per hundredweight in 1957 to \$3.98 per hundredweight in 1952 for the Hastings section and between \$1.78 in 1957 to \$4.58 in 1955 per hundredweight in other spring crop sections. Prices during the most recent 6-season period have reflected returns to farmers ranging from 51 percent of parity in 1957 to 125 percent of parity in 1955. Winter season prices during this same 6-year period have ranged between 54 percent of parity in 1957 to 134 percent of parity in 1958. During the same 6-year period early spring prices in the Hastings section received by growers have ranged between 49 percent of parity in 1957 and 126 percent of parity in 1955 and in other than the Hastings section prices have ranged between 44 percent of parity in 1957 and 159 percent of parity in 1955.

Volume shipments of Florida potatoes usually begin in February and continue into June of each crop year. For the white skin varieties volume shipments usually begin in April and continue into June. In some years shipments may extend into July. During this marketing period there is a wide range of prices with sharp, short time fluctuations in such prices within seasons and from season to season. Similarly, wide ranges in prices and sharp, short time fluctuations in such prices occur among different grades and sizes of potatoes. This is borne out by the 1959 season, f.o.b. shipping point data in the Hastings section. Sebago variety potatoes of U.S. No. 1, size A, or better quality in 100 lb. bags brought \$3.25 for the week ending April 25. During the same week, U.S. No. 1, size B potatoes brought \$0.85-\$1.00 and unclassified or "utilities" \$1.95 per hundredweight. In the week ending May 16 of the same year, U.S. No. 1, size A Sebago variety potatoes were selling at \$5.00 per hundredweight; U.S. No. 1, size B at \$0.85-\$1.25 and unclassified or "utilities" at \$3.90-\$4.00. On May 7 of the 1958 season, f.o.b. shipping point prices for Sebago variety potatoes in the Hastings section were \$4.00 per hundredweight for U.S. No. 1, size A; \$2.00 per hundredweight for U.S. No. 1, size B;

and \$2.10 per hundredweight for unclassified, or "utilities". On June 6, 1958, f.o.b. shipping point prices for Sebago variety potatoes in the Hastings section were \$2.00 per hundredweight for U.S. No. 1, size A, \$0.75 per hundredweight for U.S. No. 1, size B; and \$1.10 per hundredweight for unclassified or "utility" potatoes.

The quantity of potatoes available on the market at any given time, either daily or seasonally, has a direct effect on the price which producers receive for their potato crops. Florida producers grow a high proportion of the new crop potatoes harvested during the winter and early spring seasons. The quantity of potatoes put on the market by Florida producers or handlers also has a direct effect upon the price of all potatoes, particularly the price which Florida growers receive for their crop. The price of potatoes in the production area is a direct result not only of the total quantity of potatoes being marketed but also of the quality of potatoes as reflected by the different prices paid by grades and sizes for such potatoes. Certain grades and sizes of potatoes return higher prices to producers than other grades and sizes. For example, U.S. No. 1, size A potatoes normally return a higher price than U.S. No. 1, size B and a considerably higher price than unclassified or "utility grade" potatoes. The utility grade potatoes are not recognized in the U.S. Standards but common practice in the production area has brought about the marketing of these so-called grades, which range generally from 10 percent U.S. No. 1 quality to 60 percent U.S. No. 1 quality. Prices for "utility grade" potatoes are discounted sharply below the U.S. No. 1, size A grades. Small size potatoes such as U.S. No. 1, size B usually return lower prices to growers than the preferred U.S. No. 1, size A, but this depends in part upon the supply of U.S. No. 1, size B's available for market.

Shipments of immature potatoes, as indicated by skinning, apparently have no detrimental effect on the returns to growers since these are usually purchased by potato chippers and skinning is not considered as an adverse characteristic for chipping use. It is a common and usual practice among the great majority of handlers to grade their potatoes according to U.S. Standards except for the so-called utility grades, which usually are pick-outs in the process of packing the more preferred grades and sizes. The pick-outs are offered for sale and are purchased by certain chippers and by buyers who market these potatoes in the fresh market and certain areas, both intra- and inter-state. Testimony received at the hearing indicated that the practice of marketing utilities in competition with the more preferred grades and sizes has had a detrimental effect upon the market for Florida potatoes and has damaged the reputation of such potatoes in the potato market. At one time Florida potatoes enjoyed an exceptional reputation in the market but the demoralizing effect of marketing such low grades as the "utilities" has caused some buyers to look elsewhere for their supplies and all buyers to be extremely cautious in the purchase of

Florida potatoes. Moreover, the practice of selling various low grades and sizes had led to abuses in the trades in bargaining locally for available supplies. Prices for lower grades have been used loosely as a means of bargaining for higher grades to pull down the entire price structure.

Testimony at the hearing indicated that the sale of the "utility" potatoes had undermined the price structure for all potatoes marketed, since these off-grades and off-sizes could be purchased in the area at very low prices from growers and handlers. Buyers frequently market these in direct competition with higher grades and sometimes pack them for sale in retail stores in consumer size packs at a small discount from the average prices obtained for the more preferred grades and sizes. Thus, these buyers or handlers could obtain as much as or even more than they could expect from handling the more preferred grades and sizes. The withholding of poor grades and undesirable potatoes from the markets in effect reduces the available market supply of such potatoes. By reducing the quantity being marketed as well as eliminating the discounted grades and sizes from average prices, the grower's prices for potatoes thereby would be improved.

The sale of cull potatoes, including the lower qualities of the utility grade, not only returns discounted prices to growers but also gives only limited satisfaction to customers and such sales mitigate against repeat sales, particularly for Florida potatoes. It is not in the public interest to sell cull potatoes under normal conditions because the evidence shows that consumers fail to obtain proper value for their expenditures as compared with the purchase of good quality potatoes, and the returns to growers are thereby adversely affected.

Prices to Florida potato producers and total returns to such producers could be augmented by handling only the more preferred grades and sizes of such potatoes. Voluntary efforts have been made and practiced by individual producers and handlers in Florida to eliminate some of the culls, especially when the average price level to Florida potato producers was low, but such voluntary efforts have not raised producers prices and returns appreciably when other handlers within the area of production continued to ship culls to the detriment of all other potato producers and handlers and contrary to the best interest of the Florida potato industry.

The orderly marketing of potatoes grown in Florida has been disrupted and the purchasing power of the producers thereof has been impaired by reason of the handling of certain grades, sizes and qualities of such potatoes which have adversely affected the level of prices returned to the potato producers. It was testified at the hearing that during the past 3 seasons from 1956-57 through 1958-59 that unpaid balances on loans made to potato growers in the production area by a production credit association operating in north Florida amounted to 39 percent in 1956-57, increased to 50 percent in 1957-58, and declined to 39

percent again in 1958-59. As a consequence, this association is restricting its loans to growers of white potatoes in the 1959-60 season because of previous heavy losses and because potato growers are currently considered poor financial risks. The factors contributing to the financial plight of the growers were attributed chiefly to disorderly grading, packaging, and marketing, with particular reference to the marketing of undersized, culls, and mixed grades of potatoes that enter the market in competition with better grades. Market gluts often cause farmers to sell in any available outlet for returns that amount to a salvage operation. This, in turn, accelerates disorderly marketing conditions.

A marketing agreement and order is necessary to authorize regulation of the sale and transportation of potatoes grown in Florida so that more orderly marketing conditions for such potatoes may be established. The establishment of more orderly marketing conditions brought about by marketing agreement and order regulations, will tend to establish parity prices for potatoes grown in Florida. A marketing agreement and order authorizing regulation of the handling of potatoes will assist the Florida industry in establishing and maintaining such minimum standards of quality and such grading and inspection requirements for potatoes grown in the production area which will effect such orderly marketing of such potatoes as will be in the public interest. The adoption of a marketing agreement and order program by handlers of Florida potatoes and the approval of such an order by Florida potato producers will tend to promote more orderly marketing of such potatoes and will be in the public interest. Accordingly, it is hereby found that the marketing agreement and order as hereinafter set forth will promote more orderly marketing of Florida potatoes and the operation of such a program will tend to establish and maintain such orderly marketing conditions for Florida potatoes as will establish, as the price to farmers, parity prices for such potatoes.

(3) The definition of the agricultural commodity to be regulated under the marketing agreement and order is necessary to distinguish it from other agricultural commodities. This commodity is commonly known in the production area and in the receiving markets as "potatoes" or "Irish potatoes". Accordingly, the term "potatoes" as defined in the proposed marketing agreement and order should apply specifically to white potatoes grown in the production area. The term "potatoes", when applied to Florida potatoes during the early spring season and unless otherwise identified means white potatoes similar to those grown in the Hastings area of Florida. This is generally recognized among the growers, shippers, receivers, potato chippers and others familiar with the Florida industry.

Marketing problems for Florida potatoes are intensified during the early spring season. Winter crop potatoes are marketed during a three-month period from December to March. Because of

this relatively long period, gluts on the market are not common during this period. Also, winter crop potatoes are the first "new" potatoes to be marketed. The bulk of the winter crop is comprised of red skin varieties, although a few whites are grown and sold during this period. The early spring crop comes to market in late March and early April and reaches peak volume in mid-April. Volume shipments continue into late May. White skin varieties account for about 95 percent of the early spring crop and the early spring crop accounts for about two-thirds of the total Florida potato crop. Because this early spring crop of white skin potatoes is larger than the winter crop of red skin potatoes and because the marketing season is much shorter, the impact of various marketing factors on price, such as the quality and quantity available for market, is much greater on the spring crop than for the winter crop. Also, winter crops are produced only in Florida and California so competition is not as serious as it is for the early spring crop which competes with other "new" crops from Alabama and California as well as storage stocks in Northern states.

If the Florida season is extended past mid-May, which is not uncommon, late spring crops from other southern states may also be in the markets in competition with Florida.

The proponents testified that red skin potatoes should be excluded from the definition for additional reasons. The demand for early spring reds is distinct and separate from the demand for whites. Much of the demand for Florida early spring crop potatoes is from potato chip manufacturers. The chippers do not use Florida red skin varieties because the potato chips produced do not compare to those manufactured from whites. About 50 to 60 percent of the Florida early spring crop is purchased by chippers.

In the fresh market, demand also differs between the two types of varieties. This difference is chiefly due to the location of the receiving markets. Southern markets prefer the red skin varieties while markets north of the Mason-Dixon line prefer the whites. Because of these differences, it was testified by several witnesses that prices for reds and whites move independently of each other, and the effects of price on one does not materially affect the other. For example, according to testimony, prices received for reds can be exceptionally high on certain days while prices for whites are low. The market for one can be strong while for the other it is weak or dull. The experiences of the several handlers testifying indicate that the differences between the two types of potatoes are significant enough to restrict the definition of "potatoes" under the marketing agreement and order to white skin varieties.

The definition of "potatoes" should include all varieties of white potatoes grown in the production area. Some of the common varieties of white potatoes are Sebago, Cherokee, Kennebec, Plymouth, Merrimac, White Rose, Katahdin, Pungo and New White. The definition should exclude red varieties such as Red

Pontiac, La Sota, Norland, or Bliss Triumph. The definition of the term potatoes as hereinafter set forth, therefore, provides a basis for determining and distinguishing from other agricultural commodities, the agricultural commodity for which regulation is authorized under the marketing agreement and order.

"Production area" is defined to mean the exact area in which white potatoes must be grown before becoming subject to regulations authorized by the marketing agreement and order. It is proposed that the production area include all the territory in the State of Florida south or east of the Suwannee River.

White potato production in Florida is concentrated largely in the tri-county area of Flagler, St. Johns and Putnam Counties, commonly known as the Hastings area. Minor, yet relatively important production is also located in the Homestead, Fort Myers, Immokalee, Lake Wales, Lake, East Coast, Balm and Gainesville areas. The Suwannee River is not only a natural geographical boundary but it includes all the peninsula area of Florida in which the above areas are located and where the majority of Florida potatoes are grown. The remaining counties in Florida, not included within the definition of "production area", are not potato producing counties with the exception of Escambia County which is the western-most county in Florida bordering on the Alabama-Florida state line. However, it was testified that the Escambia County deal is considered a part of the Loxley-Foley, Alabama potato deal rather than a part of the Florida deal. Testimony was given that potatoes produced in Escambia County are transported across the state line into Alabama for packing. In addition, Escambia County's production is largely of the red varieties.

The Suwannee River at the present time does not pass through any major potato producing sections so the prospect of confusion or difficulty in administration of the potato program because of potatoes being grown close to the boundary line is reduced to a minimum by reason of the boundary as set forth. This boundary is commonly recognized in Florida as a natural dividing line between the fruit and vegetable producing areas in Florida and the remainder of the State. For this reason, the Suwannee River is used quite extensively as a production area boundary for other marketing agreements and orders in effect for Florida-grown fruits and vegetables. The State Department of Agriculture has established road guard stations along the Suwannee River for the purpose of checking shipments of regulated commodities moving north or west across the Suwannee River. Experience under these programs indicates that this boundary would be the most practicable and workable.

The same varieties of white potatoes are grown in the aforementioned sections of the production area, hence, the exclusion of any portion of the production area would tend to defeat the purpose of the marketing agreement and order. Excluding any portion of the production

area would permit the unregulated marketing of poor quality potatoes from such portion. These potatoes, however, could be identified with regulated potatoes and would depress prices received for the latter.

All territory included within the boundaries of the production area constitute the smallest regional production area that is practical and consistent with carrying out the declared policy of the act, and the production area, therefore, should be defined as set forth in the notice of hearing.

(4) The terms "handler" and "shipper" are synonymous and are defined as those persons who sell or transport potatoes or cause potatoes to be sold or transported within the production area or between the production area and any point outside thereof.

Handlers are the persons who will be subject to regulations authorized by the marketing agreement and order in that the act specifically excludes the regulation of producers in their capacity as producers. The activities involved in handling potatoes are hereinafter discussed and persons responsible for such activities perform the function of handlers. More than one handler may be involved in the handling of a given lot of potatoes and each such person should be responsible for complying with the terms of the marketing agreement and order.

A common or contract carrier transporting potatoes which are owned by another person performs an apparent handling function by the act of transporting the potatoes. Such carriers should not be subject to regulations under the marketing agreement and order because they are not responsible for the grade, size, and quality of potatoes being transported. The interest of the common and contract carrier in such potatoes is to transport them for a charge or fee to destinations selected by others. The responsibility of compliance on such shipments should be borne by the person or persons responsible for delivering such potatoes to the carrier or by the person who causes such potatoes to be delivered to such carriers. Therefore, the term handler which is synonymous with shipper should mean any person, except a common or contract carrier of potatoes owned by another person, who handles potatoes or causes potatoes to be handled.

The definition of "handle" is necessary and appropriate so that each person responsible for compliance under the order will have knowledge of the functions which are regulated.

The term "handle" or "ship" is defined to include each and all of the functions, activities, or actions which are regulated under the marketing agreement and order.

These are the usual activities by which potatoes enter the current of commerce. This definition should also include any other activity which places potatoes in commerce within the production area or between the production area and any point outside thereof. The term includes not only the first act of handling or placing the potatoes in the current of

commerce, but each succeeding action until the potatoes are delivered to a person located outside the production area provided this person was not involved in the handling function. For example, a receiver may buy potatoes at a terminal market located outside of the production area which potatoes have been transported or caused to be transported by a shipper or broker located within the production area. In this example, any sale or transportation by the receiver after taking delivery in the terminal market would not be included in the definition of handle. However, if a receiver purchases potatoes f.o.b. shipping point and causes them to be transported to his place of business in the terminal market outside of the production area, the function of transporting the potatoes would be included in the term handle.

The transportation, sale, or delivery of potatoes by a producer to a handler, registered with the committee shall not be considered an act of handling. However, in the event a producer sells potatoes other than to a registered handler then the producer shall become a handler and will be subject to regulations issued pursuant to the order. In order to qualify as a registered handler, a handler must have adequate grading facilities within the production area. If the handler's facilities are adequate to qualify in the opinion of the committee he would be approved by the issuance of a registered handler's certificate. Any producer then delivering or selling potatoes to a registered handler would be relieved of responsibility of compliance and such responsibility would be assumed by the registered handler.

There are three principal types of organizations in the production area selling and shipping potatoes. The first includes individual growers who handle their own potatoes. Another type is grower-selling organizations which are grower cooperatives performing the functions of packing and selling. The third group includes private packers and brokers. The grower who handles his own potatoes is referred to as a producer-handler under the marketing agreement and order. He has his own packing and grading facilities and performs functions of selling direct to his own outlets or contacts. The cooperatives generally have central packing houses and potatoes are brought there from the field to be graded, packed and sold from the shed. In the third group some private shippers may operate similar to the co-ops in that they have packing facilities to which growers deliver field-run potatoes. However, others in this group have the potatoes graded at the farm and take possession at the growers packing house. Brokers generally do not have grading equipment but do business with the other handlers in the production area.

Some potatoes are grown in the production area under contracts with potato chippers. Under these circumstances, the growers are usually handlers by reason of their sales to the chippers. In other cases, potato chippers may actually produce potatoes for themselves. When any grower, including a chipper who grows potatoes for his own use, en-

gages in handling activities within the definition of "handle" or "ship" such grower becomes a handler.

In summary, any sale or transportation of potatoes that places the potatoes in the current of commerce within the production area or between the production area and any point outside thereof is included within the definition of handle. Such sale or transportation may be performed or caused by any one or more persons such as producers in their capacity as handlers, grower cooperative organizations, packing house operators or their agents, brokers or buyers who perform a handling function or any other person engaged in activities included within the definition of handle. The failure of one person to comply with marketing regulations should not relieve other persons who perform a handling function from responsibilities under the order.

(5) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the marketing agreement and order and such terms should be defined for the purpose of designating specifically their applicability in establishing the approximate limitation of their respective meanings wherever they are used.

(a) The definition of "secretary" should include not only the Secretary of Agriculture of the United States, but also in order to recognize the fact that it is physically impossible for him to perform personally all of the functions and duties imposed upon him by law any other officer or employee of the United States Department of Agriculture who is or who might hereafter be authorized to act in his stead.

The definition of "act" provides the correct legal citation of the statute pursuant to which the proposed regulatory program is to be operative. It makes it unnecessary to refer to such citation when used thereafter in the marketing agreement and order.

The definition of "person" follows the definition of that term as set forth in the act and will insure that it will have the same meaning as when used in the act.

"Producer" should be defined to mean any person who is engaged in a proprietary capacity in the production of potatoes within the production area and who is producing such potatoes for market. The definition of the term producer is necessary for appropriate determination as to eligibility to vote for, and to serve as, members or alternate members of the committee and for other reasons.

The term producer should be limited to those that have an ownership interest in potatoes which gives them title, or authority to pass title, to such potatoes. The person who owns and farms land resulting in his ownership of the potatoes produced on such land should clearly be considered as a producer of such potatoes. The same is true with respect to the person who rents and farms land resulting in his ownership of all or a portion of potatoes produced thereon. Likewise a person who owns land which he does not farm but as rental for such land obtains the ownership of a portion

of the potatoes produced thereon should be regarded as a producer of that portion received as rent, and the tenant on such land should be regarded as a producer for the remaining portion produced on such land. In each of the above situations the person involved, regardless of whether an individual, partnership, association, corporation, or other business unit should be considered as one producer entitled to one vote. However, in cases where the ownership is divided i.e., where one person obtains ownership of only a portion of the potatoes produced on a particular piece of land and another person obtains ownership of another portion such as in the landlord-tenant relationship, each such person should be considered as a producer and entitled to one vote. However, in the case of partnerships a partnership must vote as a unit. Normally, a husband and wife operation would be considered a partnership under the definition.

A producer who produces potatoes solely for his own use would also be a producer within the definition if the potatoes become a part of the market supply. For example, it was testified that some potato chippers grow potatoes in the area and ship them to their plants usually located outside of the production area. In these cases the chipping firm would be a producer in that it has title to the potatoes that were produced or has the authority to pass title.

Persons engaged in potato growing operations and paid for these services on a wage or per unit of production basis should not have producer status under the marketing agreement and order if such persons do not have title to any of the potatoes.

In summary, two primary criteria qualify a person as a producer (1) he has title to the potatoes or a portion of the potatoes, and can transfer such title or interest, and (2) he produces potatoes for market or potatoes that become a part of the market supply.

"Grading" is defined to mean the operation by which potatoes are sorted or separated into the various categories or classifications in which they will be marketed. Part of the grading operations includes the separation of merchantable potatoes, from those potatoes which should go to the cull pile or dump. Grading is an operation which is customarily performed on practically all potatoes marketed in the production area. It is usually a field or packing house operation utilizing a combination of mechanical and hand operations. In the grading process sizes and qualities are determined so that the potatoes which are to go to preferred price outlets are separated from those going to lower price outlets. In the Florida production area these outlets are usually fresh, chipping, or processing markets. In addition to the grading and sizing of the potatoes washing is a common practice in the area.

Some of the usual or typical classifications on the basis of grade, size, quality are U.S. No. 1, Size A, U.S. No. 1 percentage grades, that is where potatoes are packed to meet a certain percentage of a U.S. No. 1 grade, utilities, culls, and creamers. Some of these packs may be based upon official U.S. grades while

others are local terms applied to potatoes which are graded out of lots meeting the U.S. grades. The definition of grading or preparation for market based on the foregoing should be set forth in the marketing agreement and order. This definition should mean the sorting or preparation of potatoes in the grades and sizes by any means including any repacking, regrading, and resorting of potatoes which have been previously prepared for market.

Definitions of "grade" and "size" are incorporated in the marketing agreement and order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently any regulations issued in such terms. Grade and size, the essential criteria employed in limitation of shipment regulations should be defined as comprehending the equivalents of the meanings assigned these terms in the official standards for potatoes issued by the U.S. Department of Agriculture (7 CFR §§ 51.1540 to 51.1559 and §§ 51.1575 to 51.1587) or modifications or amendments to such standards, and variations to such standards as may be set forth in regulations issued under the marketing agreement and order. Regulations under the marketing agreement and order can then use such terms with the constant meaning assigned thereto in such standards or such modified or amended standards, or the regulations can vary such terms by prescribing for example a percentage of a grade as may be required at the time of issuing such regulations. Inspectors of the Federal or Federal-State Inspection Service are qualified to certify the grade and size of potatoes grown in the production area in terms of any of the aforesaid standards, modifications, amendments or variations thereof.

The potato industry in Florida at the present time utilizes the U.S. Standards to a large extent. Therefore, the adoption of the U.S. Standards as a basis for grades and sizes would cause little or no disruption in customary packing house and sales operations.

The term "pack" is commonly used throughout the production area by the potato industry, and refers to one or more of a combination of factors relating to specific grade or size limitations or specific weight or container limitations or a combination of these factors. For example, it is a common practice to differentiate packs on the basis of 100-lb. packs or 50-lb. packs. Differences in packs are also recognized by grades, such as a U.S. No. 1 pack, or a utility pack. Packs may be recognized by particular sizes such as Size A or Size B packs. It is essential that differentiation should be authorized in the marketing agreement and order so that appropriate regulations tailored to the particular packs involved, and the market demands therefor, may be made effective and thereby tend to achieve the declared policy of the act. Pack should be defined as the basis for distinguishing the various sizes of shipping units in which potatoes are packed as well as the contents of the packages in terms of the quantity of potatoes and the grade and size thereof. Accordingly, the term "pack" should be

defined as set forth in the marketing agreement and order.

"Container" should be defined in the marketing agreement and order as a basis for differentiating the numerous shipping units in which potatoes move to market and for the permissible application of different regulations to such different shipping units. Use of authority enacted in the recent container amendment to the act will provide a basis for the alleviation of problems associated with containers. The principal containers used at the present time in marketing potatoes in the production area are burlap and paper bags. However, potatoes are being marketed throughout the United States in not only these two types of containers, but also in paper and mesh bags, Polyethylene bags, boxes, pallets, and bulk loads.

"Label" should be defined in the marketing agreement and order to mean any mark, brand, or other designation on the container which identifies the official grade, size, or both, of the potatoes contained therein and the name and address of the shipper. The use of labels or brands will provide a means for designating or identifying the contents of the container as meeting the requirements of any regulations issued under the order. Also, requiring the name and address of the shipper would identify the person responsible for the contents of the container and, consequently, regulations in effect. It was testified that the term label would not imply that the same label will be shown on all potatoes shipped from the production area and would in no way prohibit the shipper from using his own particular or private label, except that any labels used must contain the information required under regulations pertaining to labeling.

The term "varieties" is defined in the marketing agreement and order so that all interested parties may recognize the real differences in the characteristics of different varieties and differences in types of regulations which might be considered and recommended therefor. For the reasons stated above the term "varieties", of course, would be limited to varieties of white skinned potatoes since the definition of potatoes excludes potatoes with red skins. The definition should include all commonly grown white varieties now being produced such as Sebago, Katahdin, Merrimac, Chippawa, White Rose, Plymouth, Pungo, and New White, as well as any new variety or varieties that may be developed and produced in the future. Differences by groups of varieties should be recognized by the committee in their deliberations and the marketing agreement and order should authorize different regulations by different varieties. It is particularly important, especially in the development of a new variety, that the marketing agreement and order should contain authority to provide special treatment such as freedom from regulation if necessary for such variety. The means set forth in the definition of "varieties" is appropriate for determining different varieties of potatoes grown in the production area.

The definition of "committee" is incorporated in the marketing agreement

and order to identify the administrative agency responsible for assisting the Secretary in the administration of the program. Committee means the Florida Potato Committee, the agency authorized by the act and essential to effective operation of the marketing agreement and order.

"Shippers Advisory Board" should be defined in the marketing agreement and order to identify the agency established under the program to assist and advise the Florida Potato Committee with respect to the administration of the program. Since the Florida Potato Committee will be composed of producers or producer-handlers the establishment of a shipper's advisory board will be beneficial to the committee in their deliberations in that the board can furnish information and experience which might not otherwise be available to the committee.

"Fiscal period" should be defined to mean the period beginning and ending on the date as recommended by the committee and approved by the Secretary. This definition provides authority for the committee and the Secretary to set the dates for the fiscal period so that auditing and financial problems resulting from differences in crop conditions from one season to another may be met. This would result in balancing expenses and revenues from year to year in the event of drastic differences in the volume of shipments from one season to another. It was testified, however, that it was anticipated that normally a fiscal period of one year would be the practice followed. Since there is a definite break in shipments between one potato marketing season and another in the production area no difficulty should be encountered in establishing the beginning of one fiscal period and the close of another. The flexibility of the definition as set forth in the marketing agreement and order should facilitate operations under the program.

"District" should be defined in the marketing agreement and order to refer to each of the geographical sections or divisions of the production area either as initially established or as later reestablished in order to provide a basis for the nomination and selection of committee members and for regulatory purposes.

The proposed division into districts is adequate and equitable from the standpoint of the present situation and should provide a practicable basis for the purposes intended.

The definition of "export" is incorporated in the marketing agreement and order since different regulations thereunder are authorized for export shipments than for domestic shipments. Export markets may have requirements which differ from the domestic markets and special regulations may be justified. Export should be defined to include all shipments of potatoes outside of the continental United States. The proponents testified that "continental United States" should be limited to the United States and not include Hawaii and Alaska. Shipments to these two states would be considered in the same category as export shipments because of the differ-

ence in preparation that would be required for over-seas transportation. In the case of shipments to Alaska, such shipments would be considered similar to export shipments to Canada. It was also testified that it was possible that a shipment already originally destined for Alaska might be diverted enroute after it crossed the Canadian-U.S. border and thereby end up in the Canadian market.

(b) The Florida Potato Committee consisting of 12 producer or producer-handler members is the administrative agency sponsored by the industry to aid the Secretary in administering the marketing agreement and order and in carrying out the declared policy of the act. It was testified that a committee composed of 12 members, with the assistance of the Shippers Advisory Board established pursuant to §960.36 through 960.44, would provide adequate industry representation on the committee and would assure responsible judgment and deliberation with respect to recommendations made to the Secretary and the discharge of other committee duties. The number of members from each district as well as the total number of members on the committee and the distribution of such members within districts was thoroughly considered by the proponents of the marketing agreement and order who believe that all interests within the industry will be represented. Testimony indicates that the committee so established will be sufficiently familiar with current market demands, available supplies, current prices, price trends including prices by grade, sizes, quality, packs, varieties, containers and types of outlets, and other relevant factors which have to do with the marketing of potatoes. It would be aided in its determinations by the aforementioned Shippers Advisory Board.

The marketing agreement and order should provide that an alternate be selected for each member of the committee, so that in the event a member is unable to attend a meeting, the district or sub-district which he represents will, nevertheless, have representation on the committee. This provision is a logical method of providing for absentees whether such absences are voluntary or beyond the control of the members.

Individuals selected as committee members or alternates must be producers or producer-handlers for the reasons stated herein. Such persons may be producers or producer-handlers as individuals, or through a corporation, partnership, or other business unit. If a person qualifies within the definition of producer as defined in §960.8 and resides and produces potatoes in the sub-district for which selected he may serve as a member on the committee. It was testified that it was not desirable to exclude or eliminate bona fide potato growers simply because they also perform some other function. Many producers in the production area also pack and sell potatoes. While such producers may also perform the services of a handler they should not be discouraged or prevented from serving on the committee if they qualify in other respects. Committee members must be residents of the district which they represent and produce potatoes

within the sub-district for which selected. It was testified that this requirement was necessary so as to achieve the best possible committee representation, since such persons would be familiar with the industry and the problems connected with their particular district and sub-district. As set forth elsewhere herein, the program is designed to benefit growers, hence, the committee should be limited to producers or producer-handlers.

The term of office for committee members and alternates under the marketing agreement and order should be for one year beginning on September 1 and ending the following August 31, and any additional period needed for the selection and qualification of successors. A one year term is an adequate length of time and in addition it provides an opportunity for the industry to nominate new committee members and alternates each year. The beginning of each term of office occurs during an interlude between the completion of the spring season and the beginning of the fall season. This term of office will allow adequate time for the committee to organize and start operating before the opening of each season.

Committee members and alternates shall serve during the term of office for which they are selected and until their successors are selected and have qualified. Such provision is necessary in order to insure continuation of the committee's operations. Also, if committee members and alternates are not selected until after the beginning of a term of office such committee members should serve that portion of the term of office for which they are selected.

It was testified that the period beginning September 1 is considered by the industry as the starting date of the crop year, and if growers know at this time of the year who will serve on the committee it could affect their planning for the year. Since growers are making plans for planting and securing their financing during the fall months, the proponents believe growers should have this information available when considering their planting plans. The term of office as specified also will enable committee members to keep abreast of all factors which may affect the marketing policy and, in turn, make recommendations for regulation by crop years.

The selection of committee members and alternates should be on the basis of districts, which as set forth in the marketing agreement and order, provide a practicable and equitable manner of representation. The division of the production area into two districts for white potatoes is a logical division of the state due to a combination of geographic and seasonal factors. These districts are commonly accepted by potato producers and handlers as representing distinct geographical sections engaged in the marketing of white potatoes. In addition, the two districts are the same as used by the Department of Agriculture's Crop Reporting Service. The geographical basis for the extent and selection of committee membership is related to acreage and production within the production area so as to provide as equitable

a basis as possible at this time for committee representation.

A provision for re-districting is necessary to enable the committee and the Secretary to consider from time to time whether the basis for representation has changed or could be improved and how such improvement may be made. Future shifts or other changes in potato production in Florida cannot be foreseen at the present time. One of the outstanding features of Florida agriculture is the rather quick shifts that may occur in the acreage of commodities produced from one year to another. For example, the Immokalee area in south Florida is comparatively new in the potato production picture. Therefore, it is desirable to provide flexibility of operations so that if it should be in the best interests of the industry to change the boundaries of some districts, the committee may so recommend and the Secretary approve such action.

It is practical and equitable that selection of committee members and alternates be on the basis of the sub-districts as provided for in the marketing agreement and order. As aforementioned, this provides a geographical basis for such selection of the members. Such geographical basis has been related to the number of producers and the volume of production within the production area so that an equitable basis has been employed in establishing the districts and sub-districts.

The election by growers of nominees for membership on the committee should be prescribed in the marketing agreement and order. This is provided for in the procedure for holding meetings for this purpose. Nomination of prospective members and alternates at meetings of growers in their respective sub-districts is practical and desirable. In this way the industry may express its wishes and differences with respect to committee membership. In order to obtain an indication of the industry's preferences initial meetings should be sponsored by the U.S. Department of Agriculture or any agency or group requested by the Department to hold such meetings. Nomination meetings for the purpose of electing nominees for members or alternates after the initial committee has been selected should be called or held by the committee or by agencies or groups requested to hold such meetings by the committee.

Nomination meetings should be held not later than July 1 of each year inasmuch as the term of office is to begin as of September 1. This will assure sufficient time to forward the names of the nominees to the Secretary, and for him to consider the nominations submitted prior to the beginning of each term of office.

At least one nominee shall be designated for each position as member, and for each position as alternate member on the committee. However, a greater number of nominations may be submitted and the voters at the nomination meetings may indicate the ranking of their choice for all nominees for members and alternates. This method is appropriate and practical and is sponsored by the industry.

It is appropriate and proper that nominations should be supplied to the Secretary in the manner and form which he may prescribe. This requirement merely means that the industry through the committee would provide the Secretary with background information in connection with each nominee so that the Secretary may be able to determine before making his selections if such nominees are qualified. To allow sufficient time for this purpose nominations should be supplied to the Secretary not later than July 15 of each year.

All persons participating in nomination meetings for members and alternates should be producers or producer-handlers of potatoes. Since the marketing agreement and order is designed to benefit potato producers, prospective committee members and alternates must qualify as producers. It was testified by the proponents that they believe the primary objective of the act is to increase returns to the grower, and since the increase of grower prices is the proper objective to which the program should be dedicated, for these reasons the committee should consist of producers or producers who also may be handlers. Since the committee would be composed of only producers, only producers should participate in the nomination meetings if the committee's decisions are to reflect producer sentiments.

Some growers produce potatoes in more than one district or sub-district in the State of Florida. If a grower does produce potatoes in more than one district or sub-district he may elect the district or sub-district in which he wishes to participate in electing nominees for committee members and alternates. In this way each potato grower shall have the same equitable voice in the nomination of committee members. Regardless of the number of districts or sub-districts in which a person produces potatoes, each person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries and affiliates and representatives in nominating members and alternates for the committee. This provision is deemed necessary as an appropriate safeguard for the protection of all potato growers participating in the meetings irrespective of the size of an individual's operations. This limitation however, is construed to mean that one vote may be cast for each position which is to be filled.

In order to assure the existence at all times of an administrative agency to administer the program the Secretary should be authorized to select committee members and alternates without regard to nominations, if for any reason they are not submitted to him in conformance with the procedure prescribed in the marketing agreement and order. For the reasons given above, such selections should, of course, be on the basis of the representation provided for in the marketing agreement and order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such a capacity. This requirement is necessary

so that the Secretary will have definite knowledge that the person appointed is willing to serve and that the position has been filled. The requirement that these acceptances be filed within 10 days is appropriate and necessary so that the full membership of the committee may be obtained without excessive delay.

It is also desirable and necessary that the Secretary be authorized to fill vacancies on the committee without regard to nominations if the names of nominees to fill such vacancies are not made available to the Secretary within 30 days after such vacancy occurs. This requirement is necessary to maintain continuity of the committee operations and to insure that all portions of the production area are adequately represented in the conduct of committee business.

Also, to insure that all portions of the production area are adequately represented in the conduct of the committee's business and that the continuity of operation is not interrupted the marketing agreement and order should provide for alternate members on the committee. Such alternates should be authorized to act in the place and stead of the member during the member's temporary absence, or in the case of the death, removal, resignation, or disqualification of the member.

The marketing agreement and order should provide that seven committee members be necessary to constitute a quorum or pass on any committee action. Since the committee is composed of 12 members, seven members constitutes a majority which should be present. It was testified that seven members should provide the representation necessary and sufficient to conduct business. A smaller number could possibly mean that the industry was not adequately represented and this would not be fair or equitable to the industry. It was testified that while the proponents believe that 12 members are necessary to obtain adequate industry representation, they also believe that the normal seasonal aspects of the potato deal will have a direct influence on the interest of committee members and in turn upon their possible attendance at committee meetings. For this reason the proponents propose that only a majority of committee members be necessary to constitute a quorum or pass on action. The proponents recognize that interest will be related to the effect possible regulations may have on particular sections of the production area. However, as action taken by the committee will vitally affect all of the growers in the production area, at least seven members should concur in any action taken as this would represent a majority of the committee membership.

The committee should be authorized to vote by telephone, telegraph, or other means of communication as if may be necessary at times for the committee to act speedily and without trying to call a formal assembled meeting. Because marketing conditions often change rapidly, it is essential that the committee should be permitted to take action to protect the interests of producers the members represent. This authority does not extend to polls for

the purpose of tightening or recommending regulations stricter than those in effect. Such action is deemed by the industry to be of such a serious nature that public participation in which all growers have an opportunity to express their views should be encouraged. Also, in any assembled meeting all votes should be cast in person as this provision does not authorize proxy voting at an assembled meeting. If an assembled meeting is held all members should attend in person so as to participate in the discussions and present the views of the growers they represent. If for some reason a member is unable to attend the meeting he should arrange for his alternate to attend and vote in his stead.

Committee members and alternates while on committee business will necessarily incur some expenses. These expenses, which may include travel and living expenses, should be reimbursed so as to avoid personal financial loss to members which might otherwise occur because of their service to the committee. However, the proponents testified that no compensation should be authorized since it is expected that the committee members will be public spirited men who will be interested in their own welfare as well as the welfare of the growers they represent and, therefore, would not expect any compensation other than expenses. This authority should also extend to alternate members when performing official duties.

The committee should be given those specific powers which are set forth in section 8c(7)(c) of the act because such powers are granted by the enabling statutory authority and they are necessary for administrative agencies such as the Florida Potato Committee to function.

The committee's duties as set forth in the marketing agreement and order are necessary for the discharge of its responsibilities. The duties established for the committee are generally similar to those specified for administrative agencies under other programs of this character. They are reasonable and necessary if the committee is to function in the manner prescribed under the act and the marketing agreement and order. It should be recognized that these duties specified are not necessarily all inclusive and it is probable that there are other duties which the committee may need to perform which are incidental to, and not inconsistent with, its specified duties.

(c) The marketing agreement and order should contain provisions for the establishment of a Shippers Advisory Board. It was testified that the actual administration of the marketing agreement and order should be the responsibility of the Florida Potato Committee which would be a representative group of producers or producer-handlers since the program is designed for the benefit of producers. However, in order to assure that the thinking and the experience of handlers will always be available for the benefit of the committee in its considerations and deliberations with respect to marketing regulations, the Shippers Advisory Board is established to assist and

advise the committee in this respect. Since it is possible that the Florida Potato Committee may be composed of only producers who do not handle their own potatoes, the Shippers Advisory Board would fill the void created by such a situation and, therefore, should be composed of either handlers or producer-handlers. Under the marketing agreement and order, handlers would be eligible to serve only on the Shippers Advisory Board and producers only on the Florida Potato Committee. Producer-handlers however, would be eligible to serve on either the board or the committee, but not both at the same time.

To insure that members of the Shippers Advisory Board are both representative and experienced in the requirements and problems of the industry in the Subdistrict which they represent, such members must reside in the district and handle potatoes in the Subdistrict for which selected.

Members of the board should be selected for a one year term of office. This term of office coincides with the term for the committee members in that it begins on September 1 and ends the following August 31. As in the case of committee members it provides an adequate length of time for a term of office and yet provides an opportunity for the industry to elect new board members and alternates each year. Meetings for the election of initial board members would be the responsibility of the Department or some agency designated by the Department as would be the case with respect to the initial committee. In succeeding years the committee would have the responsibility of conducting the election meetings. The Department would notify the members of the initial board of their election and in succeeding years this responsibility would be delegated to the committee.

One member and his alternate to the board should be elected from District 1 and four members and their alternates should be elected to represent District 2. As mentioned previously, members and alternates of the board must be residents in the Districts for which elected. Since board members will represent handlers or producer-handlers they should be elected by such persons operating in their respective districts. One member and alternate should be a handler or producer-handler operating in Subdistrict D of District 2 if possible. This Subdistrict is the smallest Subdistrict in District 2 with respect to volume of production and due to the importance of its shipping period in the season this Subdistrict should have some representation on the board. However, in the event that the number of growers, handlers or producer-handlers is too small to qualify the required number for the committee and the board, the committee representation should have top priority, since committee members have the authority to vote on recommendations and other committee business. If the number of qualified persons from this Subdistrict is inadequate to provide membership on the Shippers Advisory Board a fourth member and/or alternate may be elected from another Subdistrict

within District 2. The board should be elected as previously outlined since handlers or producer-handlers should be in the best position to know and determine those persons best qualified to represent this segment of the industry at committee meetings. Participation at election meetings should be limited to handlers or producer-handlers since this is the segment of the industry the board represents. Procedures for the election and notification of the board should be conducted as set forth above.

Election meetings other than initial meetings, should be held under the sponsorship of the committee prior to July 1 of each year. These dates correspond to those of the nomination meetings for the committee members as required in § 960.27 and the committee will be qualified to supervise and conduct such meetings in the best interests of the program.

Alternate members to the board should be provided for the same reasons as alternate members are authorized to act in the place and stead of committee members. Alternate members should be authorized to provide for absentees.

In the event board members are not elected within the time and manner set forth in §§ 960.39 and 960.40, the committee should be responsible for the selection of board members who can best represent the handlers in the industry. Such selection should be made on the basis of representation provided for in § 960.38.

(d) The committee should be authorized to incur such expenses as the Secretary should find are reasonable and likely to be incurred by it during each fiscal period for the maintenance and functioning of such committee and for such other purposes as the Secretary might, pursuant to the provisions of the order, determine to be appropriate. The expenses so incurred should be shared by handlers on the basis of the ratio of each handler's total shipments to the total shipments by all handlers during specified fiscal periods. The basis for determination of the ratio of shipments by individual handlers should be based upon the total shipments by first handlers thereof. The above formula is believed to be the fairest method of obtaining operating revenues on an equitable basis.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the order for such period. Each such budget should be presented to the Secretary with an analysis of its components and an explanation thereof in the form of a report. It will be desirable for the committee to recommend a rate of assessment to the Secretary which is designed to bring in during each fiscal period sufficient income to cover expenses incurred by the committee. There should not be any increase made in the budget without prior recommendation of the committee and approval of the Secretary.

The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by administrative agencies, such as the proposed Florida Potato Committee, and the statute also requires that each marketing order issued pursuant to the act contain provisions requiring handlers to pay their pro rata shares of the necessary expenses. Moreover, in order to assure continuance of the committee, the payment of assessments by handlers should be permitted to be required irrespective of whether particular provisions of the marketing agreement and order are suspended or become inoperative.

Each handler should pay the committee, upon demand, his pro rata share of such reasonable expenses which the Secretary finds will likely be incurred by the committee during each fiscal period. Such pro rata share of expenses should be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof during a specified fiscal period and the total quantity of potatoes so handled by all handlers during the same fiscal period. It will be necessary that responsibility for the payment of the assessment on each lot of potatoes be fixed and it will be logical to impose such liability on the first handler of such potatoes. In most instances, the first handler and the applicant for inspection are the same person. However, in the event the first handler fails to apply for, and obtain, inspection, this does not in any way cancel his obligation with respect to the payment of assessments. Except in the case of movements to registered handlers, first handling should apply to potatoes when they have been subjected to grading or preparation for market. Assessment rates should be recommended by the committee and applied by the Secretary to a specific unit of shipment or its equivalent. For example, assessment rates might apply to carlot shipments or they might be applied on a hundredweight basis, or by any other unit of shipment commonly used in marketing potatoes grown in the production area. However, such assessments for a fiscal period should be applied on a uniform rate basis.

The committee should be authorized at any time during or subsequent to a given fiscal period, to recommend the approval of an amended budget and the fixing of an increased rate of assessment to balance necessary committee expenses and revenues. Upon the basis of such recommendations, or other available information, the Secretary should be authorized to approve amended budgets and, if he should find that the then current rate of assessment is insufficient to cover committee administration of the order, he should be authorized to increase the rate of assessment. The order should also authorize the application of such increased rate of assessment to all potatoes previously handled by first handlers during the specified fiscal period so as to avoid inequities among handlers.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purpose of administration of the order, including appropriate research and development projects. The committee should be required to maintain books and records clearly reflecting the true up-to-date operations of its affairs, so that its administration might be subject to inspection at any time by appropriate parties during regular hours of business.

Each member and each alternate, as well as employees, agents, and other persons working for or on behalf of the committee should be required to account for all receipts and disbursements, funds, property, or records for which they are responsible and the Secretary should have the authority, at any time, to ask for such accounting.

Whenever any person ceases to be a member or alternate of the committee, he should be required to account for all receipts, disbursements, funds, property, books, records, and other committee assets for which he is responsible. Such persons should also be required to execute assignments or such other instruments as may be appropriate to vest in their successor or any agency or person designated by the Secretary, the right to all such property and all claims vested in such person.

If the committee should recommend that the operations of the marketing agreement and order should be suspended, or if no regulation should be in effect for a part or all of a marketing season, the committee should be authorized to recommend, as a practical measure, that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby the committee's business affairs could be taken care of during periods of relative inactivity with a minimum of difficulty and expense.

The committee should provide periodic reports on its fiscal operations. It is expected that audit reports will be requested by the Secretary at appropriate times, such as at the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervision and control of the committee's affairs. Also financial statements which reflect the current fiscal position of the committees should be furnished members and alternates and the Secretary at the close of each month. Audit reports and monthly financial statements should also be supplied on request to persons such as producers and handlers, having a valid interest in the contents of such reports. In no case should data of a nature which could be detrimental to the interests of an individual handler or producer be disclosed in copies of fiscal or other reports released.

Except as indicated below, handlers should be entitled to a proportionate refund of the excess assessments collected which remain at the end of a fiscal period, or at the end of such other period as might be deemed appropriate by reason of suspension or termination.

Refunds should be credited to contributing handlers respectively against the operations of the following fiscal period, unless payment should be demanded, in which event proportionate refunds should be paid.

If and when the committee should be required to liquidate its affairs expenses will necessarily be incurred in the liquidation process. The affairs of the committee which are to be liquidated might involve a number of years' operations. It will be appropriate, therefore, that funds remaining at the end of a fiscal period, which are in excess of those necessary for payment of expenditures during such period, be carried over into subsequent fiscal periods as a reserve for possible liquidation in the event of the termination of the order.

It is generally considered to be good business practice to provide for unforeseen contingencies. For example, it is possible that a severe freeze or freezes might result in a total or partial crop failure during a fiscal period. Also, the anticipated crop for any season might conceivably be reduced by other factors. The net effect of such a crop failure would be to reduce greatly or stop shipments, and could cause the discontinuance of regulation and the collection of assessments. In order to continue and maintain the nucleus of a committee organization and to assure the performance of a minimum of basic services, the committee should have authority to secure needed extra funds to cover the expenses of operation during such a fiscal period. Such funds might reasonably be drawn from the same reserve accrued for purposes of liquidation.

The above reserve might also properly serve another purpose. At the beginning of each fiscal period, there will be a need for operating monies at a time when there will usually be little, if any, revenue from assessments. It is customary and sensible budgetary practice, and the committee should be so authorized, to borrow operating funds from the above reserve until such time as assessment collections provide adequate revenue to meet current expenses. It is contemplated that any such reserve will have a threefold use; namely, (i) liquidation, (ii) crop failure advance, and (iii) fiscal year advance. It was testified that the reserve which would be accrued from excess assessments should be limited to an amount roughly equivalent to the average budget of expenses for one fiscal period. It will be built up over a period of years to equalize the burden among handlers.

Any funds remaining after liquidation has been effected, including any balance which might remain in the reserve fund, should be refunded to handlers on a pro rata basis. In some cases, however, an individual handler's account will be such a small amount as to make the return thereof impracticable or unduly expensive. Funds of such insignificant nature should be used by the committee for purposes of liquidation or put to such other use as the Secretary considers appropriate in the circumstances.

(e) The establishment or provision for the establishment of marketing research and development projects de-

signed to assist, improve, or promote the marketing, distribution, and consumption of potatoes was authorized by amendments to the act in Public Law 690, known as the Agricultural Act of 1954, enacted by the 83d Congress. Such authorization should be included in the marketing agreement and order.

Through the medium of research investigation, the committee might be able to obtain information which would enable the committee and the Secretary to determine with a greater degree of accuracy the effect of specific regulations on the market and thereby promote more orderly marketing.

As the industry and the committee become more aware of the value of and need for marketing research and development, projects will undoubtedly be initiated, the need for which will not have been foreseen early in committee operations. Therefore, the committee should have the authority to recommend and the Secretary should have the authority to approve the establishment of such projects which are in the best interests of potato marketing and which would assist, improve, and promote the marketing, distribution, and consumption of Florida potatoes. After approval, the committee should be empowered to engage in or contract for such projects, to spend funds for that purpose, and to consult and cooperate with other agencies with regard to their establishment. All such projects should receive the prior approval of the Secretary.

(f) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes among other commodities, as will tend to establish for growers the equivalent parity price for such potatoes. The regulation of shipments of potatoes by grade, size, and quality is authorized in the marketing agreement and order and provides the practicable means of carrying out this policy.

Procedures and methods which are outlined in the marketing agreement and order for the development and institution of marketing policies relating to grade, size, quality, pack, container, or other regulations authorized by the marketing agreement and order provide a practical basis for the committee to obtain appropriate and adequate information relating to potato marketing problems. It also provides growers and handlers and other members of the industry with information regarding policies and regulations recommended by the committee. The factors set forth in the marketing agreement and order which the committee should take into consideration in developing its marketing policies are those commonly and usually taken into account by growers and handlers in their day-to-day evaluation of the market outlook with respect to potatoes.

In order that the Secretary may effectively carry out his responsibilities in connection with the marketing agreement and order the committee should prepare and submit to the Secretary a report on its proposed marketing policy relating to the marketing of potatoes during each season. In the event that

it is necessary to amend or modify the marketing policy during the course of the season the committee should be authorized to do so and the Secretary should receive a report regarding the revised policy. The initial marketing policy offered each season by the committee should be prepared and submitted to the Secretary prior to or simultaneously with recommendations for regulations. This will give all interested parties maximum notice of probable regulations. Reports on marketing policy and regulations recommended by the committee should be publicly announced and made available to the industry at the committee's office.

The committee which has sole responsibility for recommending regulations authorized by the marketing agreement and order as well as modifications, suspensions, amendments, or terminations thereto should be authorized to consider and recommend any or all methods of regulations so authorized and deemed desirable. The committee as the local administrative agency should have this authority since it is logical to expect the committee to reflect the views of the industry. In turn the Secretary will look to the committee as the agency which properly reflects the thinking of the industry on matters pertaining to the marketing agreement and order.

The committee should not be authorized to recommend any regulations with respect to maturities or skinning classifications as specified in the U.S. Standards for Potatoes. The proponents testified that this limitation should be specified because of certain marketing problems and marketing requirements. It was their testimony that the subject of maturity and skinning of white potatoes is a debatable one within the industry as there are many conflicting viewpoints and theories on the relationship of skinning to maturity, and skinning is not considered to be a true index to maturity by many experienced growers, shippers, and buyers. They further testified that physiological maturity is considered by many research workers, growers and buyers to be that stage in the growth of a potato when it reaches its maximum specific gravity. It is possible, therefore, that a potato should be considered immature upon the basis of skinning but would in fact be mature if specific gravity tests were used as a standard. While the specific gravity of a potato usually increases with the growing period, it is possible during some seasons for a potato to reach its peak specific gravity without possessing a tough and tight skin, and if harvest is delayed until a tight skin is obtained, the specific gravity may decline and an unfavorable color loss occur.

Since over 50 percent of the white potato crop is utilized by potato chippers, the proponents believe it is important for the industry to know that it has the authority to market the type of potato with regard to maturity which the fresh market or chipping industry wants and desires. The skinned potato may have a high specific gravity or cooking quality which could be utilized advantageously by the buyers, so its handling should not be restricted even if it

is completely void of skin. In addition, maturity is a factor only in the U.S. Fancy grade which grade is not normally packed by the Florida industry. Since it has not been a custom or industry practice to certify with respect to skinning on inspection certificates the proponents believe that in the interest of the industry this matter should be left to the option of the shippers, and buyers and, therefore, believe that no authority should be given to the committee to make recommendations on maturity or skinning.

The committee's authority to recommend regulations should extend only during the period April 10 to November 1 of each year. It was testified that the authority contained in the act should not be abused in attempting to effectuate the declared policy of the act or used in a capricious or ineffective manner in attempting to solve or cope with minor seasonal problems. It was established that serious marketing problems of the white potato industry in the production area commence in the spring season about April 10 of each year. The November 1 cut-off date falls in a period of inactivity after the spring crop has been marketed and subsequent to that date and until the ensuing spring season begins again about the following April 10, marketing problems within the production area are not sufficiently serious to warrant regulation. During most seasons it is probable that regulations would be terminated prior to November 1 in that the white potato season for Florida usually ends June or July. Accordingly, the committee should be given the authority to recommend regulations as set forth in the marketing agreement and order with the limitations as specified.

Evidence adduced at the hearing shows that authority should be established in the marketing agreement and order for the Secretary to issue regulations with respect to grade, size, quality or packs in any or all portions of the production area during any period. Such regulations should apply to all potatoes handled unless shipped pursuant to § 960.57 *Minimum quantities* or § 960.58 *Shipments for special purposes*. The limitation of shipments of poorer grades, off qualities, less desirable sizes and packs of potatoes grown in the production area will tend to increase the prices received for more desirable grades, qualities, sizes and packs, promote more orderly marketing and, thereby, tend to increase returns to producers of such potatoes. It was testified that some grades and sizes not only depress prices received for more desirable grades or sizes of potatoes, but at times return the cost of harvesting only to the grower, with other costs such as planting, etc., representing a complete loss.

Poor grades and off qualities may include not only unclassified potatoes as set forth in the U.S. Standards for Potatoes, but also other potatoes which show defects as set forth and described in such standards and in any modifications or amendments thereof which may be recommended by the committee and considered desirable by the Secretary.

Limiting shipments by prohibiting the lower grades, off qualities, less desirable sizes, or certain packs which tend to depress prices will help to improve orderly marketing conditions for such potatoes by enhancing the competitive position of potatoes grown in the production area.

The orderly marketing of potatoes grown in the production area with the objective of increasing returns to producers of such potatoes will be promoted by authorizing regulations on shipments of particular grades, sizes, qualities, or packs differently for different varieties, for different portions of the production area, for different containers, for different markets, for the different purposes specified in § 960.58, or any combination of these groups during any period. This authority is particularly desirable and appropriate so that the committee and the Secretary will have the flexibility and authority to meet different marketing situations as they arise. While the common white variety of potatoes grown in Florida at the current time is the Sebago, it is possible that a new variety may be developed which will have characteristics which differ from the Sebago to the extent that the market demand will be based upon a different set of factors which are not currently applicable to the Sebago variety. It was testified that the industry should anticipate the possibility that in the future one variety may have a greater demand than another. It was also testified that certain varieties develop and mature differently than other varieties under the same conditions. Demand also differs for varieties having different markets or outlets. Because of the importance in the demand for Florida potatoes to use as potato chips, it is probable that the number of varieties more desirable for potato chips will tend to increase in Florida in the future. Conversely, there are certain varieties of white potatoes that are more acceptable for the fresh market than chips. Accordingly, authority under the marketing agreement and order should contain the flexibility necessary to adapt the program to the differences in demands by varieties.

It was testified that authority to regulate differently for different portions of the production area is extremely important in the Florida production area. While it was recognized that some administrative complications might arise if different regulations were attempted for different parts of the production area, this authority should be contained in the marketing agreement and order because of the variances in weather and disease problems which are common to the Florida production area. Damage from such causes may be extensive in a particular portion of the area and the committee should have authority to recommend regulations and the Secretary to issue regulations which will meet such problems in a practical manner.

Testimony introduced at the hearing indicated that there are different preferences in certain markets for certain grades and sizes of potatoes. For this reason it is important that the marketing agreement and order contain authority to permit the issuance of regulations

for different markets. It was testified for example that the south prefers normally a large size potato, the east a medium size potato, and Canada a small size potato. Also, local markets in Florida may readily take different grades, sizes, qualities, and packs than normally shipped to more distant markets. Therefore, for effective administration of the marketing agreement and order authority should be contained therein to meet such differences in demands for particular markets.

Similarly, the marketing agreement and order should contain authority to regulate differently for different containers. Although practically all shipments at the present time are shipped in 50-lb. or 100-lb. sacks, it is possible in the future that different size containers may be used to a greater extent than at present.

While a small volume of consumer size containers are utilized at the present time by the Florida potato industry it is possible that their use will increase in the future and it would be desirable to require different grades, sizes or qualities in such containers than would be required in the larger size packs or containers.

It is also desirable and essential for efficient administration of the marketing agreement and order that authority to regulate differently for the special purposes specified in § 960.58, such as for export or for relief or charity, be contained therein. This is merely a matter of recognizing the practical aspects of a marketing situation and having the authority to provide such markets with the grades and sizes of potatoes which they will accept without affecting movement to the tablestock or chip market. Such authority provides a means of promoting orderly marketing thereby helping to improve growers returns. It also permits shipments for relief or for charity to be considered differently than those for commercial markets. It was testified that such instances will rarely occur, but no desirable purpose would be achieved by prohibiting such movement by the imposition of grade and size restrictions.

Testimony indicates there is definite need for providing a method of limiting the total volume of U.S. No. 1, Size B potatoes which may be shipped. The marketing situation for U.S. No. 1, Size B potatoes can become a serious problem during certain periods. The restrictions commonly used under a potato marketing agreement and order, i.e.—specifying minimum or maximum sizes or by requiring a higher grade, would not be successful in meeting this problem. There is a certain demand for U.S. No. 1, Size B potatoes. However, since the standard U.S. No. 1, Size A pack in the production area is sized to 1 $\frac{1}{8}$ -inch minimum, the Size B normally ranges from 1 $\frac{1}{2}$ inches to 1 $\frac{3}{8}$ inches in diameter. The possibility of reducing the volume appreciably by restrictions within this size range would be extremely limited. Likewise, no appreciable volume could be taken off the market by restricting shipments to a higher grade since most potatoes falling in the Size B range grade U.S. No. 1 or better, with

no difficulty. Therefore, the marketing agreement and order authorizes methods to meet this problem. For example, the committee could possibly recommend that only a certain percentage of the available U.S. No. 1, Size B potatoes could be shipped during any period. This percentage could be based upon total shipments of all potatoes during a given day or given week or any other practical period. Such methods, recommended by the committee and approved by the Secretary, could be contained in rules and regulations. These rules and regulations may, for example, specify a percentage of Size B's which may be shipped. The base could depend upon the daily volume handled by particular handlers, the daily volume that may be shipped from the entire area, or the volume that may be shipped for a week or other specified period. The allowable percentage could be related to a proportion of a certain volume shipped during a given or specified period. Because of the fixed demand for a certain volume of Size B potatoes, the authority contained in the marketing agreement and order permits this demand to be met without unduly increasing overall marketings of Size B potatoes which would result in depressing prices.

Authority should be contained in the marketing agreement and order for regulating the size, weight, capacity, dimensions or pack of a container or containers which may be used in the packaging, transportation, sale, shipment or other handling of potatoes. This authority is necessary so that the committee may recommend and the Secretary approve regulations which would eliminate the use of certain containers which improperly reflect the weight and size of its contents or which introduce an element of competition that adversely affects prices received for the potatoes marketed therein. The container situation with respect to Florida potatoes presents no particular problems at the present time. However, it is contemplated that new types of containers particularly in the consumer size range may be developed and it may be necessary for the committee to use this authority to promote more orderly marketing and to prevent practices which may adversely affect returns to growers. This authority, however, should not be used to prevent experimentation on new containers or to preclude commercial development of new containers of different weights and capacities than those now being used.

The marketing agreement and order should contain authority for the establishment of pack specifications for the grading and packing of any variety or varieties of potatoes and require that all potatoes handled be packed in accordance with such specifications. To assure that potatoes are being so packed they should be identified by appropriate labels, seals, stamps or tags showing the particular pack specifications of the lot. Such means of identification should be affixed to containers by the handler under the supervision of the committee or the Federal-State Inspection Service. When pack specifications are in effect it is necessary to require the marking of

the containers as to the exact size and grade of the contents to prevent misrepresentation. Also, the use of such authority would facilitate administration of the marketing agreement and order and assist in obtaining compliance under the program because it could be readily ascertained whether handlers are complying with regulations and pack specifications. Additionally, the use of pack specifications with proper identification will instill trade confidence, increased acceptance of Florida potatoes, and the buyer will be assured of receiving a particular pack and that the lot meets the specification plainly marked on the container. The procedures and methods to be used with respect to pack specifications and their identification will be established through the issuance of rules and regulations recommended by the committee and approved by the Secretary.

No testimony was offered in support of paragraph (f) of § 960.56 as published in the notice of hearing. Accordingly, it has been deleted from the marketing agreement and order. However, testimony was offered to the effect that the Secretary should issue regulations upon the basis of recommendations of the committee and other available information. Further, and for the reasons stated elsewhere, the Secretary should always give careful consideration to the recommendations of the committee when considering the maximum restrictions imposed by any particular regulations.

(g) The committee should be authorized to recommend and the Secretary to establish such minimum standards of quality and such grading and inspection requirements during any and all periods when potato prices reach the equivalent parity as will be in the public interest. Some potatoes are of such low quality and small sizes, they do not give consumer satisfaction at any time. Normally, consumers do not receive proper value from their expenditures for low quality potatoes, such as culls, and it is not in the public interest of either the producers or the consumers to permit shipments of such poor quality potatoes irrespective of the price level. The marketing agreement and order, therefore, contains authority for the establishment of such minimum standards of quality, as will be in the public interest and such grading and inspection requirements as may be necessary to insure such minimum standards of quality are met.

Most shipments of Florida potatoes are made in carlots or trucklots. However, some smaller shipments are made, but these constitute a very minor percentage of the total movement. These small shipments, such as individual household purchases or convenience purchases, would be in a "nuisance" category and would present real operating problems if required to meet requirements under the marketing agreement and order, particularly with respect to inspection. The nuisance factor involved in such shipments outweigh the advantage of controls on such small transactions. Therefore, authority should be contained in the marketing agreement and order to relieve such shipments from grade, size, and quality requirements, assessments

or inspection. However, in the event it should be found necessary, such shipments may be required to meet grade and size requirements while waiving other requirements such as inspection and assessments. The committee should have authority flexible enough to meet local conditions including authority to change minimum quantity exemptions through various rules and regulations for different parts of the production area from season to season. However, exempted minimum quantities should apply only to shipments which in their entirety are within the minimum quantity specified, and under no circumstances should apply to any portion of a shipment which in the aggregate would exceed the specified minimum.

(h) The Secretary should be authorized upon the basis of recommendations and information submitted by the committee to modify, suspend, or terminate regulations with respect to the handling of potatoes for purposes other than for disposition in normal trade channels. Potatoes moving to, or sold in, certain outlets such as those specified in § 960.58 of the marketing agreement and order are usually handled in a different manner or such outlets usually accept different grades, sizes, qualities, packs, or containers, and different prices are returned or a combination of such considerations may apply, for such handling of potatoes usually does not have any appreciable effect on the marketing of the great bulk of potatoes handled in commercial markets. Therefore, any sales to these outlets would in most instances provide returns which would tend to supplement farm income realized from the sale of potatoes in their recognized commercial market rather than depressing prices received. Therefore, the order provides authority for the committee and the Secretary to give appropriate consideration to the handling of potatoes for such purposes differently from the bulk of potatoes moving to regular commercial markets. Such authority may offer opportunities to improve orderly marketing conditions for potatoes which would tend to increase total returns to potato growers in the production area.

Such outlets would be export, relief or charity, processing, or for other purposes which may become apparent in the future and which would be specified by the committee and approved by the Secretary. The authority contained in this section, however, will not apply to potatoes grown in the production area for use as potato chips or prepeeling as the record evidence discloses that such potatoes are equivalent to, and interchangeable with, potatoes grown for fresh market. It was testified that it was impossible for a handler to know in all instances which shipments will be utilized in the fresh market or by chippers or prepeeling potato users since these outlets usually utilize the same grades, sizes, and qualities. It was testified that fresh market potatoes are many times diverted to chippers or prepeelers. Also, in other instances, potatoes sold to chippers or prepeelers may be diverted to the fresh market. Florida potatoes purchased for manufacture into

potato chips require the same grades, sizes, and qualities normally used in the fresh market. Contracts between growers and chippers require that potatoes delivered meet U.S. grades or modifications of such grades. In the case of prepeeling, the prepeeler does not change the form of the potato. The only function he is performing is the removal of the skin. In effect, this potato is still a fresh market potato and the prepeeler has simply performed a function normally performed by the housewife or consumer. Accordingly, in order to carry out the declared policy of the act for white potatoes grown in this production area and based upon evidence in the hearing record, no distinction between potatoes grown in the production area can be drawn on the basis of differentiation in outlets to fresh market or to outlets for chipping or prepeeling since these outlets compete for the same potatoes.

Export demands for potatoes may differ from potatoes preferred for domestic consumption. Most of the export demand for Florida potatoes is from Canada. It was testified that Canadians prefer a smaller size potato than usually preferred in the United States. It is also possible that some export shipments may be made to Puerto Rico and Cuba and authority should be included in the marketing agreement and order to take advantage of any particular demands from these areas.

Shipments for relief or charity have been previously discussed herein and since they are usually in the nature of gifts, monetary considerations are not important, and restrictions on such shipments would not have any material effect on prices to growers.

Shipments for processing other than for chips or prepeelers would in most instances be for canning or freezing. Very small size potatoes, known locally as "creamers" are sold to canners.

At the present time the only other processing outlet for Florida potatoes other than those previously mentioned is a use for potato salad. Salad makers in many instances prefer small sizes and, hence, authority is necessary to facilitate movement to these outlets.

It was also testified that some potatoes are utilized by livestock feeders in the production area. It was the testimony of the proponents that such movement of low grade potatoes should be permitted. However, such shipments should be confined to the production area and the potatoes should be treated in such a way as to render them unfit for human consumption.

The marketing agreement and order should authorize special consideration for shipments of potatoes for other special purposes. Studies and research on the development of new potato products are being conducted by many agencies—State, Federal, and private. If any new potato products are developed which could utilize Florida potatoes, the committee and the Secretary should be authorized to give special consideration to shipments for such purposes.

The requirement that the Secretary should notify the committee of any regu-

lations or any modifications, suspensions or terminations of regulations is appropriate and necessary to enable the committee to be informed of such actions. The committee's obligation to give reasonable notice by such means as are deemed adequate to inform producers and handlers of regulatory orders issued by the Secretary is appropriate and necessary for the proper and efficient administration of the marketing agreement and order.

The authority for modifying, suspending or terminating grade, size, quality, pack, container, assessment or inspection requirements to facilitate special purpose shipments should be accompanied by additional administrative authority for the committee to recommend and the Secretary to prescribe adequate safeguards to prevent shipments for such purposes from entering market channels other than those intended. The authority for the establishment of safeguards should include such limitations or appropriate qualifications on shipments which are necessary and incidental to the proper and efficient administration of the marketing agreement and order. Such safeguards, among others, may include inspections so that the administrative committee may have an accurate record of the grade, size, and quality of potatoes shipped to special outlets, applications to make such special shipments, requirements for the payment of assessments in connection with such shipments, reports by handlers on the number of such shipments and the volume of potatoes shipped, as well as assurances by purchasers that potatoes are to be used for the purpose designated.

In order to maintain appropriate identification of potatoes shipped to special outlets the safeguards authorized herein may provide for the issuance of certificates of privilege to handlers of potatoes and, in addition, require that handlers obtain certificates on all shipments handled by them for such special outlets. Certificates of privilege may be issued by the committee as an indication that approval of a handler's application to make special purpose shipments has been granted, and as a means of identifying specific shipments. Certificates of privilege should be issued in accordance with rules and regulations established by the Secretary on the basis of committee recommendations, or other available information, in order that the issuance of such certificates may be handled in an orderly and efficient manner which can be made known to all handlers. The committee should be authorized by the marketing agreement and order to deny or rescind certificates of privilege when this action proves necessary to prevent abuse of the privileges conferred thereby, or upon evidence satisfactory to the committee that a handler to whom a certificate of privilege has been issued has handled potatoes contrary to the provisions of the certificate issued to him. If the committee rescinds or denies a certificate of privilege to any handler such action shall be in terms of a specified period of time. Handlers affected by the denial of a certificate or the rescinding of such a certificate should have

the right of appeal to the committee for reconsideration.

The Secretary shall have the right to modify, change, alter or rescind any safeguards prescribed, or any certificates of privilege issued by the committee in order that he may retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith, and the committee should notify all persons affected by the indicated action.

The committee should maintain detailed records relevant to safeguards and to certificates of privilege, and should submit reports thereon to the Secretary when requested in order to supply pertinent information requisite for him to discharge his duties under the act and the marketing agreement and order.

(i) Inspection of potatoes grown in the production area by the Federal or Federal-State Inspection Service must be required for the purpose of determining officially whether shipments meet requirements effective under marketing regulations issued pursuant to the marketing agreement and order. Federal or Federal-State Inspection Service has operated in the State of Florida for a number of years and potato growers and handlers throughout the production area are well acquainted with the service and with the inspection which it offers on shipments of potatoes. The service is available throughout the entire production area and reasonably prompt inspection can be given at all points within the production area. Provision is made in the marketing agreement and order for inspection of potatoes grown in the production area by the Federal or Federal-State Inspection Service or such other inspection services as the Secretary might approve during any period in which the handling of potatoes is regulated under the program. Inspection and certification requirements should apply to all potatoes shipped under regulations issued under the marketing agreement and order except when relieved therefrom pursuant to rules and regulations applicable to minimum quantities or special purpose shipments.

Inspection and certification requirements are necessary so that the shipper as well as subsequent handlers, the committee, and other interested parties may determine if shipments comply with the regulations in effect and applicable to such shipments. Effective regulation of the handling of potatoes grown in the production area requires evidence that each shipment is in compliance with regulations under the marketing agreement and order and the provision for inspection and certification affords the practical means of establishing the fact that the shipments do comply and can be so identified.

Responsibility for obtaining inspection should fall primarily on the handler who first handles regulated potatoes after they have been prepared for market since he is usually the person responsible for the grade, size, quality, pack and container in which the potatoes are being shipped or handled. However,

each handler regardless of whether the first or subsequent handler should be required to bear responsibility for determining that each of his shipments is inspected and certified. Identification and certification is essential to proper administration of the marketing agreement and order so that a determination may be made as to whether each shipment accords with regulations issued thereunder. The handler who first handles potatoes should be required to obtain such inspection. Subsequent handlers should not be permitted to handle potatoes unless a properly issued inspection certificate valid under the terms of the marketing agreement and order applies to such potatoes. If a handler should receive potatoes which have not been inspected he should be responsible for having them inspected before selling or transporting them. This procedure avoids the potential shift of responsibility which would be expected to occur in the absence of making each handler responsible for inspection and certification of any uninspected potatoes handled by him. This requirement is also necessary so that the committee can obtain evidence in the form of inspection certificates to determine whether the requirements of regulations in effect are being met.

Whenever any shipments of potatoes subject to regulation have been inspected, but are later dumped from the containers in which they were inspected, or the lot on which the inspection certificate was issued is broken up, such potatoes can no longer be specifically identified with reference to the inspection certificate. If any such lot of potatoes should thereafter be repacked, the repacked potatoes have a new identity. However, any subsequent handling of such potatoes should be in compliance with regulations in effect. Otherwise, effective regulation will not be obtained. Therefore, the order should provide that the committee may require the person who handles potatoes after they have been repacked, resorted, or regraded to have such potatoes reinspected and recertified prior to further handling so that the shipper thereof as well as subsequent handlers and the committee may determine that such shipments comply with regulations in effect and applicable to potatoes that have been repacked or regraded.

The committee with the approval of the secretary should be authorized to determine the length of time an inspection certificate is valid insofar as the requirements of the proposed marketing agreement and order are concerned. Such requirement is appropriate and necessary especially with respect to floor lot or platform inspections which might be administratively desirable to accommodate handlers and truckers. It would not be practical and feasible for the committee to rely upon inspection certificates which are not reasonably current.

Florida potatoes are marketed soon after harvest and are extremely perishable. They could deteriorate in a short period of time to the point where they would not meet regulations in effect at actual time of shipment and would no

longer conform to the findings in the inspection certificate.

Copies of inspection certificates issued pursuant to the requirements of the marketing agreement and order should be supplied to the committee promptly so it can discharge its administrative responsibilities under the program.

The committee should be authorized to recommend, and the Secretary to issue, regulations requiring that potatoes transported by motor vehicle shall be accompanied by a copy of the inspection certificate issued thereon or by other approved evidence of inspection. These requirements may include the surrender of such documents to such authority or agency as designated by the Secretary upon committee recommendation. The committee is authorized under the marketing agreement and order to administer its terms and provisions and this procedure enables the committee to enforce regulations in connection with truck movement of potatoes passing through various road guard stations along the production area boundary. Since a large percentage of potatoes produced in the production area move by truck such authority is necessary to effectuate the other provisions of the marketing agreement and order.

(j) Certain hazards are encountered in the production of Florida potatoes which are beyond the control or reasonable expectation of the producer of such potatoes. Because of these circumstances, and to provide equity among producers and handlers insofar as any regulations under the marketing agreement and order are concerned, the committee should be given authority to issue exemption certificates to producer applicants to permit such applicants to sell their equitable proportion of all shipments from the production area. It is contemplated, however, that such an exemption will require the approved applicant to sell his best quality potatoes.

The committee, by reason of its knowledge of the conditions and problems applicable to the production of potatoes in the production area and the information which it will have available in each case, should be well qualified to judge each applicant's case in a fair and equitable manner and to fix the quantity of exempted potatoes which each such applicant may sell.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary are necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the agreement and order.

(k) The committee should have authority, with the approval of the Secretary, to require that handlers submit to it such reports and information as are needed to perform its functions. It is difficult to anticipate every type of report, or kind of information, which the committee may need in administering the program, but it should have the

authority, subject to the approval of the Secretary, to request reports and information if needed, of the type set forth in the marketing agreement and order. The standards to be followed by the committee in requesting handlers to furnish reports should be along the lines set forth in § 960.80 of the marketing agreement and order and such reports should be those necessary for operation of the committee in carrying out its responsibilities under the marketing agreement and order. Reports furnished to the committee should be submitted in such manner and at such times as may be designated by it. Such reporting procedures should accord with the need and requirements of the committee which are essential to administration of the marketing order because changing conditions may warrant changes in the forms and methods of reporting. The right to approve, and also to modify, change, or rescind, any requests by the committee for information in order to protect handlers from unreasonable requests for reports is retained by the Secretary.

Since it is possible that a question may arise with respect to compliance with the marketing agreement and order, each handler should maintain complete records of his handling and disposition of potatoes for a period of not less than two years subsequent to the termination of each crop year.

Any and all reports and records submitted for committee use by handlers shall remain under appropriate protective classifications and be disclosed to none other than persons authorized by the Secretary.

(l) Except as provided in the marketing agreement and order, no handler should be permitted to handle potatoes, the handling of which is prohibited pursuant to regulations issued under the marketing agreement and order, and no handler should be permitted to handle potatoes except in conformity with the marketing agreement and order and regulations issued thereunder. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry measured by the proportion of potatoes handled by him, such action would, in any appreciable aggregate, tend to impair operation of the program and otherwise render it ineffective.

(m) The provisions of § 960.82 through § 960.92, as published in the FEDERAL REGISTER of October 16, 1959 (24 F.R. 8414), and as hereinafter set forth, are common to marketing agreements and orders now operating. The provisions of §§ 960.93 through 960.95, as hereinafter set forth, are also included in other marketing agreements now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing agreement and order. These provisions are incidental to, and not inconsistent with, section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the marketing

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agreement and order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the marketing agreement and order.

General findings. Upon the basis of evidence introduced in the hearing and the record thereof it is found that:

(1) The marketing agreement and order as hereinafter set forth, and all of the terms and provisions thereof, will tend to effectuate the declared policy of the act with respect to white potatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets; and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such potatoes as will be in the public interest;

(2) The said marketing agreement and order authorizes regulation of the handling of white potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in a proposed marketing agreement and order upon which the hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several marketing agreements and orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and order prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of white potatoes grown in the production area; and

(5) All handling of potatoes as defined in the said marketing agreement and order, is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

The marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectfully "Marketing Agreement Regulating the Handling of White Potatoes grown in Florida" and "Order Regulating the Handling of White Potatoes Grown in Florida" which have been decided upon as the appropriate and detailed means

of affecting the foregoing conclusions. The aforesaid marketing agreement and the aforesaid order shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with those contained in the annexed order which will be published with this decision.

Dated: February 10, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

Order¹ Regulating the Handling of
White Potatoes Grown in Florida

Sec.

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¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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AUTHORITY: §§ 960.0 to 960.92 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 960.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Hastings, Florida, November 3-6, 1959, upon a proposed marketing agreement and a proposed marketing order regulating the handling of white potatoes grown in the State of Florida south or east of the Suwannee River. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that;

(1) This order, and all of the terms and provisions thereof, will tend to effectuate the declared policy of the act with respect to white potatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices, and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establish-

ment and maintenance of such minimum standards of quality, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such potatoes as will be in the public interest;

(2) This order authorizes regulation of the handling of white potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement and order upon which the hearing has been held;

(3) This order is limited in its application to the smallest regional production area which is practicable consistently with carrying out the declared policy of the act; and the issuance of several marketing agreements and orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) This order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of white potatoes grown in the production area; and

(5) All handling of potatoes, as defined in this order, is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

Order relative to handling. It is, therefore, ordered that on and after the effective time hereof the handling of white potatoes grown in Florida shall be in conformity to, and in compliance with, the terms and conditions of this order, and such terms and conditions are as follows:

DEFINITIONS

§ 960.1 Secretary.

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

§ 960.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 960.3 Person.

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

§ 960.4 Production area.

"Production area" means all territory in the State of Florida south or east of the Suwannee River.

§ 960.5 Potatoes.

"Potatoes" means all varieties of Irish potatoes grown within the production area other than red skin varieties.

§ 960.6 Handler.

"Handler" is synonymous with "Shipper" and means any person (except a common or contract carrier of potatoes

owned by another person) who handles potatoes or causes potatoes to be handled.

§ 960.7 Handle.

"Handle" or "Ship" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area or between the production area and any point outside thereof: *Provided*, That such terms shall not include the transportation, sale, or delivery of potatoes by a producer to a handler registered as such with the committee and who has adequate facilities within the production area for grading. In the event a producer sells potatoes other than to a registered handler, such producer shall be the handler of such potatoes.

§ 960.8 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of potatoes for market.

§ 960.9 Grading.

"Grading" is synonymous with "preparation for market" and means the sorting or separation of potatoes into grades, sizes and packs for market purposes.

§ 960.10 Grade and size.

"Grade" means any one of the established grades of potatoes and "Size" means any one of the established sizes of potatoes as defined and set forth in the U.S. Standards for Potatoes (§§ 51.1540 to 51.1556 of this title) or U.S. Consumer Standards for Potatoes (§§ 51.1575 to 51.1587 of this title), both issued by the United States Department of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon recommended by the committee and approved by the Secretary.

§ 960.11 Pack.

"Pack" means a quantity of potatoes in any type of container and which falls within specific weight limits or within specific grade or size limits, or any combination thereof, recommended by the committee and approved by the Secretary.

§ 960.12 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation or sale of potatoes.

§ 960.13 Label.

"Label" means to mark, brand, or otherwise designate on containers the official grade or size, or both, of potatoes therein.

§ 960.14 Varieties.

"Varieties" means and includes all classifications or subdivisions of white Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 960.15 Committee.

"Committee" means the Florida Potato Committee, established pursuant to § 960.22.

§ 960.16 Shippers Advisory Board.

"Shippers Advisory Board", "Advisory Board", or "Board" means the advisory board established pursuant to § 960.36.

§ 960.17 Fiscal period.

"Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the committee.

§ 960.18 District.

"District" means each one of the geographical divisions of the production area initially established pursuant to § 960.24, or as reestablished pursuant to § 960.25.

§ 960.19 Export.

"Export" means shipment of potatoes beyond the boundaries of continental United States.

COMMITTEE

§ 960.22 Establishment and membership.

(a) The Florida Potato Committee consisting of twelve members, all of whom shall be either producers or producer-handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Persons selected as committee members or alternates to represent producers shall be producers or producer-handlers, or officers or employees of a producer or producer-handler, residing and producing potatoes in the district for which selected.

§ 960.23 Term of office.

(a) The term of office of committee members, and their respective alternates shall be for one year and shall begin as of September 1 and end as of August 31 of the succeeding year.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 960.24 Districts.

For the purpose of determining the basis for selecting committee members the following districts of the production area are hereby initially established.

District I. Central and South Florida District: The counties of Dade, Pinellas, Hillsborough, Polk, Osceola, Brevard, Manatee, Hardee, Highlands, Okeechobee, Indian River, St. Lucie, Martin, Charlotte, Glades, Lee, Hendry, Collier, Palm Beach, Broward, Monroe, Sarasota, DeSoto, Seminole, Orange, Sumter, Citrus, Hernando and Pasco in the State of Florida; and

District II. North Florida District: The counties of Suwannee, Columbia, Baker, Nassau, Duval, Bradford, Clay, Gilchrist, Union, Alachua, Putnam, St. Johns, Flagler, Levy, Marion, Volusia and Lake in the State of Florida.

§ 960.25 Redistricting.

The committee may recommend and pursuant thereto the Secretary may ap-

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prove, the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to: (a) Shifts in potato acreage within districts and within the production area during recent years; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of committee membership and districts; (d) economies resulting to producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (e) other relevant factors. No change in districting or in apportionment of members within districts may become effective within less than 30 days prior to the date on which the terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than six months prior to such date.

§ 960.26 Selection.

The Secretary shall select as committee members from the respective districts and subdivisions of districts the following number of producers or producer-handlers with their respective alternates:

District I. Central and South Florida District: Two producers or producer-handlers selected as follows:

Subdistrict A. (Lower East Coast and Everglades Areas). One producer or producer-handler from the Counties of Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Brevard, Okeechobee, Osceola, Orange and Seminole in the State of Florida.

Subdistrict B. (Central and Lower West Coast Areas). One producer or producer-handler from the Counties of Monroe, Collier, Hendry, Lee, Charlotte, Glades, Highlands, De Soto, Hardee, Manatee, Sarasota, Pinellas, Hillsborough, Polk, Pasco, Hernando, Citrus and Sumter in the State of Florida.

District II. North Florida District: Ten producers or producer-handlers selected as follows:

Subdistrict A. (Hastings Area). Five producers or producer-handlers from the Counties of St. Johns, Duval and Nassau in the State of Florida.

Subdistrict B. (Flagler Area). Two producers or producer-handlers from the Counties of Volusia and Flagler in the State of Florida.

Subdistrict C. (East Putnam Area). Two producers or producer-handlers from the Counties of Putnam, Clay, Lake and Marion in the State of Florida.

Subdistrict D. (Gainesville Area). One producer or producer-handler from the Counties of Baker, Union, Bradford, Alachua, Levy, Suwannee, Columbia and Gilchrist in the State of Florida.

§ 960.27 Nomination.

The Secretary may select the members of the committee and alternates from nominations which may be made in the following manner:

(a) A meeting or meetings of producers or producer-handlers shall be held in each district or subdistrict to nominate members and alternates for the committee. For nominations to the initial committee, the meetings may be sponsored by the United States Department of Agriculture or by any agency or group requested to do so by such Department. For nominations for succeeding

members and alternates on the committee, the committee shall hold such meetings or cause them to be held prior to July 1 of each year, after the effective date of this subpart;

(b) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee and eligible voters at such meetings may ballot to indicate the ranking of their choice for each nominee;

(c) Nominations for committee members and alternates shall be supplied to the Secretary in such manner and form as he may prescribe not later than July 15 of each year;

(d) Only producers or producer-handlers may participate in designating nominees for producer or producer-handler committee members and their alternates. In the event a person is engaged in producing potatoes in more than one district or subdistrict, such person shall elect the district or subdistrict in which he may participate as aforesaid in designating nominees; and

(e) Regardless of the number of districts or subdistricts in which a person produces potatoes, each such person shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the respective district or subdistrict in which he elects to vote.

§ 960.28 Failure to nominate.

If nominations are not made within the time and in the manner specified in § 960.27, the Secretary may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for in §§ 960.24 through 960.26, inclusive.

§ 960.29 Acceptance.

Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary or the person designated by the Secretary within 10 days after being notified of such selection.

§ 960.30 Vacancies.

To fill committee vacancies, the Secretary may select such members and alternates from unselected nominees on the current nominee list from the district involved, or from nominations made in the manner specified in § 960.27. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in §§ 960.24 through 960.26 inclusive.

§ 960.31 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of death, removal, resignation or

disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 960.32 Procedure.

(a) Seven members of the committee shall be necessary to constitute a quorum and seven concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication, and any vote cast at such meeting shall be promptly confirmed in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

§ 960.33 Expenses and compensation.

Committee members and alternates may be reimbursed for expenses necessarily incurred by them in the performance of duties and in the exercise of powers under this part.

§ 960.34 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(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 violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this subpart.

§ 960.35 Duties.

It shall be, among other things, the duty of the committee:

(a) As soon as practicable at the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping and marketing conditions with respect to potatoes;

(f) To prepare a marketing policy;

(g) To recommend marketing regulations to the Secretary;

(h) To recommend rules and procedures for, and to make determinations in connection with the issuance of certificates of privilege or exemptions, or both;

(i) To investigate an applicant's claim for exemptions;

(j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or

representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(k) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(l) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(m) To consult, cooperate, and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

SHIPPERS ADVISORY BOARD

§ 960.36 Establishment and membership.

(a) A Shippers Advisory Board consisting of five members who are either handlers or producer-handlers is hereby established. For each member of the Board there shall be an alternate who shall have the same qualifications as the member.

(b) Persons selected as Board members or alternates to represent handlers shall be handlers or producer-handlers, or officers or employees of a handler or producer-handler, residing and handling potatoes in the district or subdistrict for which selected. A producer-handler may not serve as a committee member or alternate and a Board member or alternate at the same time.

§ 960.37 Term of office.

The term of office of Board members and their respective alternates shall be for one year and shall begin as of September 1 and end as of August 31. The Board members and alternates shall serve during the term of office for which they are elected, or during that portion thereof beginning on the date on which they are elected and continuing until the end thereof and until their successors are elected.

§ 960.38 Districts.

One member and alternate from District I shall be elected by the handlers and producer-handlers operating in District I. Four members and alternates shall be elected by the handlers and producer-handlers operating in District II. To the extent possible one member and alternate shall be a handler or producer-handler operating in Subdistrict D of District II.

§ 960.39 Election of initial members.

A meeting or meetings of handlers or producer-handlers shall be held in each district or subdivision of a district to elect members and alternate members to the Shippers Advisory Board. For

elections to the initial Board, the meetings may be sponsored by the United States Department of Agriculture or any agency or group requested to do so by such Department.

§ 960.40 Election of succeeding members.

For the election of succeeding members and alternate members to the Board, the committee shall hold such meetings or cause them to be held prior to July 1 of each year, after the effective date of this subpart.

§ 960.41 Alternate members.

An alternate member shall, in the event of such member's absence from a meeting of the Board, act in the place and stead of such member, and in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been elected.

§ 960.42 Failure to elect.

If members and alternate members are not elected within the time and in the manner specified in §§ 960.37 and 960.38, the members of the committee may select the Board members and alternates on the basis of the representation provided in § 960.38.

§ 960.43 Function.

The Shippers Advisory Board may meet only with the committee. The Board may attend each meeting of the committee held to consider recommendations with respect to regulations of the shipment of potatoes. The Board's function shall be solely to advise the committee on matters relating to such recommendations. The Board shall have no vote with the committee in any matter.

§ 960.44 Expenses and compensation.

Board members and alternates may be reimbursed for expenses necessarily incurred by them in the performance of duties under this part.

EXPENSES AND ASSESSMENTS

§ 960.45 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes under regulation handled by him as the first handler thereof during a fiscal period and the total quantity of potatoes under regulation handled by all handlers as first handlers thereof during such fiscal period.

§ 960.46 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for

the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ 960.47 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles potatoes which are regulated under this part shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during or subsequent to a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase in the rate of assessment. Such increase shall be applicable to all potatoes which were regulated under this part and which were shipped by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this subpart throughout the period it is in effect irrespective whether particular provisions thereof are suspended or become inoperative.

§ 960.48 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided for in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the secretary, may carry over such excess into subsequent fiscal periods as a reserve; *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this part are sus-

pending or are inoperative; and (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purpose specified in this subpart and shall be accounted for in the manner provided in this subpart. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal, or expiration of the term of office, of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this subpart.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

RESEARCH AND DEVELOPMENT

§ 960.50 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 potatoes. The expenses of such projects shall be paid from funds collected pursuant to § 960.47.

REGULATION

§ 960.54 Marketing policy.

Prior to, or at the same time as initial recommendations are made pursuant to § 960.55, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in shipping potatoes during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or handler. In determining each such marketing policy,

the committee shall give due consideration to the following:

(a) Market prices of potatoes, including prices by grades, sizes and quality in different packs, and such prices in competing areas;

(b) Supply of potatoes by grade, size and quality in the production area and in other producing areas;

(c) Trend and level of consumer income;

(d) Marketing conditions affecting potato prices; and

(e) Other relevant factors.

§ 960.55 Recommendations for regulations.

The committee, upon complying with the requirements of §§ 960.32 and 960.54, may recommend regulations to the Secretary whenever it finds that such regulations as are provided for in this subpart, will tend to effectuate the declared policies of the Act, except that no recommendations may be made on maturities of potatoes, or skinning as classified within the U.S. Standards for Potatoes, or for any regulations to be effective prior to April 10 or subsequent to November 1 of any year.

§ 960.56 Issuance of regulations.

The Secretary shall limit by regulation the handling of potatoes whenever he finds from the recommendation and information submitted by the committee, and from other available information, that such regulation would tend to effectuate the declared policy of the Act. Such regulation may:

(a) Limit in any or all portions of the production area, the handling of particular grades, sizes, qualities, or packs of any or all varieties of potatoes during any period; or

(b) Limit the handling of particular grades, sizes, qualities, or packs of potatoes differently for different varieties, for different portions of the production area, for different containers, for different markets, for different purposes specified in § 960.58, or any combination of the foregoing, during any period; or

(c) Limit the handling of potatoes by establishing in terms of grades, sizes, or both, minimum standards of quality; or

(d) Fix the size, weight, capacity, dimension or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of potatoes; or

(e) Establish and prescribe pack specifications for the grading and packing of any variety or varieties of potatoes and require that all potatoes handled shall be packed in accordance with such pack specifications and identified by appropriate labels, seals, stamps or tags showing the particular pack specifications of the lot, affixed to the containers by the handler under the supervision of the committee or an inspector of the Federal-State Inspection Service.

§ 960.57 Minimum quantities.

The committee, with the approval of the Secretary may establish for any or all portions of the production area, minimum quantities below which han-

dling will be free from regulations issued or effective pursuant to §§ 960.47, 960.56, 960.58, 960.62 or any combination thereof.

§ 960.58 Shipments for special purposes.

Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary whenever he finds that it will tend to effectuate the declared policy of the Act, shall modify, suspend, or terminate regulations issued pursuant to §§ 960.47, 960.56, 960.57, 960.62, or any combination thereof, in order to facilitate handling of potatoes for the following purposes:

(a) For export;

(b) For relief or for charity;

(c) For processing; or

(d) For other purposes which may be specified by the committee, with the approval of the Secretary, except that potatoes for use either as potato chips or prepeeling, shall be considered as being for the same purpose as potatoes for fresh market.

§ 960.59 Notification of regulation.

The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 960.60 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent handling of potatoes pursuant to § 960.57 or § 960.58 from entering channels of trade other than those authorized, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to §§ 960.57 and 960.58; or

(2) Handlers shall obtain inspection pursuant to § 960.62, or pay the assessment levied pursuant to § 960.47, or both, in connection with shipments made under § 960.58; or

(3) Handlers shall obtain Certificates of Privilege from the committee to handle potatoes affected or to be affected under the provisions of §§ 960.57 and 960.58.

(b) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that potatoes handled by him for the purposes stated in §§ 960.57 and 960.58 were handled contrary to the provisions of this part.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of po-

tatoes handled under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 960.62 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to §§ 960.47, 960.56 and 960.58, or any combination thereof, no handler shall handle potatoes unless the potatoes are inspected by an authorized representative of the Federal or Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, except when relieved from such requirements pursuant to § 960.57 or § 960.58, or both.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle potatoes after they have been regraded, resorted, repacked, or in any other way further prepared for market, unless each lot of such potatoes is inspected by an authorized representative of the Federal or Federal-State Inspection Service, or such other inspection service as the Secretary shall designate: *Provided*, That the committee, with the approval of the Secretary, may provide for waiving inspection requirements on any potatoes in circumstances where it appears reasonably certain that after regrading, resorting or repacking, such potatoes meet the applicable quality and other standards then in effect.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When potatoes are inspected in accordance with the requirements of this section a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(e) The committee may recommend and the Secretary may require that any potatoes transported by motor vehicle shall be accompanied by a copy of the inspection certificate issued thereon, which certificate shall be surrendered to such authority as may be designated.

EXEMPTIONS

§ 960.70 Procedure.

The committee may adopt, with the approval of the Secretary, the procedure pursuant to which certificates of exemption will be issued to producers.

§ 960.71 Granting exemptions.

The committee shall issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee that by reason of a regulation issued pursuant to § 960.56 he will be prevented from handling as large a proportion of his production as the average proportion of production handled during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area and that the grade, size,

or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control or by acts beyond reasonable expectation. Each certificate shall permit the producer to handle the amount of potatoes specified thereon. Such certificates shall be transferred with such potatoes at time of transportation or sale.

§ 960.72 Investigation.

The committee shall be permitted at any time to make a thorough investigation of any producer's claim pertaining to exemptions.

§ 960.73 Appeal.

If any applicant for an exemption certificate is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination of the appeal. The committee shall thereupon reconsider the application, examine all available evidence and make a final determination concerning the application. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 960.74 Records.

(a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes handled under exemption certificates, a record of appeals for reconsideration of applications, and such other information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to §§ 960.70 through 960.73, or any combination thereof.

REPORTS

§ 960.80 Reports.

Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to the following:

(1) The quantities of potatoes received by a handler;

(2) The quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation;

(3) The date of each such disposition and the identification of the carrier transporting such potatoes; and

(4) Identification of the inspection certificates and the exemption certificates, if any, pursuant to which the potatoes were handled, together with the destination of each exempted disposition, and of all potatoes handled pursuant to §§ 960.57 and 960.58.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the potatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

COMPLIANCE

§ 960.81 Compliance.

Except as provided in this subpart, no handler shall handle potatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall handle potatoes except in conformity to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 960.82 Right of the Secretary.

The members of the committee (including successors and alternates) and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 960.83 Effective time.

The provisions of this subpart or any amendments thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 960.84 Termination.

(a) The Secretary may at any time terminate the provisions of this 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 may terminate or suspend the operations of any or all of the provisions of this 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 subpart at the end of any fiscal period whenever he finds that

PROPOSED RULE MAKING

such termination is favored by a majority of producers, who during a representative period, have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market.

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

§ 960.85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all funds and property then in the possession of or under 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) The 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 of the 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 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 committee and upon the said trustees.

§ 960.86 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments 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 subpart or any regulation issued under this subpart; or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart; or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 960.87 Duration of immunities.

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

§ 960.88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the United States, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 960.89 Derogation.

Nothing contained in this 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.

§ 960.90 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ 960.91 Separability.

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

§ 960.92 Amendments.

Amendments to this subpart may be proposed from time to time by the committee or by the Secretary.

Order Directing That a Referendum Be Conducted Among Producers; Designating Agents To Conduct Such Referendum; and Determination of a Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (secs. 1-19, 48 Stat. 31 as amended; 7 U.S.C. 601-674) it is hereby directed that a referendum be conducted among producers who were engaged in the State of Florida south or east of the Suwannee River in the production of white potatoes for market, and who marketed such white potatoes during the period April 10 to November 1, 1959 (which period is hereby determined to be a representative period for the purpose of such referendum), to determine whether such producers approve or favor the issuance of an order regulating the handling of white potatoes grown therein; and said order is annexed to the decision of the Secretary of Agriculture.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and

Its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F.R. 5176).

M. F. Miller and K. W. Schaible, Fruit and Vegetable Division, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally. Said agents may appoint any person or persons to assist them in performing their functions hereunder.

Copies of the text of the aforesaid annexed order may be examined in the office of the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D.C., and at those places in the production area (south or east of the Suwannee River in the State of Florida) announced by the referendum agents.

Ballots to be cast in the referendum and copies of the text of said order may be obtained from any referendum agent and any appointee hereunder.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 10, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-1417; Filed, Feb. 12, 1960; 8:47 a.m.]

[7 CFR Part 998]

[Docket No. AO-259-A3]

**MILK IN CORPUS CHRISTI, TEXAS
MARKETING AREA****Notice of Hearing on Proposed
Amendments to Tentative Market-
ing Agreement and Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Crystal Room of the Nueces Hotel, Corpus Christi, Texas, beginning at 9:30 a.m., c.s.t., on February 18, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Corpus Christi, Texas marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modification thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Coastal Bend Milk Producers Association:

Proposal No. 1. Amend § 998.50(b) so as to provide for a special price for skim

milk and butterfat used to produce Cheddar cheese and such price to be computed by multiplying by 8.4 the average of daily prices paid per pound of cheese at Wisconsin primary markets ("Cheddars" f.o.b. Wisconsin assembly points, cars or truck loads) as reported by the Department for the month involved.

Proposed by A. M. Thompson:

Proposal No. 2. In § 998.15 insert a period following the word "farmers" and delete the remainder of the section reading "and disposes during the month of less than a daily average of 3,300 pounds of Class I milk as defined pursuant to § 998.41(a) (1) through a route(s) in the marketing area."

Proposed by Knolle Milk Products Company and Knolle Jersey Farms:

Proposal No. 3. Amend § 998.84(b) so that it shall in its entirety read as follows:

§ 998.84 Marketing services.

(b) In the case of producers who are members of, or who have given written authorization for the rendering of marketing services and the taking of a deduction therefor to, a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract or written authorization between such cooperative association and such producers, and on or before the 15th day after the end of each month and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Proposed by Falfurrias Creamery Company:

Proposal No. 4. Amend §§ 998.51 and 998.82 so that the paying price to producers be the same for plants located in Corpus Christi, Kingsville, and Falfurrias.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 5. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 1204 North Main Avenue, San Antonio 2, Texas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 10th day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[7 CFR Part 1023]

[Docket No. AO-295-A2]

**MILK IN DES MOINES, IOWA,
MARKETING AREA**

**Notice of Hearing on Proposed
Amendments to Tentative Market-
ing Agreement and Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Hotel Kirkwood, Des Moines, Iowa, beginning at 10:00 a.m., on February 18, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Des Moines, Iowa, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Des Moines Cooperative Dairy.

Proposal No. 1. Adopt the following definitions of "base milk" and "excess milk":

§ 1023.22 Base milk.

"Base milk" means producer milk received by a pool plant during any of the months of January through June which is not in excess of such producer's daily average base computed pursuant to § 1023.95 multiplied by the number of days in such month for which such producer delivered milk to such pool plant.

§ 1023.23 Excess milk.

"Excess milk" means producer milk received by a pool plant during any of the months of January through June which is an excess of base milk received from such producer during such month.

Proposal No. 2. Delete § 1023.50(a), as amended, and substitute therefor the following:

(a) **Class I milk price.** The Class I milk price shall be the price for Class I milk pursuant to Part 941 (Chicago) of this chapter plus 35 cents: *Provided*, The effect on the price pursuant to this paragraph of the supply and demand ratio as contained in § 941.52(a)(1) of this chapter shall be limited to 10 cents: *And provided further*, That for milk received from approved dairy farmers at an approved plant outside the base zone the price otherwise applicable pursuant to this paragraph shall be reduced 10 cents.

Proposal No. 3. Delete § 1023.50(b) and substitute therefor the following:

(b) **Class II milk price.** The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Company, Amboy, Ill.
Borden Company, Dixon, Ill.
Carnation Company, Morrison, Ill.
Carnation Company, Oregon, Ill.
Carnation Company, Waverly, Iowa.
United Milk Products Company, Argo Fay, Ill.

or a price computed as follows, whichever is higher:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the delivery period: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices for nonfat dry milk solids for human consumption, spray process, f.o.b. manufacturing plants in the Chicago area as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month;

(3) Add into one sum the amounts obtained in subparagraph (1) and (2) of this paragraph; and

(4) Subtract 75.2 cents therefrom.

Proposal No. 4. Amend § 1023.72, computation of uniform price, to read as follows:

§ 1023.72 Computation of uniform price.

For each of the months of July through December the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content, as follows:

(a) Divide the aggregate value computed pursuant to § 1023.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (a) of this section. The resulting figure shall be the uniform price for producer milk.

Proposal No. 5. Adopt new § 1023.73 as follows:

§ 1023.73 Computation of price for base milk.

For each of the months of January through June the market administrator shall compute a price per hundredweight for base milk received from producers as follows:

(a) From the aggregate value computed pursuant to § 1023.71 subtract an amount computed by multiplying the total pounds of excess milk included in these computations by the price for Class II milk of 3.5 percent butterfat content computed pursuant to § 1023.50(b).

(b) Divide the resulting sum by the total hundredweight of base milk included in these computations; and

(c) Subtract not less than 4 cents nor more than 5 cents per hundredweight from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "price for base milk" of 3.5 percent butterfat content.

Proposal No. 6. Adopt new §§ 1023.95, 1023.96, and 1023.97, relating to determination of base, as follows:

§ 1023.95 Determination of daily base.

(a) The daily average base of each producer shall be determined by the market administrator and shall be the amount obtained by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through November immediately preceding by the number of days on which such milk is received from such producer, or 75 days, whichever is greater: *Provided*, That for the purpose of calculating the daily base of a producer pursuant to this section, the number of days included in his producer milk deliveries shall be the number of days of production of producer milk and the deliveries of any dairy farmer during the preceding September through November to a nonpool plant that is a pool plant during the months of January through June shall be considered producer milk received at a pool plant: *And provided further*, That any producer for whom a base has been computed may upon written notice to the market administrator on or before January 15, relinquish his base and be allocated a base computed pursuant to paragraph (b) of this section.

(b) Any producer who has not earned a base by deliveries during the previous September, October and November, and any producer who elects to relinquish his base pursuant to paragraph (a) of this section, shall be allotted a base for each of the months of January through June equal to the following percentages of his average daily deliveries:

Month:	Percentage
January and February.....	60
March and April.....	50
May and June.....	40

§ 1023.96 Base rules.

(a) Base may be transferred only under the following conditions: (1) In case of the death of a producer, his base may be transferred to a surviving member or members of his family who carry on the dairy operations, and (2) on the retirement of a producer, his base may be transferred to an immediate member of his family who carries on the dairy operations.

(b) The base of producers may be combined in the formation of a partnership, or may be divided upon dissolution of a partnership.

(c) A landlord who rents on a share basis shall be entitled to the entire daily base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire base to the exclusion of the landlord, if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(d) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided*, That at the beginning of a tenant and landlord relationship the base of each may be combined and may be divided when such relationship is terminated.

§ 1023.97 Announcement of established bases.

On or before January 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

Proposal No. 7. Make such changes as may be necessary to make the entire order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 834, Des Moines, Iowa, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 10th day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1419; Filed, Feb. 12, 1960;
8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 274]

AIRWORTHINESS DIRECTIVES

Boeing

Pursuant to the authority delegated to me by the Administrator, (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring inspection for cracks in fuselage structural members of Boeing Model 75 aircraft. Cracked members must be repaired or replaced.

Interested persons may participate in the making of the propose rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before March 15, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired.

This amendment is proposed under the authority of Sections 313(a), 601 and 603 of the Federal Aviation Act of 1958.

(72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

In consideration of the foregoing, it is proposed to amend § 507.10(a), (14 CFR Part 507), by adding the following airworthiness directive:

BOEING. Applies to all Model 75 Series aircraft operated in restricted category with a gross weight exceeding 3,200 lbs.

Compliance required not later than June 1, 1960, and at each 100 hours time in service thereafter.

Due to reports of cracked longerons, the following shall be accomplished:

Visually inspect the fuselage longerons and fuselage diagonal bracing for cracks in the vicinity of the lower wing front spar attach fittings. All cracked structural members shall be repaired or replaced in accordance with CAR 18.

Issued in Washington, D.C., on February 9, 1960.

B. PUTNAM,
Acting Director,
Bureau of Flight Standards.

[F.R. Doc. 60-1397; Filed, Feb. 12, 1960;
8:45 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Notice No. 7]

ALASKA

Notice of Filing of Alaska Protraction Diagram; Anchorage Land District

FEBRUARY 8, 1960.

Notice is hereby given that effective with this publication, the following protraction diagrams are officially filed of record in the Anchorage Land Office, 334 East Fifth Avenue, Anchorage, Alaska. In accordance with 43 CFR 192.42a(c), (24 F.R. 4140, May 22, 1959), these protractions will become the basic record for the description of oil and gas lease offers filed at and subsequent to 10:00 a.m. on the thirty-first day after the publication of this notice.

SEWARD MERIDIAN

Alaska Protraction Diagram (Unsurveyed)

S 25-1, Ts. 33 to 36 S., R. 44 W.,
 S 25-2, Ts. 33 to 36 S., Rs. 45 to 48 W.,
 S 25-3, Ts. 37 to 39 S., Rs. 45 to 48 W.,
 S 25-4, Ts. 46 to 48 S., Rs. 47 to 48 W.,
 S 26-1, Ts. 33 to 36 S., Rs. 49 to 52 W.,
 S 26-2, Ts. 33 to 36 S., Rs. 53 to 56 W.,
 S 26-3, Ts. 33 to 36 S., Rs. 57 to 59 W.,
 S 26-4, Ts. 38 to 40 S., Rs. 61 to 64 W.,
 S 26-5, Ts. 37 to 40 S., Rs. 57 to 60 W.,
 S 26-6, Ts. 37 to 40 S., Rs. 53 to 56 W.,
 S 26-7, Ts. 37 to 40 S., Rs. 49 to 52 W.,
 S 26-8, Ts. 41 to 42 S., Rs. 49 to 52 W.,
 S 26-9, Ts. 41 to 44 S., Rs. 53 to 56 W.,
 S 26-10, Ts. 41 to 44 S., Rs. 57 to 60 W.,
 S 26-11, Ts. 41 to 44 S., Rs. 61 to 64 W.,
 S 26-12, Ts. 45 to 48 S., Rs. 61 to 64 W.,
 S 26-13, Ts. 45 to 48 S., Rs. 57 to 60 W.,
 S 26-14, Ts. 45 to 47 S., Rs. 54 to 56 W.,
 S 27-1, Ts. 41 to 44 S., Rs. 65 to 68 W.,
 S 27-2, Ts. 43 to 44 S., Rs. 69 to 70 W.,
 S 27-3, T. 48 S., R. 77 W.,
 S 27-4, T. 48 S., Rs. 73 to 76 W.,
 S 27-5, Ts. 45 to 48 S., Rs. 69 to 72 W.,
 S 27-6, Ts. 45 to 48 S., Rs. 65 to 68 W.

Copies of these diagrams are for sale at one dollar (\$1.00) per sheet by the Cadastral Engineering Office, Bureau of Land Management, mailing address: 334 East Fifth Avenue, Anchorage, Alaska.

IRVING W. ANDERSON,
 Manager,
 Anchorage Land Office.

[F.R. Doc. 60-1400; Filed, Feb. 12, 1960;
 8:45 a.m.]

FEDERAL COMMUNICATIONS
COMMISSION

[Docket No. 13382; FCC 60M-259]

LONNIE T. EVERETT

Order Scheduling Hearing

In the matter of Lonnie T. Everett, Route 1, Box 258, Sneads Ferry, North Carolina, Docket No. 13382; order to show cause why there should not be re-

voked the license for Radio Station WC-7264 aboard the vessel "Trudy Ann".

It is ordered, This 8th day of February 1960, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 20, 1960, in Washington, D.C.

Released: February 9, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] MARY JANE MORRIS,
Secretary.[F.R. Doc. 60-1428; Filed, Feb. 12, 1960;
8:49 a.m.]

[Docket No. 13373]

MORROW RADIO MANUFACTURING
CO. AND RAY E. MORROW

Order To Show Cause

In the matter of Morrow Radio Manufacturing Co., Salem, Oregon, and Ray E. Morrow, Salem, Oregon, Docket No. 13373; order to show cause why there should not be revoked the licenses for Citizens Radio Stations 13W0470 and 13W0089 and why a cease and desist order should not be issued.

There being under consideration certain alleged violations of the Communications Act of 1934, as amended, and of the Commission's rules governing the Citizens Radio Service;

It appearing that at various times between July 24, 1959, and January 27, 1960, Morrow Radio Manufacturing Company, licensee of Citizens Radio Station 13W0470, and Ray E. Morrow, licensee of Citizens Radio Station 13W0089, transferred, assigned or disposed of, or purported to transfer, assign or dispose of, the rights granted to them under the licenses for such radio stations, without having made application to the Commission for authority to transfer, assign or dispose of such licenses, in wilful violation of section 310(b) of the Communications Act of 1934, as amended, and § 19.92 of the Commission's rules; and

It further appearing that by letter dated December 11, 1959, sent by Certified Mail, Return Receipt Requested (#97362), the Commission, pursuant to section 308(b) of the Communications Act of 1934, as amended, requested Morrow Radio Manufacturing Company to furnish replies, within ten (10) days of receipt of such letter, to certain interrogatories concerning Citizens Radio Station 13W0470; and

It further appearing that although receipt of the Commission's above-mentioned letter was acknowledged by one Jack Reis, as agent for Morrow Radio Manufacturing Company, no replies to such interrogatories were made to the Commission, either within the ten (10) day period specified in such letter, or

otherwise, in violation of section 308(b) of the Communications Act of 1934, as amended; and

It further appearing that in view of the foregoing, Morrow Radio Manufacturing Company and Ray E. Morrow, the president thereof, have wilfully violated sections 308(b) and 310(b) of the Communications Act of 1934, as amended, and § 19.92 of the Commission's rules;

It is ordered, This 27th day of January, 1960, pursuant to section 312 (a) (3) (4), (b) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that Morrow Radio Manufacturing Company and Ray E. Morrow show cause why the licenses for Citizens Radio Station 13W0470 and 13W0089 should not be revoked and why Morrow Radio Manufacturing Company and Ray E. Morrow should not be ordered by the Commission to cease and desist from violating section 310(b) of the Communications Act of 1934, as amended, by transferring, assigning or disposing of, or purporting to transfer, assign or dispose of, licenses for Citizens Radio Stations issued to them by the Commission, or the rights granted thereunder, and appear and give evidence in respect thereto at a hearing¹ to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order to Morrow Radio Manufacturing Company, P.O. Box 1627, 2794 Market Street, Northeast, Salem, Oregon, and to Ray E. Morrow,

¹Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

577 North 23d Street, Salem, Oregon, by Certified Mail—Return Receipt Requested.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1429; Filed, Feb. 12, 1960;
8:49 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Joint Tolls Advisory Board

[1st Notice]

MURRAY AND ROBINSON, LTD.

Application for Reclassification of
Cattle Hides

Notice is hereby given pursuant to the Act of May 13, 1954, as amended, 68 Stat. 92-93, 33 U.S.C. 981 et seq., and the Agreement executed by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada dated January 29, 1959 and approved by the Governments of United States and Canada on March 9, 1959, that the Joint Tolls Advisory Board has received an application from Murray and Robinson, Ltd., 11 Adelaide Street West, Toronto, Canada, requesting a reclassification of "cattle hides" from general to bulk cargo.

In accordance with the rules of procedure of the Board, interested parties have thirty days from the date of publication of this notice in which to submit briefs or representations to the Joint Tolls Advisory Board, Saint Lawrence Seaway Development Corporation, Seaway Circle, Massena, New York.

By order of the Board.

E. REECE HARRILL,
Vice Chairman.

[F.R. Doc. 60-1407; Filed, Feb. 12, 1960
8:46 a.m.]

[2d Notice]

PITTSTON STEVEDORING CORP.

Application for Reclassification of
Newsprint

Notice is hereby given pursuant to the Act of May 13, 1954, as amended, 68 Stat. 92-93, 33 U.S.C. 981 et seq., and the Agreement executed by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada dated January 29, 1959 and approved by the Governments of United States and Canada on March 9, 1959, that the Joint Tolls Advisory Board has received an application from the Pittston Stevedoring Corporation, 17 Battery Place, New York 4, New York, U.S.A., and the American Newspaper Publishers Association, 750 Third Avenue, New York 17, New York, U.S.A., requesting the reclassification of newsprint moving be-

tween Canada and the United States from general to bulk cargo.

In accordance with the rules of procedure of the Board, interested parties have thirty days from the date of publication of this notice in which to submit briefs or representations to the Joint Tolls Advisory Board, Saint Lawrence Seaway Development Corporation, Seaway Circle, Massena, New York.

By order of the Board.

E. REECE HARRILL,
Vice Chairman.

[F.R. Doc. 60-1408; Filed, Feb. 12, 1960;
8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3857]

JERSEY CENTRAL POWER & LIGHT CO. AND GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Increase in Authorized Common Stock and Issuance and Sale of Shares of Common Stock to Holding Company

FEBRUARY 8, 1960.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and Jersey Central Power & Light Company ("Jersey Central"), one of its public-utility subsidiaries, have filed with this Commission a joint application-declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 6(b), 7, 9(a) and 10 of the Act and Rules 50(a)(1) and 50(a)(3) thereunder as applicable to the proposed transaction. All interested persons are referred to said application-declaration on file in the offices of the Commission for a statement of the proposed transactions which are summarized as follows:

Jersey Central proposes to increase its authorized common stock by 1,000,000 shares, from the presently authorized 6,000,000 shares (of which 5,728,770 shares are outstanding) to 7,000,000 shares of the par value of \$10 per share. Jersey Central further proposes to issue and sell to GPU, from time to time during 1960, and GPU proposes to purchase, 750,000 shares of such additional stock for an aggregate cash consideration of \$7,500,000. Of this amount, Jersey Central will use \$800,000 to reimburse its treasury in part for construction expenditures made prior to January 1, 1960, and the remainder, \$6,700,000, to prepay a portion of the principal amount, \$12,500,000, of notes to banks pursuant to its credit agreement dated August 29, 1958 and due June 8, 1960.

The fees and expenses to be incurred by GPU are estimated at \$250 and those by Jersey Central at \$14,700, including a Federal issuance tax of \$7,500, legal fees of \$1,500, New Jersey filing fees of \$5,064, and miscellaneous expenses of \$636.

The application-declaration states that The Board of Public Utility Commissioners of the State of New Jersey has jurisdiction over the proposed issue and sale of common stock and that a copy of the order of that commission authorizing the transaction will be supplied for the record herein by amendment to the application-declaration. It is further stated that no other State and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 23, 1960, at 5:30 p.m., request in writing that a hearing be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-1403; Filed, Feb. 12, 1960;
8:46 a.m.]

TARIFF COMMISSION

[7-86]

BARBED WIRE

Notice of Investigation and Hearing

Investigation instituted. The United States Tariff Commission, on the 9th day of February 1960, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted on its own motion an investigation to determine whether barbed wire provided for in paragraph 1800 of the Tariff Act of 1930 is, as a result in whole or in part of the customs treatment reflecting the concession granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.s.t., on May 10, 1960, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writ-

ing, at least three days in advance of the date set for the hearing.

Issued: February 10, 1960.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 60-1406; Filed, Feb. 12, 1960;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

STATES MARINE LINES, INC., AND GLOBAL BULK TRANSPORT CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 7628-2, between States Marine Lines, Inc., and Global Bulk Transport Corporation, modifies the approved joint service agreement (7628, as amended), which covers world-wide trades, by substituting (1) Global Bulk Transport Corporation for States Marine Corporation, and (2) States Marine Lines, Inc., for States Marine Corporation of Delaware as parties to the agreement, as amended.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 10, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-1412; Filed, Feb. 12, 1960;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

ASH FLAT SALE BARN ET AL.

Proposed Posting of Stockyards

The Director of the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

Ash Flat Sale Barn, Ash Flat, Ark.
Jackson County Sales Barn, Brownstown, Ind.
Montevideo Sales Company, Inc., Montevideo, Minn.
Rush City Livestock Sales, Rush City, Minn.

No. 31—7

Pennsylvania Stock Yards, Philadelphia, Pa.
Equity Livestock Auction Market, Sparta, Wis.
Equity Livestock Auction Market, Stratford, Wis.

Notice is hereby given, therefore, that the said Director, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of February 1960.

DAVID M. PETTUS,
Director, Livestock Division,
Agricultural Marketing Service.

[F.R. Doc. 60-1421; Filed, Feb. 12, 1960;
8:48 a.m.]

CLARKSVILLE AUCTION CO. ET AL.

Deposting of Stockyards

It has been ascertained that the stockyards named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said act for the reason that they are no longer being conducted or operated as public markets. Accordingly, notice is given to the owners thereof and to the public that such livestock markets are no longer subject to the provisions of the act.

Name of Stockyard and Date of Posting

Clarksville Auction Company, Clarksville, Ark.: Dec. 15, 1958.
Decatur Sales Company, Decatur, Ark.: Dec. 11, 1958.
Farmers Auction Company, Stuttgart, Ark.: Feb. 23, 1959.
Flanagan Livestock Auction, Flanagan, Ill.: Nov. 19, 1959.
Clarksville Live Stock Co., Inc., Clarksville, Tenn.: May 13, 1959.
Downsville Sales & Commission, Downsville, Wis.: May 19, 1959.
Mauston Livestock Sales, Mauston, Wis.: May 16, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which is no longer within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving

a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 9th day of February 1960.

DAVID M. PETTUS,
Director, Livestock Division,
Agricultural Marketing Service.

[F.R. Doc. 60-1422; Filed, Feb. 12, 1960;
8:48 a.m.]

Office of the Secretary

OREGON

Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2(a)), as amended, it has been determined that in the entire State of Oregon a production disaster has caused a need for agricultural credit to cranberry growers not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named State after June 30, 1960, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 9th day of February 1960.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 60-1405; Filed, Feb. 12, 1960;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 10, 1960.

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. 36007: T.O.F.C. service between WTL and Official Territories. Filed by Western Trunk Line Committee, Agent (No. A-2107), for interested carriers. Rates on property moving on class and commodity rates loaded in trailers and transported on railroad flat cars between specified points in Connecticut, Massachusetts, Pennsylvania, and Rhode Island, on the one hand, and specified points in western trunk line territory, on the other.

Grounds for relief; Motor-truck competition, grouping, and operation through higher-rated intermediate points.

Tariff: Supplement 22 to Western Trunk Line Committee tariff I.C.C. A-4281.

FSA No. 36008: *Plastics—Plaquemine, La., to southern territory.* Filed by

Southwestern Freight Bureau, Agent (No. B-7730), for interested rail carriers. Rates on synthetic plastics, in carloads, as described in the application, from Plaquemine, La., to points in southern territory.

Grounds for relief: Market competition.

Tariff: Supplement 32 to Southwestern Freight Bureau tariff I.C.C. 4333.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-1402; Filed, Feb. 12, 1960; 8:45 a.m.]

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