

shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Committee, 412 Northeast 16th Avenue, Gainesville, Florida, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC Committee is not acceptable, either party may file an appeal with the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington 25, D.C. All such appeals shall be filed within 15 days after receipt of the recommended settlement from the respective committee, otherwise such recommended settlements will be applied in making payments under the act. If a claim is appealed to the Director of the Sugar Division, his decision shall be binding on all parties insofar as payments under the act are concerned.

(f) *Effective period.* The provisions of this section supersede Sugar Determination 863.12 (24 F.R. 5364) and shall become effective on the date of publication in the FEDERAL REGISTER and shall remain in effect until amended, superseded, or terminated.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of sugarcane in Florida as one of the conditions with which producers must comply to be eligible for payments under the act.

(b) *Requirements of the act and standards employed.* Section 301(c) (1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

(c) *Wage determination.* This determination differs from the prior determination in that the minimum time wage rates for all classes of workers are increased 10 cents per hour. This results in rates for tractor drivers and operators of mechanical harvesting or loading equipment of \$1.00 per hour and for all other workers 90 cents per hour.

A public hearing was held in Clewiston, Florida, on May 10, 1961, at which inter-

ested persons were afforded the opportunity to present testimony as to whether the minimum wage rates, which became effective July 2, 1959, should be continued under existing circumstances, or whether the determination should be amended. Representatives of producers recommended that the minimum wage rates be continued. The representative of one producer also recommended that a producer be deemed to be in compliance with the minimum hourly guarantee requirements, if 90 percent of the workers employed on a piecework basis for any kind of work earn not less than the minimum hourly rate. The witness testified that during the last few years the margin between the determination hourly rate and average piecework earnings of workers had fallen from 29.4 to 18.1 cents per hour, and that there was some evidence of decreased worker efficiency as a result of this decline in the ratio of time versus incentive basis earnings; that about 85 percent of the fieldworkers employed by his company were brought in from foreign areas; that most workers are employed on a piecework basis for cutting sugarcane; and that the minimum rates for sugarcane work are above the prevailing rates for other crops in the area. The witness pointed out that fringe benefits (insurance and retirement plan) are made available to sugarcane workers at a cost to the company of about 13 percent of each worker's hourly earnings. Another producer representative stated that all sugarcane cutters employed by his company were from the British West Indies and the hourly earnings averaged 92.4 cents per hour for an average work day of 5½ hours which is shorter than has been customary; that operators of mechanical equipment were mostly domestic workers; that tractor drivers earned from 90 cents to \$1.28 per hour while cane loader operators averaged about \$1.57 per hour including bonus pay; and that the minimum hourly wage has reached a level that causes the worker to lose interest in the piecework basis. An independent producer testified that unless piecework rates are increased proportionately to hourly rates, workers will be reluctant to work on a piecework basis or to do much work during the day since he is protected by the minimum hourly guarantee; that during recent years wage rates have increased greatly in comparison to the price of sugar; and that he paid tractor drivers 90 cents per hour and cane loaders 90 cents per hour plus a bonus. Another independent producer stated that production costs have continually increased while the price of sugar has been stable; that he employed tractor drivers and operators of cane loaders at 90 cents to \$1.00 per hour; and that cane cutters employed on a piecework (row) basis worked about 6 hours per day while cultivation workers on a time basis of 80 cents per hour worked 10 hours per day. No testimony was presented on behalf of sugarcane fieldworkers.

Consideration has been given to the recommendations made at the hearing, to the returns, costs, and profits of producing sugarcane obtained by field sur-

vvey in a prior year and recast to reflect prospective conditions for the 1961 crop, and to other pertinent factors. Analysis of these data indicate that the wage rates established in this determination are within the producers' ability to pay.

The cutting of sugarcane is on a piecework basis and the earnings of most of these workers averaged from about 92 cents to 98 cents per hour during the 1960-61 season as compared to the minimum rate of 80 cents per hour. The hourly rates for tractor drivers ranged from 90 cents to \$1.28 per hour and the earnings, including bonus payment, of cane loader operators ranged up to \$1.85 per hour. Cultivation workers were employed on a time basis at the minimum hourly rate of 80 cents or on a task basis where the rate of pay was directly related to such minimum hourly rate. Continued favorable yields of sugarcane with high sugar content, improvements in production practices and in labor productivity have maintained a favorable economic position for producers for a number of years.

Producer representatives recommended that producers be deemed to be in compliance if 90 percent of the workers employed on a piecework basis earned not less than the minimum hourly rate specified for the applicable operation. In view of the requirements of the Act that all persons be paid in full at rates not less than those determined to be fair and reasonable, this recommendation has not been adopted.

This determination will continue in effect until it is amended, superseded, or terminated. However, the Department will reappraise the economic position of producers and workers as additional information becomes available and will hold public hearings at such times as conditions may warrant. A public hearing may also be held upon request of producers or of workers or their representatives, accompanied by a statement of justification or need for such a hearing. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies sec. 302, Stat. 929, as amended; 7 U.S.C. Sup. 1132)

Signed at Washington, D.C., on August 16, 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-8013; Filed, Aug. 21, 1961; 8:46 a.m.]

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

PART 900—GENERAL REGULATIONS

Miscellaneous Amendments

By virtue of the authority vested in the Secretary of Agriculture by Public Act No. 10, 73d Congress, 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 by Executive Order No. 10199, December 22, 1950 (15 F.R. 9217), the following amendments to the general regulations issued thereunder (7 CFR 900.1 et seq.), as amended, are hereby promulgated:

1. The term "Deputy Administrator" is deleted wherever it appears in these regulations and the term "Administrator" is substituted in lieu thereof.

2. Sections 900.2(e), 900.51(e), and 900.200(e) are each amended to read as follows:

(e) The term "Administrator" means:

(1) As to programs relating to milk and tobacco and their products, the Administrator of the Agricultural Stabilization and Conservation Service and as to programs and proceedings relating to fruits, vegetables, hops and tree nuts, the Director of the Fruit and Vegetable Division of the Agricultural Marketing Service (with power to redelegate) or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in their stead.

(2) As to programs and proceedings relating to all other commodities and their products, the powers, duties and responsibilities specified in this subpart for the Administrator are reserved to the Secretary, and the term "Administrator" shall mean the Secretary with respect thereto.

3. Sections 900.2(f), 900.51(f), and 900.200(f) are each hereby revoked.

4. Sections 900.101 (e), (f), and (g) are amended to read as follows:

(e) The term "Administrator" means the Administrator of the Agricultural Stabilization and Conservation Service (with power to redelegate) 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.

(f) The term "Service" means the Agricultural Stabilization and Conservation Service of the Department.

(g) The term "Division" means the Milk Marketing Orders Division of the Service.

Done at Washington, D.C., this 16th day of August 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-8035; Filed, Aug. 21, 1961; 8:48 a.m.]

[Lemon Reg. 912, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), 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. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended

marketing agreement and order, and upon other available information, it is hereby found that the limitation of 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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.1019 (Lemon Regulation 912, 26 F.R. 7327) are hereby amended to read as follows:

(ii) District 2: 395,250 cartons.

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

Dated: August 17, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 61-8010; Filed, Aug. 21, 1961; 8:46 a.m.]

PART 1026—CENTRAL CALIFORNIA GRAPES FOR CRUSHING

Order Regulating Handling

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AUTHORITY: §§ 1026.0 to 1026.85 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1026.0 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 applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was held at Fresno, California, May 22-24, 27, and 29-31, 1961, on a proposed marketing agreement and order regulating the handling of Central California grapes for crushing. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

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

(2) The said order regulates the handling of grapes for crushing produced in the production area in the same manner as, and is applicable only to the persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional pro-

duction 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) There are no differences in the production and marketing of grapes for crushing in the area covered by the order which require different terms applicable to different parts of such area; and

(5) All handling of grapes for crushing produced in the area and of the products thereof is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found on the basis hereinafter indicated that good cause exists for making the provisions of this order effective not later than the time hereinafter specified rather than postponing the effective time until 30 days after publication (5 U.S.C. 1001-1011). Since the 1961-62 marketing season for grapes for crushing has already begun, it will be necessary, upon the order becoming effective, for the Grape Crush Advisory Board, the Grape Crush Administrative Committee, and the Secretary to act promptly on organizational, marketing policy, and regulatory matters. However, action on these matters cannot be taken until the order becomes effective. Only a relatively small quantity of grapes for crushing from the 1961 production has been received and used to date by handlers but such handling will increase greatly in the near future. If a relatively large quantity of the 1961 production were received and used by handlers before order regulations could be applied to the handling thereof, effective control of any surplus of grapes for crushing that may be determined for the initial crop year of this regulatory program would not necessarily be assured. This would not be in the public interest as there would be impairment of opportunity to derive, in such year, orderly marketing benefits from volume regulation applied to grapes for crushing in both fresh and dried form. Hence, to afford opportunity for deriving beneficial results in the initial crop year, the order must become effective at the time hereinafter specified to permit taking the aforesaid actions promptly and to be applicable to the handling of substantially all of the grapes for crushing during such year. The public hearing in connection with the order was held at Fresno, California, May 22-24, 27, and 29-31, 1961, the recommended decision was published in the FEDERAL REGISTER on July 7, 1961 (26 F.R. 6085), and the final decision on August 3, 1961 (26 F.R. 6984). Copies of this order have been made available to all known interested persons. Thus the provisions of this order are well known to handlers of grapes for crushing. Accordingly, handlers need no further advance notice to prepare for compliance with the provisions of this order.

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

(1) A marketing agreement regulating the handling of Central California

grapes for crushing, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping grapes for crushing or products thereof covered by this order) who, during the period July 1, 1960, through June 30, 1961, handled not less than 50 percent of the volume of grapes for crushing covered by this order; and

(2) The issuance of this order is favored or approved by at least two-thirds of the producers, as such term is defined in the order, who participated in a referendum on the question of its approval and who, during the period July 1, 1960, through June 30, 1961 (which has been determined to be a representative period), have been engaged, within the production area, in the production for market (production and use or sale) of grapes for crushing.

It is, therefore, ordered, That, on and after the effective time hereof the handling of Central California grapes for crushing 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

§ 1026.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture who is, or who may hereafter, be authorized to act in his stead.

§ 1026.2 Act.

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

§ 1026.3 Person.

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

§ 1026.4 Area.

"Area" means the nine central California Valley counties of Sacramento, San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern.

§ 1026.5 Grapes for crushing.

"Grapes for crushing" means any grapes produced within the area, whether fresh or dried, which by crushing or other acts are prepared for fermentation or the production of grape juice or concentrate.

§ 1026.6 Producer.

"Producer" means any person engaged within the area, in a proprietary capacity, in the production and use or sale, whether directly or indirectly, of grapes for crushing.

§ 1026.7 Handle.

"Handle" means to receive and crush, ferment, or convert to juice or concentrate any grapes for crushing or to store, treat, sell, transport or ship into channels of trade, except as a common or

contract carrier, the products of such grapes.

§ 1026.8 Handler.

"Handler" means any person within the State of California who handles and includes, but is not limited to, any vintner, distiller or processor.

§ 1026.9 Wine.

"Wine" means the product obtained by the fermentation of grape juice or must, with or without addition or abstraction, and if it contains 14 percent or less of alcohol by volume shall be known as "table wine" whereas if it contains in excess of 14 percent of alcohol by volume but not in excess of 24 percent, shall be known as "dessert wine."

§ 1026.10 High proof.

"High proof" means wine spirits, produced from grapes for crushing in a distilled spirits plant, and not held for use as commercial brandy.

§ 1026.11 Concentrate.

"Concentrate" means unfermented grape juice from which the major portion of the original water content has been removed.

§ 1026.12 Brandy.

"Brandy" means wine spirits, produced from grapes for crushing in a distilled spirits plant, which have not been distilled to more than 170 degree proof.

§ 1026.13 Setaside equivalent.

"Setaside equivalent" means the alcohol equivalent, in proof gallons, of the sugar content of grapes for crushing received by handlers and required to be set aside pursuant to a volume regulation.

§ 1026.14 Proof gallon.

"Proof gallon" means a standard liquid gallon of 231 cubic inches containing 50 percent alcohol by volume at 60 degrees Fahrenheit and as such is 100 degrees proof.

§ 1026.15 Crop year.

"Crop year" means the 12-month period beginning with July 1 of any year and ending with June 30 of the following year.

§ 1026.16 Cooperative association.

"Cooperative association" means a cooperative association of grape producers, or wholly owned subsidiary, organized under the non-profit cooperative association laws of the State of California for the purpose of directly or indirectly crushing grapes or disposing of the products thereof.

§ 1026.17 Part and subpart.

"Part" means the order regulating the handling of Central California grapes for crushing and all rules, regulations and supplementary orders issued thereunder. The order itself shall be a "subpart" of such part.

GRAPE CRUSH ADVISORY BOARD

§ 1026.20 Establishment and membership.

A Grape Crush Advisory Board (hereinafter referred to as board) is hereby estab-

lished consisting of 78 members of whom 48 shall represent producers and 30 shall represent handlers. The producer members shall be selected in accordance with the following numbers and districts: (a) Seven members for District No. 1: all of Sacramento County and that portion of San Joaquin County north of State Highway number 4; (b) two members for District No. 2: that portion of San Joaquin County south of State Highway number 4; (c) four members for District No. 3: Stanislaus County; (d) three members for District No. 4: Merced County; (e) three members for District No. 5: Madera County; (f) sixteen members for District No. 6: Fresno County; (g) two members for District No. 7: Kings County; (h) five members for District No. 8: Tulare County; and (i) six members for District No. 9: Kern County. For the initial board, the handler members shall be selected on the basis of one member for each handler of the twenty-two largest tonnages crushed in the 1960-61 crop year and eight to represent the remaining tonnage crushed. The representation of the eight members shall be apportioned so that four members represent approximately one-half of the remaining tonnages and those handlers crushing the larger tonnages whereas the other four shall represent the balance but handlers of the lesser tonnages. Subsequent handler members shall be selected to represent tonnages crushed in the crop year of nomination. For each member there shall be an alternate member.

§ 1026.21 Changes in representation.

The Secretary, upon recommendation of the committee, may change the total number of either the producer or handler members on the board, may change the districts or the numbers representing individual districts or may alter the number of handlers representing any tonnage category. In making any such changes, consideration shall be given to such factors as changes in the total number of producers or handlers, the volumes crushed, similarity in interests, or geographical shifts in the numbers of producers, handlers, grape acreages, or the crushing of grapes.

§ 1026.22 Eligibility.

Each producer member of the board, or alternate member, shall be, at the time of his selection and during his term of office, a producer in the district for which selected or in an adjoining district and, except for producer members of cooperative associations, shall not be engaged in the handling of grapes for crushing either in a proprietary capacity or as a director, officer, or employee. Each handler member of the board, and his alternate, shall be, at the time of his selection, a handler in the group he represents or an officer or employee of such handler and shall throughout his term of office so continue to be a handler. However, if a producer fails to deliver grapes for crushing or a handler crushes outside his tonnage category, in any crop year, he may fulfill his term of office in the position for which originally selected.

§ 1026.23 Term of office.

Members and alternate members of the board shall serve for terms of three years ending on April 30, the initial term ending on April 30, 1964, but each such member and alternate shall serve until his successor is selected and has qualified.

§ 1026.24 Nomination.

Producers and handlers specified in § 1026.20, or as such may be changed pursuant to § 1026.21, other than handlers eligible to directly nominate a member and alternate, may nominate representatives at a nomination meeting or meetings held for each district or tonnage category. The committee shall give reasonable publicity to such nomination meetings. Only persons eligible to serve on the board shall be eligible to vote and each producer and each handler when voting at their respective meetings shall have but one vote. Voting at each meeting of producers shall be by secret ballot and at each meeting of handlers may be by secret ballot. The person receiving the majority of the votes cast for a position shall be the nominee, but in the event no person receives a majority there shall be a runoff vote between the two persons receiving the largest number of votes for each position. All nominations shall be certified by the board to the Secretary no later than April 5 immediately preceding the commencement of the term of office for the member or alternate member position for which a nomination is certified. For the purpose of obtaining the initial nominations, the Secretary shall perform the functions of the committee and the board.

§ 1026.25 Duties.

The duties of the board shall consist of selecting from among its members a chairman and other officers, the conducting of meetings for the purpose of making nominations for membership on the board and the certifying of such nominations to the Secretary, the making of nominations to the Secretary for member and alternate member positions on the committee, the making of recommendations to the committee with respect to marketing policy and the consideration of such other operational matters as it deems proper or as the committee may request.

GRAPE CRUSH ADMINISTRATIVE COMMITTEE

§ 1026.29 Establishment and membership.

A Grape Crush Administrative Committee (herein referred to as committee) is hereby established to administer the terms and provisions of this part. Such committee shall consist of 31 members of whom 18 shall represent producers, 12 shall represent handlers, and the 31st member shall be the chairman of the board and also the chairman of the committee. The producer representation shall be two members from each of the nine districts. The handler representation shall be one member for each of the handlers of the six largest tonnages crushed, four members for handlers of

all other tonnages of the twenty-two largest tonnages, and one member from each of the remaining board categories of handler representation. For each member there shall be an alternate member.

§ 1026.30 Changes in representation.

The Secretary, on recommendation of the committee, may change the number of members on the committee or the numbers to represent producers, handlers, districts or tonnage categories. In making any such changes consideration shall be given to the same factors as are set forth in § 1026.21.

§ 1026.31 Eligibility.

No person shall be selected or continue to serve as a producer or handler member or alternate member of the committee unless he is serving as a member or alternate member of the board representing the same district or tonnage category or is awaiting the selection and qualification of his successor.

§ 1026.32 Term of office.

Members and alternate members of the committee shall serve for terms of three years ending on May 31, the initial term ending on May 31, 1964, but each such member and alternate member shall continue to serve until his successor is selected and has qualified.

§ 1026.33 Nomination.

The producer and handler members of the board respectively, including alternate members acting as members, shall nominate from among the producer members and producer alternate members of the board, the required number of persons to serve as producer members and alternate members of the committee and from the handler members and handler alternate members of the board, the required number of persons to serve as handler members and alternates on the committee. All such nominations shall be made by producers and handlers acting for their respective districts or tonnage categories. Nominations for the committee shall be certified by the board to the Secretary within 30 days following the selection of board members by the Secretary. For the purposes of initial nominations the Secretary shall consider nominations made by nominees for board membership.

§ 1026.34 Powers.

The committee shall have the following powers:

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

§ 1026.35 Duties.

The committee shall have among others the following duties:

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

(b) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions and these shall be subject to examination by the Secretary at any time;

(c) To investigate and assemble data on the production, handling, and marketing of grapes for crushing and the products of such grapes;

(d) To submit to the Secretary such available information with respect to grapes and grapes for crushing and the products thereof as he may request and such other information as the committee may deem desirable and pertinent;

(e) To select from among its members officers other than the chairman and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(f) To appoint or employ such other persons as it may deem necessary and to determine the salaries and define the duties of each such person;

(g) To cause the books of the committee to be audited by a certified public accountant at least once each crop year and at such other times as the committee may deem necessary or as the Secretary may request, to submit two copies of each such audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the offices of the committee by producers and handlers;

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the committee and to make such statements together with the minutes of the meetings of said committee and the board available for inspection at the offices of the committee by producers and handlers;

(i) To give the Secretary the same notice of meetings of the committee and the board as is given to members;

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

(k) To establish with the approval of the Secretary such rules and regulations as are necessary or incidental to administration of this subpart, as are consistent with its provisions, and as would tend to accomplish the purposes of this subpart and the act.

§ 1026.36 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 grapes for crushing or the products of such grapes. The expense of such projects shall be paid from funds collected pursuant to § 1026.72, but the expense of any projects involving set-aside items may be allocated if appropriate, in whole or in part, to funds obtained from set-aside disposition.

BOARD AND COMMITTEE

§ 1026.39 Selection.

The Secretary shall select producer and handler members and alternate members of the board and the committee in the numbers and with the quali-

fications specified in this subpart. Such selections may be made from the nominations certified by the committee and the board or from other eligible producers and handlers.

§ 1026.40 Failure to nominate.

In the event a nominee for any member or alternate member position is not certified pursuant to and within the time specified in this subpart, the Secretary may select an eligible person to fill such position without regard to nomination.

§ 1026.41 Qualify by acceptance.

Each person selected by the Secretary as a member or as an alternate member shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as practicable after being notified of such selection.

§ 1026.42 Alternate members.

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

§ 1026.43 Vacancies.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member, or any need to select as successor through failure of any person selected as a member or alternate member to qualify, shall be recognized by the committee certifying to the Secretary a new nominee within 40 calendar days.

§ 1026.44 Compensation and expenses.

The members of the committee and the board, and the alternate members when acting as members, shall serve without compensation but shall be allowed their necessary expenses, actual or per diem, as approved by the committee.

§ 1026.45 Procedure.

All decisions of the board and the committee reached at an assembled meeting shall be by majority vote of the members present. All votes in an assembled meeting shall be cast in person and a quorum must be present for a valid decision. A quorum for the board shall consist of not less than 25 producer members and 16 handler members. A quorum for the committee shall consist of not less than 12 producer members and eight handler members. Such quorum requirements may be changed by the Secretary, upon recommendation of the committee, if warranted by changes pursuant to § 1026.21 or § 1026.30. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram, to all such members. When any proposition is submitted to be voted on by such method, one dissenting vote shall prevent its adoption. Failure of any member, or alternate, acting for a member, to vote within a prescribed time shall be held to be a dissenting vote.

MARKETING POLICY

§ 1026.47 Marketing policy.

Prior to August 15 of each crop year, or in the initial crop year as soon as practicable, the committee shall prepare and submit to the Secretary a report setting forth its recommended marketing policy for the crop year. Notice of the committee's marketing policy shall be given promptly by reasonable publicity to producers and handlers. In the committee considerations and the report to the Secretary the following factors shall be included:

(a) With respect to wine, high proof, concentrate, brandy and such other grape products as the committee may determine: The reported June 30 carryover, the anticipated trade demand for the crop year, the desirable carryout, the resultant total handler need to produce such products, and the conversion of the total product need to grape tonnage of a specified sugar content (degrees Brix or Balling equivalent);

(b) The estimated production of grapes and the desirability of exempting any variety pursuant to § 1026.58(b); and

(c) The recommendation to the Secretary as to the tonnage of grapes for crushing, of a specified sugar content, which handlers may freely acquire and use for the crop year (hereinafter to be referred to as the "desirable free tonnage").

§ 1026.48 Establishment.

If on the basis of the committee recommendation or other information, the Secretary concurs on the likely need for volume regulation, he shall establish the desirable free tonnage at specified sugar content which handlers may freely acquire and use in the crop year.

RECEIVING REGULATION

§ 1026.50 Prohibition.

Handlers shall not receive and use as grapes for crushing any grapes from which a portion of the moisture has been removed by drying: *Provided*, That sweepings or other residual material from raisin processing may be received from any packer of raisins, directly or indirectly, and used to the extent of the approximate raisin weight of the industry-wide normal residual material from processing standard raisins. Such usage shall be according to rules and regulations prescribed by the committee. Consistent with Raisin Order No. 89, as amended (Part 989 of this chapter), standard raisins means raisins which meet the effective minimum grade and condition standards for natural condition raisins. The terms "sweepings" or "residual material" mean any chaff, large stems, capstems, blowovers, light raisins, damaged raisins, belt or machine residues, or other such material removed or lost in raisin processing.

VOLUME REGULATION

§ 1026.53 Percentages.

Whenever the committee concludes, which shall occur, unless the Secretary

otherwise directs, no earlier than September 15 nor later than September 18 of the crop year, that the tonnage of grapes to be crushed during such year materially exceeds the desirable free tonnage, established by the Secretary, and that limiting the volume which handlers may freely acquire and use through establishing free and surplus percentages applicable to such total crush would tend to effectuate the declared policy of the act, it shall recommend such percentages to the Secretary. If, on the basis of the committee recommendation and other information, the Secretary concurs as to the need for volume regulation, he shall establish, as soon as practicable, free and surplus percentages, and the sum of such percentages for any crop year shall equal 100 percent. On or about January 15 of a crop year in which percentages are established, the committee shall determine the actual volume crushed and the average sugar content of the total crush and if either is materially lower than the earlier determinations, recommend new percentages for the crop year. If the Secretary concurs as to the need for a change, appropriate new percentages shall be established: *Provided*, That no such new percentages shall increase the surplus percentage.

§ 1026.54 Setaside.

Whenever free and surplus percentages for grapes for crushing have been established for a crop year by the Secretary, each handler shall set aside and hold in storage, within the State of California, for the account of the committee, free and clear of all liens, other than those resulting from Federal gallonage tax provisions, proof gallons of products, or the concentrate equivalent thereof, of the current year's crush equal to the setaside equivalent of the established surplus percentage applied to the total receipts of grapes for crushing at premises within the State of California controlled or operated by him. By January 31 the setaside equivalent shall be in the form, at the handler's option, of either dessert wine, other than special natural, of not less than 19.5 percent nor more than 21 percent alcohol by volume, high proof of not less than 185 degrees proof, concentrate of not less than 68 degrees Brix, or such other items as the committee may establish with the approval of the Secretary. All items set aside shall be of marketable quality, shall be stored to preserve their quality, and shall meet the standards of identity, quality, and condition established under Federal or State of California laws or regulations or as such may be modified for the purposes of this part by the committee with the approval of the Secretary. On any approved item, the committee, in its discretion, may permit storage, in adequate volumes, at less than specified levels of alcohol or sugar concentration, if the handler so desiring to store undertakes in writing to deliver, on demand, at the specified levels. In determining his gallonage setaside, each handler shall use conversion factors established by the committee with the approval of the Secretary.

Upon establishing the January 31 setaside, a handler may substitute any item held for the account of the committee upon prior notice to the committee of intent to withdraw, to substitute, and to withhold the equivalent in another category of eligible setaside: *Provided*, That the right to substitute may be suspended by the committee to facilitate disposition of setaside. Setaside items need not be in containers separate and apart from other like products held by the handler but each container with setaside shall be such as will maintain the condition of the item, shall be so labelled or marked as the committee may direct, and no withdrawals therefrom shall be made below the handler's effective setaside obligation. A handler shall commence delivery to the committee or its designee, upon five days' notice of any or all setaside items held for the account of the committee and at such rate as may be practicable. Setaside obligations shall be adjusted from time to time to recognize such normal shrinkage or loss as the committee may determine with the approval of the Secretary. Handlers shall use good commercial practices in caring for setaside items and be liable for losses of setaside resulting from lack of due care.

§ 1026.55 Equity holders.

So that the committee may determine each producer's, or his successor's in interest, equity in the total setaside, each handler who receives grapes for crushing shall determine, or cause to be determined, the variety, weight and sugar content of each lot of grapes received, the name and address of the producer or successor in interest, place of production, and shall cause these to be certified to the committee. Each weight determination shall be made by an official weighmaster of the State of California and each sugar content determination shall be made by the Federal-State inspection service of the State of California or such other service as may be recommended by the committee and approved by the Secretary.

§ 1026.56 Off-premise setaside.

No handler may transfer a setaside obligation but any handler may, upon notification to the committee, arrange to hold setaside, of his own production or which he has purchased, on the premises of another handler within California in the same manner as though the setaside were on his own premises.

§ 1026.57 Handler compensation.

Each handler shall be compensated for receiving, processing, storing and such other costs relating to the setaside as the committee may deem to be appropriate, in accordance with charges established at the beginning of the crop year by the committee with the approval of the Secretary. Such payments shall be borne by the producers, or their successors in interest, and may be deducted from any monies owed by handlers to such persons. A handler may request the committee to remove setaside from his premises upon expiration of prepaid storage charges or the refund of un-

earned charges, and the committee shall comply within a reasonable time consistent with the availability of suitable storage. Upon any such removal the handler shall forfeit, to the extent of the removed volume, his pro rata share in any offer to sell setaside items and such share shall be allocated to the successor storing handler.

§ 1026.58 Exemption.

(a) The committee may establish, with the approval of the Secretary, such rules and regulations as will permit exemption, from any or all provisions of this part, of any grapes for crushing which are used for producing products which do not become part of the commercial supply shipped into normal outlets.

(b) The committee may exempt from volume regulation, with the approval of the Secretary, any variety of grapes determined to be of such small production and restricted usage or in such short supply relative to demand that the exemption would not tend to affect adversely the attainment of the purposes of this part.

DISPOSITION

§ 1026.61 Prohibition.

Except as provided in §§ 1026.54 and 1026.62, the setaside shall not be used or disposed of by any handler.

§ 1026.62 Disposition.

(a) *General.* The committee shall have the power and authority to sell or dispose of any and all setaside upon the best terms and at the highest return obtainable consistent with the provisions and objectives of this part, including the encouragement of new uses or new geographical outlets. If on any January 31 the total setaside from all crop years is in excess of the equivalent of the shipments of dessert wine for the preceding six months ending December 31, the committee shall, in the absence of foreseeable sales of such excess in normal outlets pursuant to paragraph (b) of this section, dispose of the excess by June 30 in non-normal outlets.

(b) *Normal outlets.* For the purpose of disposition of setaside, normal outlets mean the established trade channels for wine, brandy, high proof, grape juice, concentrate and wine vinegar: *Provided*, That the committee, with the approval of the Secretary, may add other outlets and by administrative rules define the limits of any normal outlets to effectuate other provisions of this part. Sales of setaside to handlers shall be made whenever, due to a small grape production or other cause, it is necessary to add setaside to the actual crush to make available a crush equal to the desirable free tonnage. Such sales of setaside shall be made on the basis of \$1.50 per proof gallon equivalent. No offer by the committee to sell such setaside to handlers for resale into free tonnage outlets shall become effective until the lapse of five days subsequent to notification of the Secretary of such offer or until the receipt of a notice from the Secretary that he does not disapprove the making of such offer. In any such offer, each han-

handler holding setaside for the account of the committee shall have the first option to purchase such setaside to the extent of his pro rata share, based on holdings, of such offer.

(c) *Non-normal outlets.* The committee may sell or dispose of setaside in the non-normal outlets (those other than normal), including industrial alcohol, in a manner to achieve the general objectives of this part, and may make such sales to any handler or handlers, selling in or engaged in developing such outlets, without regard to pro rata participation by handlers: *Provided, That,* when such sale or disposition is for the purpose of reducing total inventories to the maximum permitted level, the withdrawal shall be made, insofar as practical, pro rata based on holdings, from all handlers.

(d) *Net proceeds.* The proceeds from the disposition of any setaside shall be distributed, after deduction of any expenses incurred by the committee in receiving, handling, holding, or disposing thereof, to the respective producers or their successors in interest, on the basis of the tonnage of their respective contributions to the setaside weighted by sugar content and, when determined to be appropriate for any varieties, by the season average field price of each variety. The distribution of proceeds to producer members of cooperative associations shall be made to the appropriate association.

REPORTS AND RECORDS

§ 1026.65 Reports.

(a) *Inventory.* Each handler shall, upon request of the committee, file with the committee a certified report, showing such information as the committee may specify with respect to any wine, high proof, concentrate, brandy, or other products of grapes for crushing which were held by him on June 30 and December 31 and such other dates as the committee may designate.

(b) *Receipts.* Each handler shall, upon request of the committee, file with the committee a certified report showing for each lot of grapes received, whether fresh or dried, the variety, weight, sugar content, place of production, and equity holder's name and address.

(c) *Setaside.* Each handler shall, upon request of the committee, file with the committee a certified report showing the setaside held for the account of the committee by items, the quantity of each being held, the proof gallon equivalent of each, and the premises at which held.

(d) *Other reports.* Upon the request of the committee, with the approval of the Secretary, each handler shall furnish to the committee such other information as may be necessary to enable it to exercise its powers and perform its duties under this part.

§ 1026.66 Records.

Each handler shall maintain such records pertaining to all grapes used, whether fresh or dried, and items setaside as will substantiate the required reports and such others as may be prescribed by the committee. All such records shall be maintained for not less

than five years after the termination of the crop year to which such records relate or for such lesser period as the committee may direct.

§ 1026.67 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers, the Secretary and the committee, through its duly authorized employees, shall have access to any premises where applicable records are maintained, where grapes, whether fresh or dried, are received and prepared for fermentation and where setaside items are held and, at any time during reasonable business hours, shall be permitted to inspect such handler premises, including setaside items, and any and all records of such handlers with respect to matters within the purview of this part.

§ 1026.68 Confidential information.

All reports and records furnished or submitted by handlers to, or obtained by the employees of the committee which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from records shall at all times be kept in the custody and under the control of one or more employees of the committee, who shall disclose such information to no person other than the Secretary.

EXPENSES AND ASSESSMENTS

§ 1026.71 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and board and for such other purposes, other than expenses incurred in receiving, handling, holding or disposing of setaside, as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The committee shall file a proposed budget of expenses and rate of assessment with the Secretary as soon as practicable after the beginning of the crop year.

§ 1026.72 Assessments.

(a) *Requirement for payment.* Each handler shall pay to the committee, upon demand, with respect to free tonnage grapes for crushing received by him, including such grapes of his own production, his pro rata share of all expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each crop year. Each handler's pro rata share shall be the rate of assessment per ton fixed by the Secretary. At any time during or after the crop year the Secretary may increase the rate of assessment to cover unanticipated expenses or a deficit in assessable tonnage. In order to provide funds to carry out the functions of the committee and the board, the committee may accept advance payments from any handler and such shall be credited towards assessments levied pursuant to this sec-

tion against such handler. The payment of expenses for the maintenance and functioning of the committee and the board may be required throughout the period during which this part is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Refunds.* Any money collected as assessments during any crop year and not expended in connection with the committee's operations may be used by the committee for a period of four months subsequent to the end of such crop year. At the end of such period the committee shall, from funds on hand, refund or credit to handlers' accounts the aforesaid excess. Each handler's share of such excess fund shall be the amount of the assessment he has paid in excess of his pro rata share of the actual expenses of the committee for the preceding crop year. Any money collected as assessments hereunder and remaining unexpended in the possession of the committee, or a successor board of trustees for liquidation, after termination of this part, shall be distributed in such manner as the Secretary may direct: *Provided, That,* to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(c) *Sugar determinations.* The committee may enter into an agreement with the inspection service regarding determination of the sugar content pursuant to § 1026.55, the cost thereof, and the payment by handlers of their pro rata shares of such cost based on the tonnage received and used.

MISCELLANEOUS PROVISIONS

§ 1026.75 Rights of the Secretary.

The members of the committee and board (including successors or alternates) and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary, in his discretion, at any time. Each and every 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, and upon such disapproval, shall be deemed null and void.

§ 1026.76 Personal liability.

No member or alternate member of the committee or board, nor any employee, representative, or agent of the committee shall be held personally responsible, either individually, or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 1026.77 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.

§ 1026.78 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.

§ 1026.79 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.

§ 1026.80 Agents.

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

§ 1026.81 Effective time.

The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in § 1026.82.

§ 1026.82 Termination or suspension.

(a) *Failure to effectuate policy of act.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart on or before the thirtieth day of June of any crop year whenever he is required to do so by the provisions of section 8c(16)(B) of the act. The Secretary may, at any time he deems it desirable, hold a referendum of producers to determine whether they favor termination of this subpart. However, the Secretary shall hold a referendum of producers in the period July 1-July 15, 1963, to determine whether they favor termination at the end of the third crop year, and after the first referendum shall hold one for the same purpose between July 1 and July 15 of any third year, if the Secretary receives a recommendation, adopted by the board, requesting the holding of such a referendum. The results of any such referendum shall be announced by the Secretary by August 15 of the crop year in which held.

(c) *Termination of act.* The provisions of this subpart shall terminate, in any event, upon the termination of the act.

§ 1026.83 Procedure upon termination.

Upon the termination of this subpart, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the con-

currence of a majority of said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant to this subpart. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon said joint trustees.

§ 1026.84 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 amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this subpart or any regulation issued under this subpart, or (b) release any setaside held for the account of the committee nor permit its disposition contrary to the provisions of this subpart, or (c) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (d) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to such violation.

§ 1026.85 Amendments.

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

Issued at Washington D.C. August 17, 1961, to become effective August 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-8039; Filed, Aug. 21, 1961;
8:48 a.m.]

PART 1030—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREGON

Expenses and Fixing of Rate of Assessment for Fiscal Period 1961-62

Pursuant to the marketing agreement and Order No. 130 (7 CFR Part 1030), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oregon, 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 proposals submitted by the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee (established pursuant to said

marketing agreement and order), it is hereby found and determined that:

§ 1030.202 Expenses and rate of assessment for the fiscal period 1961-62.

(a) *Expenses:* The expenses that are reasonable and likely to be incurred by the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee, established pursuant to the provisions of the aforesaid marketing agreement and order, to enable such committee to perform its functions, in accordance with the provisions thereof, during the fiscal period beginning June 1, 1961, and ending May 31, 1962, will amount to \$3,750.

(b) *Rate of assessment:* The rate of assessment, which each handler who first handles prunes shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said marketing agreement and order is hereby fixed at one-fourth cent (\$0.0025) per one-half bushel of prunes so handled by such handler during such fiscal period.

(c) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in public rule-making procedure, and good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that (1) the relevant provisions of said amended marketing agreement and this part require that rates of assessment fixed for a particular marketing year shall be applicable to all assessable prunes from the beginning of such year; (2) the current marketing year began June 1, 1961, and the rate of assessment herein fixed will automatically apply to all assessable prunes beginning with such date; and (3) shipments of prunes are now being made.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

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

Dated: August 17, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 61-8032; Filed, Aug. 21, 1961;
8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-WA-141]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration

The purpose of these amendments to §§ 600.6025 and 600.6458 of the regulations of the Administrator is to modify low altitude VOR Federal airway No. 458