

TITLE 7—AGRICULTURE

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

[1023—Allotments—(Cigar-Filler (Type 41) Tobacco—59)—1]

PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

COMMUNITY CROPLAND FACTOR

This amendment is based on the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, applicable to tobacco (7 U. S. C. 1311-15), and amends the definition of "Community cropland factor" contained in § 723.872 (23 F. R. 5327). The year "1958" appearing in such section is changed to "1959."

Section 723.872 (e) is amended to read:

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1959 into the total of the 1959 tobacco acreage allotment for such old farms: *Provided*, That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(Sec. 375, 52 Stat. 66 as amended; 7 U. S. C. 1375. Interprets or applies sec. 313, 52 Stat. 47, as amended, 7 U. S. C. 1313)

Done at Washington, D. C., this 25th day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

MARVIN L. McLAIN,
Acting Secretary.

[P. R. Doc. 58-5826; Filed, July 29, 1958; 8:55 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas
[Sugar Reg. 814.19, Amdt. 2]PART 814—ALLOTMENT OF SUGAR QUOTAS
DIRECT-CONSUMPTION PORTION OF MAINLAND QUOTA FOR PUERTO RICO, 1958

Basis and purpose. This amendment is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act") for the purpose of further amending Sugar Regulation 814.19 (23 F. R. 136, 2853), which established allotments of the direct-consumption portion of the 1958 mainland quota for Puerto Rico.

This amendment of S. R. 814.19 is necessary to: (1) Give effect to the amendment of Sugar Regulation 811 (23 F. R. 4597) which established the direct-consumption portion of the 1958 mainland quota for Puerto Rico of 133,064 short tons, raw value, a quantity greater than the 130,016 short tons, raw value, previously allotted and to allot the larger quantity in accordance with findings heretofore made and (2) prorate to other allottees, to the extent they are able to utilize additional allotments, allotment deficits declared by two allottees totalling 1,721 short tons, raw value. Prior to issuance of Sugar Regulation 814.19, Amendment 1, the South Porto Rico Sugar Company released its entire 1958 allotment. Accordingly the quota was allotted by Sugar Regulation 814.19, Amendment 1, to the other allottees.

Findings heretofore made by the Secretary in the course of this proceeding (23 F. R. 136) provide that this order shall be revised without further notice or hearing for the purposes indicated above and such findings set forth the procedure for the revision of allotments.

Accordingly, allotments are herein established on the basis of and consistent with such findings.

Effective date. It is hereby determined and found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and, consequently, the amendment made herein shall become effective upon publication in the FEDERAL REGISTER.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that paragraph (a) of § 814.19 be further amended to read as follows:

§ 814.19. *Allotment of the direct-consumption portion of 1958 sugar quota for Puerto Rico—(a) Allotments.* The direct-consumption portion of the 1958 sugar quota for Puerto Rico, amounting to 133,064 short tons, raw value, is hereby allotted as follows:

Allottee:	Direct-consumption allotment (short tons, raw value)
Central Aguirre Sugar Co., a trust	6,434
Central Roig Refining Co.	20,937
Central San Francisco	1,473
Porto Rican American Sugar Rfy., Inc.	84,020
Western Sugar Refining Co.	20,000
All other persons (raw sugar only)	200
Total	133,064

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U. S. C. 1115, 1119)

Done at Washington, D. C., this 24th day of July 1958.

[SEAL]

LAWRENCE MYERS,
Director, Sugar Division,
Commodity Stabilization Service.

[P. R. Doc. 58-5825; Filed, July 29, 1958; 8:55 a. m.]

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

[Nectarine Order 7, Amdt. 1]

PART 937—NECTARINES GROWN IN CALIFORNIA

LIMITATION OF SHIPMENTS

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F. R. 4616) regulating the handling of nectarines grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Nectarine Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of nectarines of the varieties hereinafter specified, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of the specified varieties of nectarines.

(b) It is, therefore, ordered that the provisions of paragraph (b) (1) of § 937.307 (Nectarine Order 7; 23 F. R. 5190) hereby are amended by deleting the semicolon (;) appearing after the phrase "U. S. No. 1" and inserting, in lieu thereof, the following: "Provided, That nectarines of the Freedom variety, which otherwise grade at least U. S. No. 1, may be handled when the surface of the individual fruit of such variety is affected by russetting which is not checked or cracked; and nectarines of the Golden Grand, Marigold, Le Grand, Grandeur, Late Le Grand, and Gold King varieties, which otherwise grade at least U. S. No. 1, may be handled when not to exceed 25 percent of the surface of the individual fruit of the respective variety is affected by russetting which is not checked or cracked."

(c) The provisions of this amendment shall become effective at 12:01 a. m., P. s. t., July 26, 1958.

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

Dated: July 25, 1958.

[SEAL]

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

[P. R. Doc. 58-5818; Filed, July 29, 1958; 8:53 a. m.]

[Nectarine Order 8, Amdt. 1]

PART 937—NECTARINES GROWN IN CALIFORNIA

LIMITATION OF SHIPMENTS

(a) Findings. (1) Pursuant to the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F. R. 4616) regulating the handling of nectarines grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Nectarine Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of nectarines of the varieties hereinafter specified, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of the specified varieties of nectarines.

(b) It is, therefore, ordered that the provisions of paragraph (b) (1) of § 937.308 (Nectarine Order 8; 23 F. R. 5191) hereby are amended by inserting, after the phrase "U. S. No. 1," the following: "Provided, That any such variety of nectarines which otherwise grade at least U. S. No. 1 may be handled when not to exceed 25 percent of the surface of the individual fruit of the respective variety is affected by russetting which is not checked or cracked."

(c) The provisions of this amendment shall become effective at 12:01 a. m., P. s. t., July 26, 1958.

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

Dated: July 25, 1958.

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

[F. R. Doc. 58-5819; Filed, July 29, 1958;
8:53 a. m.]

PART 941—MILK IN CHICAGO, ILLINOIS, MARKETING AREA

ORDER AMENDING ORDER

§ 941.0 Findings and determinations. The findings and determinations herein after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments there-

to; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. 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), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago, Illinois, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than August 1, 1958.

The provisions of the said order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued July 15, 1958. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1958, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) Determinations. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the

Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. The order is hereby amended as follows:

1. Except in subparagraph (4) thereof, delete "50 percent" in each instance wherein it appears in § 941.66 (b) and substitute therefor "30 percent."

2. Delete "50 percent" in each instance wherein it appears in § 941.66 (b) (4) and substitute therefor "40 percent."

3. Delete "September, October, and November" in each instance wherein it appears in § 941.66 (b) and substitute therefor "August, September, and October."

4. In § 941.66 (b) (4) delete "December of the same year and continuing through August" and substitute therefor "November of the same year and continuing through July".

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

Issued at Washington, D. C., this 25th day of July 1958, to be effective on and after August 1, 1958.

[SEAL] MARVIN L. McLAIN,
Acting Secretary.

[F. R. Doc. 58-5821; Filed, July 29, 1958;
8:54 a. m.]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

ORDER, AS AMENDED, REGULATING HANDLING

Sec. 957.0 Findings and determinations.

DEFINITIONS

957.1 Secretary.
957.2 Act.
957.3 Person.
957.4 Production area.
957.5 Potatoes.
957.6 Varieties.
957.7 Certified seed potatoes.
957.8 Handler.
957.9 Ship or handle.
957.10 Producer.
957.11 Committee.
957.12 Fiscal period.
957.13 Grade and size.
957.14 Export.
957.15 Pack.
957.16 Container.
957.17 District.

ADMINISTRATIVE COMMITTEE

957.20 Establishment and membership.
957.21 Term of office.
957.22 Districts.
957.23 Redistricting.
957.24 Selection.
957.25 Nominations.
957.26 Failure to nominate.
957.27 Acceptance.
957.28 Vacancies.
957.29 Alternate members.
957.30 Procedure.
957.31 Expenses and compensation.
957.32 Powers.
957.33 Duties.

BUDGET, EXPENSES AND ASSESSMENTS

957.40	Expenses.
957.41	Budget.
957.42	Assessments.
957.43	Accounting.
957.44	Refunds.

REGULATIONS

957.50	Marketing policy.
957.51	Recommendation for regulations.
957.52	Issuance of regulations.
957.53	Shipments for specified purposes.
957.54	Minimum quantity exemption.
957.55	Notification of regulation.
957.56	Safeguards.

INSPECTION AND CERTIFICATION

957.65	Inspection and certification.
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COMPLIANCE

957.70	Compliance.
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MISCELLANEOUS PROVISIONS

957.80	Reports.
957.81	Right of the Secretary.
957.82	Effective time.
957.83	Termination.
957.84	Proceedings after termination.
957.85	Effect of termination or amendments.
957.86	Duration of immunities.
957.87	Agents.
957.88	Derogation.
957.89	Personal liability.
957.90	Separability.
957.91	Amendments.

AUTHORITY: §§ 957.0 to 957.91 Issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 957.0 *Findings and determinations.* Findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with 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 in Pocatello, Idaho, on November 5-6, 1957, upon proposed amendments to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), regulating the handling of Irish potatoes grown in Malheur County, Oregon, and the counties of Adams, Valley, Lemhi, Clark, and Fremont in the State of Idaho, and all of the counties in Idaho lying south of the aforesaid counties in Idaho. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to 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 maturity, 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 order, as amended, and as hereby further amended, regulates the handling of 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 activities specified in, a marketing agreement upon which a hearing has been held;

(3) The said order, as amended, and as hereby further amended, is limited in 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 orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said order, as amended, and as hereby further amended, 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 potatoes grown in the production area; and

(5) All handling of potatoes grown in the production area and in the current of commerce between the production area and any point outside thereof, is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping potatoes covered by this order, as amended) of more than 50 percent of the volume of potatoes covered by this order, as amended, have signed a marketing agreement, as amended, regulating the handling of Irish potatoes grown in the production area, and

(2) The issuance of this order, as amended, is approved or favored (i) by at least two-thirds of the producers of Irish potatoes who participated in a referendum held during the period April 28 through May 5, 1958, and who, during the determined representative period (July 1, 1957 through April 30, 1958), have been engaged within the production area in the production of potatoes for

market, and (ii) by producers who participated in the aforesaid referendum who, during the aforesaid representative period, produced for market at least two-thirds of the volume of such potatoes produced for market within the production area specified herein by all producers who participated in the said referendum.

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

DEFINITIONS

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

§ 957.2 *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 (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

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

§ 957.4 *Production area.* "Production area" means all territory included within Malheur County, Oregon, and the counties of Adams, Valley, Lemhi, Clark, and Fremont in the State of Idaho, and all of the counties in Idaho lying south thereof.

§ 957.5 *Potatoes.* "Potatoes" means all varieties of Irish potatoes grown within the aforesaid production area.

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

§ 957.7 *Certified seed potatoes.* "Certified seed potatoes" means and includes all potatoes officially certified and tagged, marked, or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the State in which the potatoes are grown, or other seed certification agencies which the Secretary may designate.

§ 957.8 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

§ 957.9 *Ship or handle.* "Ship" or "handle" means to pack, sell, transport, or in any other way to place potatoes in the current of interstate or foreign commerce between the production area and any point outside thereof, or so as directly to burden, obstruct, or affect any such commerce.

§ 957.10 *Producer*. "Producer" means any person engaged in the production of potatoes for market.

§ 957.11 *Committee*. "Committee" means the administrative committee, called the Idaho-Eastern Oregon Potato Committee, established pursuant to § 957.20.

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

§ 957.13 *Grade and size*. "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) The United States Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1540 to 51.1559 of this title), or amendments thereto, or modifications thereof, or variations based thereon;

(b) The United States Consumer Standards for Potatoes as issued by the United States Department of Agriculture (§§ 51.1575 to 51.1587 of this title), or amendments thereto, or modifications thereof, or variations based thereon; or

(c) Standards for potatoes issued by the State from which the potatoes are shipped, or amendments thereto, or modifications thereof, or variations based thereon.

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

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

§ 957.16 *Container*. "Container" means a sack, box, bag, crate, hamper, basket, carton, package, barrel, or any other type of receptacle used in the packaging, transportation, sale, or other handling of potatoes.

§ 957.17 *District*. "District" means each of the geographical divisions of the production area established pursuant to § 957.22 or as reestablished pursuant to § 957.23.

ADMINISTRATIVE COMMITTEE

§ 957.20 *Establishment and membership*. (a) The Idaho-Eastern Oregon Potato Committee consisting of 8 members, of whom 5 shall be producers and 3 shall be 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) Each person selected as a committee member or alternate to represent producers shall be an individual who is a producer in the district for which selected or an officer or employee of a producer in such district, and shall be a resident thereof. A producer who handles potatoes other than of his own production shall qualify as a producer under this section, and §§ 957.24, 957.25, 957.27,

and 957.29, only if the potatoes of his own production constituted 51 percent or more of the total quantity of potatoes handled by him during the portion of the then current season preceding his nomination.

(c) Each person selected as a committee member or alternate to represent handlers shall be an individual who is a handler or an officer or employee of a handler, and shall be a resident of the production area.

§ 957.21 *Term of office*. The term of office of committee members and alternates shall be for one year beginning on the first day of June and continuing until the following May 31. 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 and continuing until the end thereof, and until their successors are selected and have qualified.

§ 957.22 *Districts*. For the purpose of selecting committee members, the following districts of the production area are hereby established:

(a) *District No. 1*. The counties of Oneida, Power, Bingham, Butte, Clark, and all counties lying east thereof in Idaho;

(b) *District No. 2*. Malheur County, Oregon, and counties of Owyhee, Elmore, Boise, Valley, and all counties lying west thereof in Idaho;

(c) *District No. 3*. The remaining designated counties in Idaho included in the production area, and not included in District 1 or District 2.

§ 957.23 *Redistricting*. The Secretary, upon recommendation of the committee, may reestablish districts within the production area and may reapportion committee membership among the various districts. In recommending any such changes in districts or representation, 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 potato production in its relation to existing districts; (c) the equitable relationship between the committee membership and districts; (d) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (e) other relevant factors.

§ 957.24 *Selection*. Members and alternates of the committee shall be selected by the Secretary on the following basis (unless otherwise apportioned pursuant to § 957.23) from nominations made pursuant to § 957.25 or from other eligible persons: (a) two producer members and one handler member, with their respective alternates, from District No. 1; (b) one producer member and one handler member, with their respective alternates, from District No. 2; and (c) two producer members and one handler member, with their respective alternates, from District No. 3.

§ 957.25 *Nominations*. For the selection by the Secretary of the members

and alternates of the Idaho-Eastern Oregon Potato Committee, nominations may be made in the manner indicated in this section. Nominations for members and alternates may be submitted by producers or handlers, as the case may be, or groups of either thereof, on an elective basis or otherwise.

(a) In order to provide nominations for committee members and alternates, the committee shall hold, or cause to be held, prior to April 1 of each year, one or more meetings of producers and of handlers in each district to nominate committee members and alternates.

(b) In arranging for such meetings, the committee may, if it deems it to be desirable, utilize the services and facilities of existing organizations and agencies, and may combine its meetings with others.

(c) 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.

(d) Only producers may participate in designating nominees for producer members and alternates, and only handlers may participate in designating nominees for handler members and alternates.

(e) Nominations shall be supplied to the Secretary, in such manner and form as he may prescribe, not later than May 1 of each year.

(f) Each person who is both a handler and a producer may vote either as a handler or as a producer and may elect the group in which he will vote.

(g) Regardless of the number of districts in which a person produces or handles potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates. In the event a person is engaged in producing or handling potatoes in more than one district, such person shall elect the district within which he may participate, as aforesaid, in designating nominees. 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 district in which he elects to vote.

§ 957.26 *Failure to nominate*. If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 957.25, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation prescribed in this subpart.

§ 957.27 *Acceptance*. Any person selected by the Secretary as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 957.28 *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the

manner specified in § 957.25 or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § 957.24.

§ 957.29 *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 and may perform such other duties as may be assigned or requested by the committee. In the event of the death, removal, resignation, or disqualification of a member his alternate shall act for him until a successor to such member is selected and has qualified. The committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 957.30 *Procedure.* (a) Five of the members of the committee shall be necessary to constitute a quorum; and at least five concurring votes shall be required to pass any motion or approve any committee action. At any assembled meeting, all votes shall be cast in person.

(b) The committee may provide for meetings by telephone, telegraph or other means of communication and any vote cast at such meeting shall be confirmed promptly in writing.

§ 957.31 *Expenses and compensation.* Committee members and their respective alternates shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this subpart, and may receive compensation at a rate, to be determined by the committee and approved by the Secretary, not to exceed \$10.00 for each day, or portion thereof, spent in attending to committee business.

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

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 957.33 *Duties.* It shall be the duty of the Committee:

(a) To act as intermediary between the Secretary and any producer or handler;

(b) 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;

(c) 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;

(d) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary;

(e) To furnish to the Secretary such available information as he may request;

(f) 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;

(g) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(h) At the beginning of each fiscal period to submit to the Secretary a budget of its expenses for such fiscal period, together with a report thereon;

(i) 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 subpart; 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

(j) To consult, cooperate and exchange information when deemed desirable by the committee with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this subpart.

BUDGET, EXPENSES AND ASSESSMENTS

§ 957.40 *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 such 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 handled by him as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during the same period.

§ 957.41 *Budget.* At 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 expenses as authorized in

§ 957.40. The committee shall present such budget promptly to the Secretary with an accompanying report showing the basis for its calculations.

§ 957.42 *Assessments.* (a) The funds to cover the committee's expenses pursuant to § 957.40 shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who ships potatoes as the first handler thereof shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of such expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary, but not to exceed \$1.00 per carload, or equivalent quantity. Such rates may be established upon the basis of the committee's recommendations or other available information.

(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 recommendation, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes assessable under this part and handled by the first handler thereof during such fiscal period.

§ 957.43 *Accounting.* (a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, and records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee, he shall account for all receipts, disbursements, funds, and property (including but not limited to books and other records) pertaining to the committee's activities for which he is responsible, and deliver all such property and funds in his hands to such successor, agency, or person as may be designated by the Secretary, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, agency, or designated person, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person or persons to act as trustee or trustees for holding records, funds, or any other committee property during periods of suspension of this part, 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.

§ 957.44 *Refunds.* At the end of each fiscal period funds arising from the excess of assessments collected over expenses shall be accounted for as follows:

(a) Except as provided in paragraph (b) of this section, each handler entitled to a proportionate refund of such excess assessments at the end of a fiscal period shall be credited with such refund against the operations of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him; or

(b) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Such reserve may be established at an amount not to exceed approximately one-half of an average fiscal period's operational expenses; and such reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal period when there is a crop failure, or during any period of suspension of any or all of the provisions of this part.

(c) Upon termination of this part, 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.

REGULATIONS

§ 957.50 Marketing policy.—(a) *Preparation.* Prior to or at the same time as recommendations are made pursuant to § 957.51, the committee shall consider, and prepare, a proposed policy for the marketing of potatoes. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

- (1) Market prices for potatoes, including prices by grade, size, and quality, in different packs, and in different containers;
- (2) Supplies of potatoes by grade, size, and quality in the production area and in other potato producing areas;
- (3) The trend and level of consumer income;
- (4) Establishing and maintaining orderly marketing conditions for potatoes;
- (5) Orderly marketing of potatoes as will be in the public interest; and
- (6) Other relevant factors.

(b) *Reports.* (1) The committee shall promptly submit a report to the Secretary setting forth the aforesaid marketing policy and shall notify producers and handlers of the contents of such report.

(2) In the event it becomes advisable to deviate from such marketing policy because of changed supply and demand conditions, the committee shall formulate a new or revised marketing policy in the manner set forth in this section. The

committee shall promptly submit a report thereon to the Secretary and notify producers and handlers of the contents of such report on the new or revised marketing policy.

§ 957.51 Recommendation for regulations. Whenever the committee deems it advisable that the handling of potatoes be regulated pursuant to § 957.52, or § 957.53, or both, it shall recommend to the Secretary grade, size, quality, or maturity regulation, or any combination thereof, or amendment thereto, or modification, suspension, or termination thereof, whenever it finds that such regulation, as provided in such sections, will tend to effectuate the declared policy of the act.

§ 957.52 Issuance of regulations. (a) The Secretary shall limit the handling of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation will tend to effectuate the declared policy of the act. Such limitation may:

(1) Regulate in any or all portions of the production area, the handling of particular grades, sizes, qualities, or maturities, or any combination thereof, of any or all varieties of potatoes during any period; or

(2) Regulate the shipment of particular grades, sizes, qualities, or maturities of potatoes differently, for different varieties, for different portions of the production area, for different packs, for different containers, or for any combination of the foregoing, during any period; or

(3) Fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or both; or

(4) Regulate the shipment of potatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

§ 957.53 Shipments for specified purposes. Whenever the Secretary finds, upon the basis of the recommendations and information submitted by the committee, or from other available information, that it will tend to effectuate the declared policy of the act, he shall modify, suspend, or terminate regulations under or pursuant to § 957.42, § 957.52, or § 957.65, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes:

- (a) Export;
- (b) Relief or charity;
- (c) Livestock feed;
- (d) Certified seed potatoes;
- (e) Processing into specified products, and
- (f) Such other purposes which may be specified by the Committee, with the approval of the Secretary.

§ 957.54 Minimum quantity exemption. The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued or in effect pursuant to §§ 957.40 to 957.65, inclusive, or any combination thereof.

§ 957.55 Notification of regulation. The Secretary shall notify the committee of any regulations issued or of any modifications, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 957.56 Safeguards. (a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 957.53 from entering channels of trade and other outlets for other than the specific purpose authorized therefor.

(b) Safeguards, provided by this section, may include, but shall not be limited to, requirements that handlers:

(1) Shall obtain the inspection required by § 957.65 or pay the assessment provided by § 957.42, or both, in connection with the potato shipments effected in accordance with § 957.53; and

(2) Shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under provisions of § 957.53.

(c) The committee, with the approval of the Secretary, shall prescribe rules governing the issuance and the contents of Certificates of Privilege.

(d) The committee may rescind, or deny to any handler, Certificates of Privilege if proof satisfactory to the committee is obtained that potatoes shipped by him for the purposes stated in § 957.53 were handled contrary to the provisions of this section.

(e) 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 for such certificates, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested by the Secretary.

INSPECTION AND CERTIFICATION

§ 957.65 Inspection and certification. (a) During any period in which regulations are in effect pursuant to §§ 957.42, 957.52, or § 957.53, or any combination thereof, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal-State Inspection Service, and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to recommendations by the committee and approved by the Secretary.

(2) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates covering such potatoes insofar as the requirements of this section are concerned. During any period in which shipments of potatoes are regulated, as aforesaid, no handler shall handle potatoes after they have been regraded, resorted, repacked, or in any way further prepared for market, unless such potatoes are inspected and covered by a valid inspection certificate as required in paragraph (a) of this section.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate shall be valid may be established by the com-

mittee with the approval of the Secretary; and such length of time may be different for shipments for different purposes.

(d) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available promptly to the committee by the inspection service.

COMPLIANCE

§ 957.70 Compliance. Except as provided in this part, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall ship potatoes except in conformity to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 957.80 Reports. Upon the request of the committee, with approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties under this subpart. The Secretary shall have the right to modify, change, or rescind any requests for reports pursuant to this section.

§ 957.81 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.

§ 957.82 Effective time. The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart, and shall continue in force until terminated in one of the ways specified in this subpart.

§ 957.83 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 operation 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 such termination is favored by a majority of producers who, during the preceding fiscal period, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such period, produced for market more than fifty percent of the volume of

such potatoes produced for market; but such termination shall be effective only if announced on or before April 30 of the then current fiscal period.

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

§ 957.84 Proceedings after termination. (a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the 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 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 thereto.

(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.

§ 957.85 Effect of termination or amendments. (a) 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 (1) 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 (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

(b) The persons who are committee members and alternates on the effective date of this subpart shall continue in office until their successors have been selected and have qualified. All rules and regulations issued or approved by the Secretary pursuant to this part (Order No. 57, as amended) and not in conflict herewith, which are in effect immediately prior to the date of this amendment shall continue in effect under this subpart as originally issued, or subsequently modified, until such rules and regulations are changed, modified, or suspended in accordance with this subpart.

§ 957.86 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.

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

§ 957.88 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.

§ 957.89 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, or employee, except for acts of dishonesty.

§ 957.90 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.

§ 957.91 Amendments. Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

Issued at Washington, D. C., this 25th day of July 1958, to become effective September 1, 1958.

[SEAL] MARVIN L. McLAIN,
Acting Secretary.

[F. R. Doc. 58-5820; Filed, July 29, 1958; 8:53 a. m.]

PART 966—MILK IN NORTHERN LOUISIANA MARKETING AREA

ORDER AMENDING ORDER

Sec.	
966.0	Findings and determinations.
	DEFINITIONS
966.1	Act.
966.2	Secretary.
966.3	Department.
966.4	Person.
966.5	Cooperative association.
966.6	Northern Louisiana, marketing area.
966.7	Distributing plant.
966.8	Supply plant.
966.9	Fluid milk plant.
966.10	Approved plant.
966.11	Nonfluid milk plant.
966.12	Producer.
966.13	Producer milk.
966.13a	Associated producer.