Effective upon filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on September 7, 1962.

RAPHAEL V. FITZGERALD,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-9150; Filed, Sept. 12, 1962; 8:48 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

[Sugar Determination 871.15]

PART 871—SUGAR BEETS

Fair and Reasonable Prices, 1962 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended by the act approved July 13, 1962 (herein referred to as "act"), after investigation and due consideration of evidence presented at public hearings held in October and December of 1961, the following determination is hereby issued.

§ 871.15 Fair and reasonable prices for the 1962 crop of sugar beets.

A producer of sugar beets who is also a processor of sugar beets (herein referred to as "processor") shall have paid, or contracted to pay for all sugar beets of the 1962 crop grown by other producers and processed by him, in accordance with the following requirements:

(a) *Purchase agreements.* (1) The price for all sugar beets delivered by a producer and processed by a processor in regions other than the Imperial Valley, California, shall be not less than that required to be paid pursuant to the 1962-crop sugar beet purchase contract between the processor and the producer for sugar beets processed from the acreage specified in such contract.

(2) The price for sugar beets in Imperial Valley, California, shall be not less than that required to be paid pursuant to the 1962 crop sugar beet purchase contract which may be negotiated between the processor and the producer unless the price for sugar beets in Imperial Valley, California, is determined by an amendment to this determination prior to March 31, 1963.

(3) If the processor, in determining the net proceeds pursuant to the contract, makes a deduction from the gross sales price of sugar for factory-site bulk sugar storage facilities owned by the processor, such deduction shall be limited to amortization of such facilities, including improvements, over a reasonable period, interest at prevailing rates on the unrecovered cost, taxes, insurance, maintenance, and operating costs properly applicable thereto. After the cost of the facilities, including improvements, have been fully recovered such deduction shall be limited to taxes, insurance, maintenance, and operating costs properly applicable thereto.

(4) In determining the net proceeds pursuant to the contract, the gross sales price per 100 pounds to be applicable to sugar sold to an affiliate company or other affiliate business entity, or to sugar used by the processor during the settlement period, shall be not less than the weighted average quoted basis price, less customary allowances, and plus appropriate prepays and package differentials which would have been applicable to such sugar had it been marketed to nonaffiliated purchasers.

(b) *Reporting requirements.* The processor shall submit to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington 25, D.C., within 60 days after the close of the sales period specified in the sugar beet purchase contract an itemized statement, for each settlement district, certified by an independent accountant showing the computation of "net proceeds" or "net returns" as provided in such contract, such statement to be in substantially the form as that contained in Schedule A attached hereto and made a part hereof: *Provided,* That, if the processor markets sugar to an affiliate company or other affiliate business entity or if the processor uses any beet sugar, the weighted average gross sales price for each category, the marketing expenses applicable to each, and the net proceeds derived therefrom shall be reported in substantially the form shown on Schedule A–1 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A: *Provided further,* That, if the processor in determining net proceeds makes a deduction for factory-site bulk sugar storage facilities owned by the processor, the total cost of such facilities, including improvements, the amount of the deduction and the expenses used in determining such deduction shall be reported in substantially the form shown on Schedule A–2 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A.

(c) *Subterfuge.* The processor shall not reduce returns to producers below those determined in accordance with the requirements of this section through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugar beets of the 1962 crop grown by other producers.

(b) *Requirements of the act.* Section 301(c)(2) of the act provides that the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him 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.

(c) *1962 fair price determination.* This determination provides that in regions other than Imperial Valley, California, a processor shall be deemed to have complied with the fair price provisions of the act if he has paid, or contracted to pay, a price for all sugar beets processed not less than the price determined pursuant to the applicable 1962-crop purchase contract with producers for sugar beets processed from the acreage specified in such contract. The price for 1962-crop sugar beets in Imperial Valley, California, shall be that determined pursuant to purchase contracts which may be negotiated between the processor and producers unless such price is deemed to be inequitable or a contract is not negotiated. Other provisions of the 1961-crop determination are continued substantially unchanged.

At the public hearing held at Sacramento, California, on October 7, 1961, the witness for the California Beet Growers Association again recommended that the Department make a thorough study of all phases of grower-processor contractual relations, including consideration for a basis of determining payments for beets other than net selling price. He also recommended that the determination provide that charges and credits to the net selling price for sugar be spelled out to assure uniform treatment of these items by all processors; and that each processor be required to furnish to its growers a certification by a certified public accountant setting forth in detail the manner in which the net selling price was computed. The witness also testified that his association was opposed in principle to grower participation in the cost of financing bulk sugar facilities which are a capital asset of the processor. The representative of the Holly Sugar Corporation stated that changes in its 1962 Northern California contract included a provision for a deduction, as a marketing expense, of 3 cents per hundredweight of sugar sold during the settlement period in the event the processor decided to construct bulk sugar storage bins in California; that such deduction would be made until the aggregate amount deducted equalled the cost of the bins including interest, taxes, insurance, and maintenance costs properly applicable thereto, and, thereafter, a deduction would be made for the costs incurred for taxes, insurance, and maintenance of such bins. The representative of the American Crystal Sugar Company stated that although it had no plans for the construction of mill site storage bins for bulk sugar there was a possibility it might want to construct such storage facilities in the future. The representatives for Holly and American Crystal each stated that arrangements with growers apart from their contracts include the payment of hauling allowances to growers and a 3 cent per net ton charge to growers for the hauling of dirt in screenings away from the company beet dumps. The representative of the Union Sugar Division, Consolidated Foods Corporation, stated that the changes in its 1962-crop coastal contract include a provision for the pricing of sugar used in the manufacture of vitamin and mineral fortified sugar.

At the public hearings held in December 1961, a representative of the Nyssa-Nampa Beet Growers Association testified that returns to growers for 1961-crop beets would be below average because of low yields and sugar content of beets. He also stated that he believed that the net returns for sugar would be less as a result of lower sugar prices. A representative of the American Crystal Sugar Company stated that 1962-crop purchase contracts had been negotiated with producers in the Red River Valley and in Southern Minnesota with only minor changes from the 1961 contracts.

Examination of the 1962-crop purchase contracts which have been negotiated by producers and processors and submitted to the Department, indicates that in most respects the major provisions relating to payments for sugar beets conform to those applicable for the 1961 crop. One processor reduced the payment scale by an average of about 7 percent and also changed the basis of net returns from sugar on which the payments are based. In a contract of another processor the basis of payment for quality of beets was changed from a factory average cossette test to an individual test basis, adjusted by the average sugar content in cossettes of all beets sliced at the factory during the settlement period. The contracts of another processor changed the basis of payment for quality of beets from a factory average to an individual test basis. A processor in one State entered into a new contract with producers in another State, which differs from other contracts of this processor in that these producers will not receive the additional payment of 15 percent of the amount by which the average net proceeds from sugar exceeds $7.50 per hundredweight, and such producers must bear transportation costs of $2.00 per ton of beets. In one or more of the other contracts changes include increased participation by producers in the cost of transporting beets to the factory; an authorization for the company to make a deduction from payments for sugar beets to pay one-half of the salary and expenses of an agronomist, if employed by the company; a provision that if the company constructs factory-site bulk storage bins, a deduction of 3 cents per hundredweight of beet sugar sold during the settlement period will be made as a marketing expense; and the use of a quoted basis price for that quantity of sugar used by the processor in the production of mineral or vitamin fortified sugar.

In the Imperial Valley (California) the 1962 crop will not be planted to sugar beets until the fall of 1962 and the purchase contracts are not now available for examination. When such contracts for this region are received by the Department, they will be examined to determine whether the terms and conditions provide for an equitable sharing relationship. If the pricing provisions are found to be fair and reasonable, no amendment to this determination will be required. However, if any of the contracts do not provide for an equitable sharing of returns, or if contracts are not negotiated, an amendment to this determination will be required.

Consideration has been given to the recommendations made at the public hearings, to the purchase contracts, to the comparative average operating results of producers and processors obtained by field study for a recent crop and recast in terms of prospective price and production conditions for the 1962 crop, and to other pertinent factors. The analysis indicates that the payments for sugar beets provided in the 1962-crop purchase contracts are fair and reasonable at current prices of sugar.

The provisions relating to the charge for constructing factory-site bulk sugar storage bins and the method of pricing of sugar used by the processor in producing a fortified sugar which are included in certain 1962-crop contracts are the same as those in their 1961-crop contracts in other settlement districts. Accordingly, the requirements of the 1961-crop fair price determination with respect to these matters are continued in this determination.

The reporting schedules of this determination relate to (1) the computation of net returns or net proceeds from the sale of sugar, (2) the gross sales price of sugar sold to affiliated companies or used by the processor, and (3) charges for company-owned factory-site bulk sugar facilities. The schedules have been designed to furnish the Department with itemized data used by the processor in computing the "net proceeds" or "net returns" which are to be determined on the basis of his contract and with the requirements of this determination.

The reporting requirements of this determination have been approved by the Bureau of the Budget.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932, 7 U.S.C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U.S.C. Sup. 1131, as amended by Pub. Law 87-535 approved July 13, 1962)

Signed at Washington, D.C., on September 7, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

SCHEDULE A—STATEMENT OF AVERAGE NET RETURN OR NET PROCEEDS FROM SALES OF SUGAR [1]

Company ________________

Settlement area ________________

Settlement period ________________

	Per hundredweight sugar (dollars)
Gross sales price	
Less sales and marketing expenses (applicable to sugar only):	
Federal excise tax	
Freight on sugar to destination	
Cash discount	

[1] Where the purchase contract provides that the proceeds from the sales of molasses and beet pulp are to be included in calculating the net return or net proceeds, show separately the gross sales price and the marketing expenses applicable to each.

SCHEDULE A—Continued

Less sales and marketing expenses (applicable to sugar only)—Con.	*Per hundredweight sugar (dollars)*
Allowances	
Public storage (actually paid)	
Off-site storage owned by the processor (amount charged)	
On-site storage (computed charge) [2]	
Loading and handling	
Cost of packing in excess of basis pack	
Taxes	
Insurance	
Brokerage and commissions	
Advertising	
Sales department expenses:	
Salaries	
Travel	
Miscellaneous	
Other (specify)	
Total expense	
Net return or net proceeds	

[2] Obtain from Schedule A-2.

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

SCHEDULE A-1—STATEMENT OF GROSS SALES PRICES APPLICABLE TO SUGAR SOLD TO AFFILIATED COMPANIES OR ENTITIES AND USED BY THE PROCESSOR, AS COMPARED TO SALES TO NON-AFFILIATED PURCHASERS

	Affiliated purchasers	*Used by processor*	*Nonaffiliated purchasers*
Sugar sold or used—hundredweight.			
	Dollars per hundredweight		
Quoted basis price			
Customary allowances (itemize):			
Open competitive			
Other:			
		xxxx	
		xxxx	
		xxxx	
Basis price—less allowances			
Prepay		xxxx	
Package differential		xxxx	
Gross sales price	$	$	$
Marketing expenses		(1)	
Net proceeds			

[1] If any marketing expenses are deducted from the gross sales price by the processor in computing net return for this particular sugar, such expenses shall be itemized separately.

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

SCHEDULE A-2—STATEMENT RELATING TO CHARGES FOR COMPANY-OWNED FACTORY-SITE BULK SUGAR STORAGE IN COMPUTING NET PROCEEDS, 1962 CROP (SUBMIT SEPARATE SCHEDULE FOR EACH FACILITY)

Company ________________

Location of bulk sugar storage facility ________________

____

Settlement areas included ________________

Settlement period ________________

Sugar sold during settlement period—hundredweight ________________

Total dollars ________________

Original cost of facility (year first used ____)	
Improvements (item and date):	

Total cost of facility including improvements	----
Total amount recovered prior to 1962-crop	----
Total unrecovered cost of facility	----
Operating costs or charges for 1962-crop:	
Interest on unrecovered cost	----
Taxes	----
Insurance	----

SCHEDULE A-2—Continued

Operating costs or charges for 1962 crop—Continued

Maintenance and operating (itemize) ----------------------------	
--	----
--	----
--	----
--	----
Total operating costs for 1962-crop ----------------------------	----
Amount applied against 1962-crop to amortize cost of facility------------	----
Total amount charged for facility in computing net proceeds—1962-crop (to be carried to Schedule A as amount of deduction)---------------	----
Unamortized-cost of facility at end of 1962-crop ------------------------------	

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

[F.R. Doc. 62-9149; Filed, Sept. 12, 1962; 8:47 a.m.]

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

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Amended Order Regulating Handling

AUTHORITY: §§ 984.0 to 984.90 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 984.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations which were made in connection with the issuance of the order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed except insofar as such previous findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations see 13 F.R. 4344, 19 F.R. 4214, 20 F.R. 5387, 22 F.R. 7885 and 22 F.R. 8775.)

(b) *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 in San Francisco, California, on April 5, 1962, on a proposed amendment of the amended marketing agreement and order (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon and Washington. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The 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;

(2) The order, as amended, and as hereby further amended, regulates the handling of walnuts grown in California, Oregon and Washington in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act and issuance of several orders applicable to subdivisions of the area of production would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as is practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to differences in the production and marketing of the walnuts covered thereby; and

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

(c) *Additional findings.* It is hereby further found that good cause exists for not postponing the effective time of this order beyond the time of its publication in the FEDERAL REGISTER (5 U.S.C. 1003 (c)) because: (1) Regulations for the 1962–63 marketing year should be considered before harvest which will soon begin and such regulations should be arrived at pursuant to the marketing order under which they will be administered; and (2) delayed application hereof would have an unfavorable effect on regulated persons in that they would have to adjust their marketing plans and operations to accommodate program changes after handling of the 1962 walnut crop had begun.

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

(1) The "Amended Marketing Agreement Regulating the Handling of Walnuts Grown in California, Oregon, and Washington", 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 walnuts covered by this order) who, during the period August 1, 1961, through June 30, 1962, handled not less than 50 percent of the volume of such walnuts covered by said order; and

(2) The issuance of this order is favored or approved by at least two-thirds

of the producers who participated in a referendum on the question of its approval and who, during the representative period (August 1, 1961, through June 30, 1962) were engaged within the area of production specified in this order, in the production of walnuts for market.

It is, therefore, ordered, That, on and after the effective time hereof, all handling of walnuts grown in California, Oregon, and Washington shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

DEFINITIONS

§ 984.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 984.2 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 (7 U.S.C. 601 et seq.)

§ 984.3 Person.

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

§ 984.4 Area of production.

"Area of production" means the States of California, Oregon, and Washington, of which the State of California shall be District 1, and the States of Oregon and Washington District 2.

§ 984.5 Grower.

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the commercial production of walnuts.

§ 984.6 Board.

"Board" means the Walnut Control Board established pursuant to § 984.35.

§ 984.7 Marketing year.

"Marketing year" means the twelve months from August 1 to the following July 31, both inclusive.

§ 984.8 Walnuts.

"Walnuts" means only walnuts of the "English" (Juglans regia) varieties grown in the States of California, Oregon, and Washington.

§ 984.9 Inshell walnuts.

"Inshell walnuts" means walnuts the kernels of which are contained in the shell.

§ 984.10 Shelled walnuts.

"Shelled walnuts" means walnut kernels after the shells are removed.

§ 984.11 Merchantable walnuts.

(a) *Inshell.* "Merchantable inshell walnuts" means all inshell walnuts meeting the minimum grade and size regulations set forth in § 984.50.

(b) *Shelled.* "Merchantable shelled walnuts" means all shelled walnuts meeting the minimum grade and size regulations effective pursuant to § 984.50.

§ 984.12 Substandard walnuts.

"Substandard walnuts" means all walnuts (whether inshell or shelled) the kernels of which do not meet the minimum standard prescribed for merchantable shelled walnuts.

§ 984.13 To handle.

"To handle" means to sell, consign, transport or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, inshell or shelled, in the current of commerce either within the area of production, or from such area to any point outside thereof, or for a manufacturer or retailer within the area of production to purchase directly from a grower: Except, that the term "to handle" shall not include sales and deliveries within the area of production by growers to handlers, or the authorized disposition of merchantable restricted, surplus, or substandard walnuts.

§ 984.14 Handler.

"Handler" means any person who handles inshell or shelled walnuts.

§ 984.15 To pack.

"To pack" means to bleach, clean, grade, or otherwise prepare walnuts for market as inshell walnuts.

§ 984.16 Packer.

"Packer" means any person who is engaged in the business of packing walnuts or has walnuts packed for his account and handles them as inshell walnuts, categorized as either:

(a) *Cooperative packer,* meaning any packer which is a cooperative marketing association of growers regardless of where or under what laws it may be organized; or

(b) *Independent packer,* meaning any packer who is not a cooperative packer.

§ 984.17 Pack.

"Pack" means a specific commercial classification according to size, internal quality, and external appearance and condition, of merchantable inshell walnuts, packed in accordance with the pack specifications prescribed pursuant to § 984.50.

§ 984.18 Sheller.

"Sheller" means any person who is engaged in the business of shelling walnuts or has walnuts shelled for his account and handles them as shelled walnuts.

§ 984.19 Manufacturer.

"Manufacturer" means any person who uses walnuts in the production of bakery goods, ice cream, candy, or other food products, except walnut oil.

§ 984.20 Kernelweight.

"Kernelweight" means the total weight of the kernels in a quantity of walnuts regardless of their quality.

§ 984.21 Handler carryover.

"Handler carryover," as of any date, means:

(a) *Inshell.* All merchantable inshell walnuts (except those held in satisfaction of control obligations) wherever located, then held by a handler or for his account (whether or not sold), plus the estimated quantity of merchantable inshell walnuts in lots then held by a handler for packing as merchantable inshell walnuts;

(b) *Shelled.* All merchantable shelled walnuts (except those held as surplus) wherever located, then held by a handler or for his account (whether or not sold), plus the estimated quantity of merchantable shelled walnuts to be produced from inshell and shelled walnuts then held by a handler.

§ 984.22 Trade demand.

(a) *Inshell.* The quantity of merchantable inshell walnuts which the trade will acquire from all handlers during a marketing year for distribution in the United States, Puerto Rico, and the Canal Zone.

(b) *Shelled.* The quantity of merchantable shelled walnuts which the trade will acquire from all handlers during a marketing year for distribution in the United States, Puerto Rico, and the Canal Zone.

(c) *Inclusion of Canada and Cuba in trade demand.* Whenever there is reasonable probability that distribution of inshell and shelled walnuts may be made to the trade in either Canada or Cuba at prices reasonably comparable with prices received in the United States, either or both may be included in the trade demand.

§ 984.23 Free walnuts.

"Free walnuts" means those inshell walnuts which are included in the free percentage established by the Secretary pursuant to § 984.49.

§ 984.24 Restricted walnuts.

"Restricted walnuts" means those inshell walnuts which are withheld in satisfaction of a restricted obligation arising from application of a restricted percentage.

§ 984.25 Marketable walnuts.

"Marketable walnuts" means those walnuts, inshell or shelled, which are included in the marketable percentage established by the Secretary pursuant to § 984.49.

§ 984.26 Surplus walnuts.

"Surplus walnuts" means those inshell or shelled walnuts which are withheld in satisfaction of a surplus obligation arising from application of a surplus percentage.

§ 984.27 Allocation percentage.

"Allocation percentage" means the quotient, expressed as a percentage with applied accuracy to the nearest pound, that results from dividing the restricted percentage by the free percentage.

§ 984.28 Diversion percentage.

"Diversion percentage" means the quotient, expressed as a percentage with applied accuracy to the nearest pound, that results from dividing the surplus percentage by the marketable percentage.

§ 984.29 Control percentages.

"Control percentages" means free, restricted, marketable, and surplus percentages established by the Secretary pursuant to § 984.49.

§ 984.30 Control obligations.

"Control obligations" means the quantity of walnuts each handler must withhold to meet the restricted or the surplus percentage established by the Secretary pursuant to § 984.49.

§ 984.31 Part and subpart.

"Part" means the order regulating the handling of walnuts grown in California, Oregon, and Washington, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of walnuts grown in California, Oregon, and Washington shall be a "subpart" of such part.

Administrative Body

§ 984.35 Walnut Control Board.

(a) A Walnut Control Board is hereby established, consisting of ten members, selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member. One member and one alternate member shall be selected by the Secretary from nominees submitted by each of the following groups or from among other eligible persons belonging to such groups:

(1) The cooperative packers doing business within the State of California;

(2) The independent packers doing business within the State of California;

(3) The group of cooperative packers or independent packers doing business within the State of California, who, during the preceding marketing year, handled more than 50 percent of the merchantable inshell walnuts handled by packers located within the State of California;

(4) Walnut growers whose orchards are located in California and who market their walnuts through cooperative packers;

(5) All other walnut growers whose orchards are located in California;

(6) Walnut growers whose orchards are located in California and whose walnuts were marketed during the preceding marketing year through the packer group specified in subparagraph (3) of this paragraph;

(7) Walnut packers whose plants are located within the States of Oregon or Washington;

(8) Walnut growers whose orchards are located within the States of Oregon or Washington;

(9) Walnut shellers within the area of production who are handlers but who are not packers.

(b) The tenth member shall be selected after the selection of the nine members from the above specified groups and after opportunity for such nine members to nominate the tenth member.

§ 984.36 Term of office.

The term of office of Board members and alternate members shall be for a period of two years ending on June 30 of odd-numbered years, but they shall serve until their respective successors are selected and have qualified.

§ 984.37 Nominations.

(a) Each of the nine groups specified in § 984.35 may nominate one person as member and one person as alternate, and the nine members selected to represent such groups may nominate by majority vote one person as member and one person as alternate for the tenth member position. Nominations for each group of handlers shall be submitted on ballots mailed by the Board to all handlers in such groups. Nominations on behalf of growers who market their walnuts through cooperative handlers shall be submitted on ballots cast by each such handler for its growers: Except, that growers in group 8 shall vote individually. Nominations on behalf of growers in groups 5 (and 6 when group ? represents independent packers) and 8 shall be submitted after ballot by such growers pursuant to announcements by press releases of the Board to the principal papers in the walnut producing area in California, Oregon, and Washington. Such releases shall provide pertinent voting information, including the names of the candidates and the locations where ballots may be obtained. The ballots shall be accompanied by full instructions as to their marking and mailing and shall include the names of the incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board, with the approval of the Secretary. All packer votes shall be weighted by the quantity (rounded upward to the nearest whole ton) of merchantable inshell walnuts handled by each packer during the preceding marketing year and all grower votes shall be given equal weight. Sheller votes shall be weighted by the quantity of merchantable shelled walnuts handled by each sheller during the preceding marketing year. The packer, sheller, or grower receiving the highest vote for each position shall be the nominee.

(b) Nominations received in the foregoing manner by the Board shall be reported to the Secretary on or before June 15 of each odd-numbered year, together with a certified summary of the results of the nominations. If the Board fails to report nominations to the Secretary in the manner herein specified by June 15 of any such year, the Secretary may select the members without nomination. If nominations for the tenth member are not submitted by August 1 of any such year, the Secretary may select such member without nomination.

§ 984.38 Eligibility.

No person, other than the tenth member and alternate, shall be selected or continue to serve on the Board more than 30 days after he ceases to be a member of or employed by a member of the group he represents.

§ 984.39 Qualify by acceptance.

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

§ 984.40 Alternates.

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

(b) In the event any member of the Board and his alternate are both unable to attend a meeting of the Board, any alternate for any other member representing the same group as the absent member may serve in the place of the absent member, or in the event such other alternate cannot attend, or there is no such other alternate, such member, or in the event of his disability or a vacancy, his alternate may designate, subject to the disapproval of the Secretary, a temporary substitute to attend such meeting. At such meeting such temporary substitute may act in the place of such member. For the purposes of this paragraph, a cooperative handler group and a cooperative grower group in the same state shall be considered the same group.

§ 984.41 Vacancy.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member or alternate, or any need to select a successor through failure of any person selected as a member or alternate member to qualify, shall be recognized by the Board causing a nomination to be made by the appropriate group and certifying to the Secretary a new nominee within 60 calendar days.

§ 984.42 Expenses.

The members of the Board shall serve without compensation, but shall be allowed their necessary expenses.

§ 984.43 Powers.

The Board shall have the following powers:

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

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

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

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

§ 984.44 Duties.

The duties of the Board shall be as follows:

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

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

(c) To furnish to the Secretary a complete report of all meetings and such other available information as he may request;

(d) To appoint such employees as it may deem necessary and to determine the salaries, define the duties, and fix the bonds of such employees;

(e) To cause the books of the Board to be audited by one or more competent public accountants at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request, and to file with the Secretary three copies of all audit reports made;

(f) To investigate the growing, shipping and marketing conditions with respect to walnuts and to assemble data in connection therewith;

(g) To investigate compliance with the provisions of this part; and

(h) To recommend rules and regulations for the purpose of administering this subpart.

§ 984.45 Procedure.

(a) The members of the Board shall select a chairman from their membership, and shall select such other officers and adopt such rules for the conduct of Board business as they deem advisable. The Board shall give the Secretary the same notice of its meetings as is given to members of the Board.

(b) All decisions of the Board, except where otherwise specifically provided, shall be by majority vote of the members present. A quorum of six members shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram upon due notice to all members. When any proposition is submitted for voting by one of such methods, one dissenting vote or failure of a member or alternate to vote, shall prevent its adoption until submitted to a meeting of the Board.

RESEARCH AND DEVELOPMENT

§ 984.46 Research and development.

The Board, 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 marketing, distribution, and consumption of walnuts, the expense of such projects to be paid from funds collected pursuant to § 984.69.

MARKETING POLICY

§ 984.48 Marketing estimates and recommendations.

(a) Each marketing year prior to September 20, the Board shall hold a meeting for the purpose of recommending to the Secretary a marketing policy for such year. Such recommendation shall be adopted by the affirmative vote of at least six members of the Board and shall include the following:

(1) Its estimate of the orchard-run production in each district for the marketing year;

(2) Its estimate of the quantity of merchantable inshell walnuts likely to be produced and be available for inshell use during such year, expressed in pounds, inshell weight, and kernelweight;

(3) Its estimate of merchantable inshell walnut handler carryover as of August 1, expressed in pounds, inshell weight, and kernelweight;

(4) Its estimate of merchantable inshell walnut trade demand for such year, taking into consideration trade carryover at the beginning and end of the year, imports, prices, prospective shelled walnut market conditions, and other factors affecting inshell trade demand during such year, expressed in pounds, inshell weight, and kernelweight;

(5) Its recommendation for inshell walnut handler carryover on July 31 of such year expressed in pounds, inshell weight, and kernelweight;

(6) Its estimate of merchantable shelled walnut production during such marketing year;

(7) Its estimate of merchantable shelled walnut handler carryover as of August 1;

(8) Its estimate of merchantable shelled walnut trade demand, taking into consideration trade carryover, at the beginning and end of the year, imports, prices, and other factors affecting shelled walnut trade demand;

(9) Its recommendation for shelled walnut handler carryover on July 31 of such year;

(10) Its recommendation as to the merchantable free and restricted percentages to be fixed for inshell walnuts produced in each district. In recognition of differences in production and marketing, the Board shall recommend that the restricted percentage in District 2 be one-half of the percentage in District 1;

(11) Its recommendation as to the marketable and surplus percentages to be fixed for walnuts produced in each district. In recognition of differences in production and marketing, the Board shall recommend that the surplus percentage in District 2 be one-half of the percentage in District 1; and

(12) Its recommendation as to grade and size regulations.

§ 984.49 Control percentages.

(a) *Free and restricted percentages.* Whenever the Secretary finds on the basis of the Board's recommendations or other information that limiting the quantity of merchantable inshell walnuts which may be handled during a marketing year would tend to effectuate the declared policy of the Act, he shall establish for District 1 a free percentage to prescribe the portion of such walnuts which may be handled as inshell walnuts and a restricted percentage to prescribe the portion that must be withheld from such handling and similarly for District 2 except that the restricted percentage shall be one-half that of District 1.

(b) *Marketable and surplus percentages.* Whenever the Secretary finds on the basis of the Board's recommendations or other information that limiting the quantity of merchantable inshell and shelled walnuts which may be handled during a marketing year would tend to effectuate the declared policy of the Act, he shall establish for District 1 a marketable percentage to prescribe the portion of such walnuts which may be handled in normal markets and a surplus percentage to prescribe the portion that must be withheld from handling in such markets and similarly for District 2 except that the surplus percentage shall be one-half that of District 1.

(c) *Revision of percentages.* In the same manner, at any time prior to February 15 of the marketing year, the Board may recommend that the marketable and free percentages be increased and the surplus and restricted percentages decreased. On the basis of the Board's recommendation or other information, the Secretary may establish revised control percentages. Upon revision, all control obligations theretofore accrued on walnuts handled or declared for handling during such year on the basis of previously effective percentages shall be adjusted accordingly.

QUALITY CONTROL

§ 984.50 Grade and size regulations.

(a) *Minimum standards for inshell walnuts.* No handler shall handle inshell walnuts unless such walnuts are equal to or better than the requirements of U.S. No. 3 grade and baby size as defined in the then effective United States Standards for Walnuts (Juglans regia) in the Shell. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

(b) *Minimum standard for shelled walnuts.* No handler shall handle shelled walnuts unless such walnuts are equal to or better than the requirements of the U.S. Commercial grade as defined in the then effective United States Standards for Shelled Walnuts (Juglans regia) and the minimum size shall be pieces not more than 5 percent of which will pass through a round opening $\frac{6}{64}$ inch in diameter. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

(c) *Effective period.* The minimum standards established pursuant to paragraphs (a) and (b) of this section and the provisions of this part relating to the administration thereof, shall continue in effect irrespective of whether the season average price for walnuts is above the parity level specified in section 2(1) of the Act.

(d) *Additional grade and size regulations.* The Board may recommend to the Secretary additional grade and size regulations in the form of more restrictive minimum standards than those specified in this section, or pack specifications as to grades and sizes that may be handled. Different regulations may be recommended for each district when necessary due to significant differences in the quality of walnuts produced in each district. If the Secretary finds, on the basis of such recommendation or other information, that additional grade and size regulations for a district would tend to effectuate the declared policy of the Act, he shall establish such regulations.

(e) *Minimum requirements for surplus.* The Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for any lot of walnuts acceptable in satisfaction of a surplus obligation: *Provided,* That surplus walnuts exported must meet the requirements of paragraph (a) of this section, if inshell, or paragraph (b) of this section, if shelled.

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling or withholding any walnuts, each handler, at his own expense, shall cause such walnuts to be inspected and certified as meeting the then effective grade and size regulations or the quality requirements for walnuts withheld, by the inspection service designated, with approval of the Secretary, by the Board. Each certificate shall show the identity of the handler, the quantity of walnuts, the date of inspection, and for inshell walnuts, the kernelweight, and the grade and size of such walnuts as set forth in the United States Standards for Walnuts in the Shell. Certificates covering surplus shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts. The Board may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part. Handlers shall cause a copy of each certificate issued by the inspection service to be furnished to the Board.

(b) Upon inspection, all certified walnuts shall be identified by seals, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or a designated inspector and such identification shall not be altered or removed except as directed by the Board. The Board may, with the approval of the Secretary, prescribe such other requirements as may be necessary to insure adequate identification of such certified walnuts.

(c) Whenever the Board determines that the length of time in storage or conditions of storage of any lot of walnuts which has been previously inspected have been or are such as normally to cause deterioration, such lot of walnuts shall be reinspected at the handler's expense and recertified as merchantable prior to shipment.

§ 984.52 Processing of shelled walnuts.

(a) No handler shall slice, chop, grind, or in any manner change the form of shelled walnuts unless such walnuts have been certified as merchantable or as suitable for processing pursuant to paragraph (b) of this section. The Board shall establish such procedures as are necessary to insure that all such walnuts are inspected and certified prior to any such processing.

(b) Any lot of shelled walnuts which, upon inspection, fails to meet the minimum standard effective pursuant to § 984.50 solely due to excess shriveling may be certified for processing provided that the total amount of shrivel does not exceed 20 percent, by weight, of the lot. All such walnuts must be reinspected after processing and shall be certified as merchantable if the processed material meets the effective minimum standard. The provisions of this paragraph may be modified by the Secretary, upon recommendation of the Board or other information.

CONTROLLED WALNUTS

§ 984.54 Withholding obligation.

(a) *Restricted obligation.* No handler shall handle inshell walnuts unless prior to or upon shipment thereof (or purchase if applicable), he has withheld a quantity, by weight, of certified merchantable inshell walnuts equal to the allocation percentage of the inshell walnuts handled or declared for handling by him: *Provided,* That such withholding may be temporarily deferred pursuant to the bonding provisions of § 984.57 and that the Board, with the approval of the Secretary, may modify the merchantable requirements for walnuts withheld for shelling.

(b) *Surplus obligation.* No handler shall handle walnuts unless prior to or upon shipment thereof (or purchase if applicable) he has withheld a quantity of walnuts meeting the requirements of § 984.50(e) and having a certified kernelweight equal to the diversion percentage of the kernelweight of all inshell walnuts handled or declared for handling and the actual net weight of all shelled walnuts handled or declared for handling by him: *Provided,* That such withholding may be temporarily deferred pursuant to the bonding provisions of § 984.57.

(c) Walnuts withheld as surplus shall be set aside and thereafter held for the account of the Board at the expense of the handler and, from the date of withholding, shall be available for inspection during reasonable business hours by the Board or its designees. Such walnuts shall be stored in such manner as to maintain them in the same condition as when certified for surplus, except for loss through conditions beyond the handler's control. Upon demand of the Board, they shall be delivered to the Board f.o.b. rail car or truck at handlers' warehouse or point of storage. All such surplus walnuts so withheld by the handler shall be at the time of withholding placed by the handler, at his own expense, in suitable containers, which may be prescribed by the Board and identified by appropriate seals, stamps, or other means of identification to be furnished by the Board and to be affixed to the containers by the handler under the direction or supervision of the Board or a designated inspector.

(d) The requirement for withholding a quantity of walnuts pursuant to paragraphs (a) and (b) of this section shall be the restricted and surplus obligations, respectively. The control obligations applicable to the district of production shall apply to any walnuts transferred to the other district prior to handling. Merchantable walnuts handled in accordance with the provisions of this subpart shall be deemed to be such handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

(e) Any handler may at any time prior to the end of the marketing year satisfy his control obligations with respect to a specified quantity of certified merchantable walnuts which he then owns and has on hand and on which he declares to the Board his intention to handle, by withholding a quantity of walnuts sufficient to meet the obligations on the walnuts so declared for handling. Such declared quantity, if not handled, and the applicable withholding may be canceled by the handler prior to the end of the marketing year.

(f) Any handler withholding restricted or surplus walnuts in excess of his respective obligations may have excess walnuts of his choice freed from withholding by complying with such procedures as the Board may require to insure compliance with his obligations and identification of the remaining walnuts withheld. Similarly, he may exchange other eligible walnuts for walnuts withheld.

§ 984.55 Interhandler transfers.

(a) Within the area of production inshell walnuts other than free walnuts may be sold or delivered by one handler to another for packing or shelling and the receiving packer or sheller shall comply with the regulations made effective pursuant to this part with respect to such walnuts.

(b) A handler may, for the purposes of meeting his control obligations, acquire walnuts from another handler, and any assessments, control obligations, and inspection requirements with respect to walnuts so transferred shall be waived insofar as the seller is concerned. The Board, with the approval of the Secretary, may establish methods and procedures including necessary reports for such transfers.

(c) Except as provided in paragraphs (a) and (b) of this section, whenever transfers of walnuts are made from one handler to another, the first handler thereof shall comply with all of the regulations effective pursuant to this part.

§ 984.56 Deferment of withholding.

(a) *General.* Compliance by any handler with the requirements of § 984.54 as to the time during the marketing year when restricted and surplus walnuts shall be withheld may be deferred to any date desired by the handler up to December 31 for restricted and March 31 for surplus obligations. Such deferment shall be granted only upon the execution and delivery by such handler to the Board of a written undertaking that on or prior to the dates specified he will have fully satisfied his control obligations.

(b) *Filing of bond.* Such undertaking shall be secured by a commercial surety bond or a personal bond with surety to be filed with, and acceptable to, the Board in the amount stated in paragraph (c) of this section, conditioned upon full compliance with such undertaking. The amount of the bond for deferment of compliance with a restricted or surplus obligation shall be the total weight of the applicable obligation multiplied by the applicable bonding rate. The cost of the bond shall be borne by the handler.

(c) *Bonding rates*—(1) *Establishment.* The bonding rate for restricted walnuts shall be the price per pound for bulk pack, U.S. No. 2, medium size inshell walnuts, f.o.b. shipping point, and for surplus walnuts the price per pound for bulk U.S. Commercial grade light amber halves and pieces, f.o.b. shipping point as determined by the Board to be prevailing at the time bonding rates are established, which shall be not later than October 15 of any marketing year in which control percentages are recommended to the Secretary.

(2) *Effective period.* The bonding rates established for any marketing year shall continue in effect after the end of such marketing year until such bonding rates are modified. After bonding rates are established for the new marketing year, the new rates shall be applicable and any bonds theretofore given for that marketing year shall be adjusted to the new rates.

(d) *Disposition of bond collections.* (1) Any sums collected through default of a handler on his bond shall be used by the Board to purchase from handlers walnuts not to exceed the total quantity of default referable to such bond or that represented by the sums collected, whichever is lesser. The Board shall at all times purchase the lowest priced walnuts offered.

(2) Any unexpended sums, which have been collected by the Board through default of a handler on his bond, remaining in the possession of the Board at the end of a marketing year shall be used to reimburse the Board for its expenses, including administrative and other costs, incurred in the collection of such sums and in the purchase of walnuts. Any balance remaining after reimbursement of such expenses shall be returned to the defaulting handler.

(3) Walnuts purchased as provided for in this section shall be turned over to the defaulting handler for restricted or surplus disposition, as appropriate. If the quantity of walnuts represented by the bond collection cannot be purchased, the Board shall distribute any unexpended sum collected, after deducting necessary expenses, to all handlers on the basis of their respective inshell handlings with respect to a restricted obligation default or total handlings, kernelweight basis, with respect to a surplus obligation default.

(e) *Satisfaction of control obligations.* Collection by the Board upon any bond filed pursuant to the provisions of this section shall be deemed a satisfaction of the control obligations represented by such collection and the handler shall be credited on his control obligation with that quantity of walnuts represented by the bond sums collected on account of such default.

DISPOSITION OF CONTROLLED WALNUTS

§ 984.60 Shelling restricted walnuts.

(a) Any handler may shell restricted walnuts which he has withheld pursuant § 984.54 or deliver them for shelling to another handler or an authorized sheller (i.e., a person other than a handler).

(b) Any person within the area of production who desires to become an authorized sheller may submit an application to the Board. Such authorization shall be granted to the applicants for a period of one year upon submission to the Board of an agreement, in writing, to:

(1) Shell restricted walnuts within the area of production or deliver them as inshell walnuts only to another authorized sheller for shelling;

(2) Comply fully with all requirements of this part, applicable to the shelling of walnuts;

(3) Permit such audits and inspections as the Board may require to determine compliance with provisions of this part; and

(4) Make such reports, certified to the Board and the Secretary as to their correctness, as the Board may require.

§ 984.61 Export.

(a) Sale or shipment of merchantable restricted and merchantable surplus walnuts in export to destination outside of the United States, Puerto Rico, and the Canal Zone, and Canada and Cuba when included in the trade demand, shall be made only by the Board. The Board shall be obligated to export only such quantities for which it is able to find satisfactory outlets. Any handler may be designated an agent of the Board under such terms and conditions as the Board may specify for export sales. Proceeds of any export sales made by the Board after deducting all expenses actually and necessarily incurred shall be paid to the handler withholding the walnuts.

(b) The respective kernelweights of restricted and surplus walnuts so exported shall be credited against the applicable withholding obligations of the withholding handler. Upon a handler's written request during a marketing year, the Board shall transfer any part or all of such handler's exports in excess of his withholding obligations to such other handlers as he may designate.

§ 984.62 Surplus pool.

(a) Surplus walnuts which are not disposed of pursuant to § 984.61 shall be pooled not later than August 31 of the next marketing year and shall be disposed of by the Board upon the best terms and highest prices obtainable consistent with the ultimate complete disposition of surplus, subject to the following conditions:

(1) No such surplus walnuts shall be sold in the United States, Puerto Rico, or the Canal Zone, other than to Government agencies or to charitable institutions for charitable purposes or for diversion into walnut oil, poultry or animal feed, or such other uses as the Board finds to be non-competitive with normal markets and with proper safeguards in each case to prevent such walnuts thereafter entering the channels of trade in such normal markets.

(2) The Board shall not accept delivery of any surplus walnuts for pooling and disposition prior to making a determination on or before December 15 of any marketing year as to the percentage of a handler's withholding obligation which may be accepted for pooling and disposition prior to February 15 of such year.

(b) *Disposition of proceeds from sales of pooled surplus.* Expenses incurred by the Board in receiving, handling, holding, and disposing of the pooled surplus walnuts shall be charged against the proceeds of the sales of such surplus walnuts. The remaining proceeds from the disposition of pooled surplus walnuts shall be distributed by the Board to handlers in proportion to their contribution thereto, measured in kernelweight.

(c) *Surplus pool credits.* Upon a handler's written request during a marketing year, the Board shall transfer any part or all of a handler's surplus pool credits in excess of his surplus withholding obligation to such other handler as he may designate.

§ 984.63 Storage facilities.

The Board may rent and operate, or arrange for the use of facilities for storage and handling of surplus walnuts withheld.

§ 984.64 Disposition of substandard walnuts.

Substandard walnuts may be disposed of only for manufacture into oil, livestock feed, or for such other uses as the Board determines to be noncompetitive with existing normal markets for walnuts and with proper safeguards to prevent such walnuts from thereafter entering the channels of trade in such normal markets.

§ 984.65 Compliance.

Except as provided in this subpart, no person shall handle walnuts, inshell or shelled, during any marketing year in which this subpart and any regulations issued by the Secretary hereunder are in effect, unless such person has previously met the obligations imposed by each such regulation and the provisions of this subpart.

§ 984.66 Assistance of Board in meeting control obligations.

The Board, on written request, may assist handlers in accounting for their control obligations and may aid any handler in acquiring walnuts to meet any deficiency in a handler's control obligation, or in accounting for and disposing of walnuts withheld.

§ 984.67 Exemptions.

(a) *Exemption from volume regulations.* Control percentages shall not apply to lots of merchantable inshell walnuts which are of Mammoth size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

(b) *Exemptions from assessments, quality, and volume regulations*—(1) *Sales by growers direct to consumers.* Any walnut grower may handle walnuts of his own production free of the regulatory and assessment provisions of this part if he sells such walnuts in the area of production directly to consumers under the following types of exemptions:

(i) At roadside stands and farmers' markets;

(ii) In quantities not exceeding an aggregate of 500 pounds of inshell walnuts or 200 pounds of shelled walnuts during any marketing year (at locations other than those specified in subdivision (i) of this subparagraph); and

(iii) If shipped by parcel post or express in quantities not exceeding 10 pounds of inshell walnuts or 4 pounds of shelled walnuts to any one consumer in any one calendar day.

(2) *Green walnuts.* Walnuts which are green and which are so immature that they cannot be used for drying and sale as dried walnuts may be handled without regard to the provisions of this part.

(3) *Noncompetitive outlets.* Any person may handle walnuts, free of the provisions of this part, for use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture pursuant to an authorized governmental diversion program.

(c) *Rules and modifications.* The Board may establish, with the approval of the Secretary, such rules, regulations and safeguards and such modifications as will promote the objectives of this subpart.

EXPENSES AND ASSESSMENTS

§ 984.68 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, and for such other purposes as the Secretary may, pursuant to this part, determine to be appropriate. Such expenses shall be allocated between inshell and shelled walnuts handled or declared for handling on the basis of the estimated costs of the respective operations. The Board shall file a proposed budget of expenses and rates of assessment for inshell and shelled walnuts with the Secretary as soon as practicable after the beginning of each marketing year.

§ 984.69 Assessments.

(a) *Requirement for payment.* Each handler shall pay to the Board, on demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per pound for inshell or shelled walnuts fixed by the Secretary times the respective quantity of merchantable inshell or shelled walnuts he has handled or declared for handling. At any time during or after a marketing year the Secretary may increase the assessment rates as necessary to cover authorized expenses and each handler's pro rata share shall be adjusted accordingly.

(b) *Surplus walnut pool expenses.* The Board is authorized temporary use of funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in disposing of surplus walnuts pooled. All such expenses shall be deducted from the proceeds obtained by the Board from the sale or other disposal of pooled surplus walnuts.

(c) *Refunds.* At the end of a marketing year, funds in excess of the marketing year's expenses shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of the actual expenses of the Board. Excess funds may be used temporarily by the Board to defray expenses of the subsequent marketing year: *Provided,* That each handler's share of such excess shall be made available to him by the Board within five months after the end of the year.

(d) *Termination.* Any money collected from assessments hereunder and remaining unexpended in the possession of the Board upon termination of this part shall be distributed in such manner as the Secretary may direct.

REPORTS, BOOKS, AND OTHER RECORDS

§ 984.71 Reports of handler carryover.

Each handler, on or before August 15 and January 15 of each marketing year, shall file with the Board a written report of his handler carryover of inshell and shelled walnuts as of August 1 and January 1 on such forms as the Board may prescribe.

§ 984.72 Reports of merchantable walnuts handled.

Each handler who handles merchantable walnuts, inshell or shelled, at any time during a marketing year shall submit to the Board in such form and at such intervals as the Board may prescribe, reports showing the quantity so handled and such other information pertinent thereto as the Board may specify.

§ 984.73 Reports of disposition of controlled walnuts.

Each handler who disposes of restricted or surplus walnuts shall submit to the Board in such form and at such intervals as the Board may prescribe reports showing the quantity so disposed of and such other information pertinent thereto as the Board may specify.

§ 984.74 Reports of interdistrict shipments of walnuts.

Any shipments of walnuts between District 1 and District 2 for sale or delivery to a handler shall be reported to the Board by the receiving handler, upon receipt, on forms prescribed by the Board, showing the net weight of each shipment and such other information pertinent thereto as the Board may specify.

§ 984.75 Reports of disposition of substandard walnuts.

Each handler shall submit, in such form and at such intervals as the Board may determine, reports of (a) his production and holdings of substandard walnuts and (b) the disposition of all substandard walnuts, including all deliveries of such walnuts to any other person, showing the quantity, lot, date, name and address of the person to whom delivered, the approved use and such other information pertaining thereto as the Board may specify.

§ 984.76 Other reports.

Upon request of the Board, made with the approval of the Secretary, each handler shall furnish to the Board in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for herein) such other information as will enable the Board to perform its duties and exercise its powers hereunder.

§ 984.77 Verification of reports.

For the purpose of checking and verifying reports filed by handlers or the operations of handlers under the provisions of this part, the Board, through its duly authorized agents shall have access to any handler's premises wherein walnuts may be held by such handler and, at any time during reasonable business hours, shall be permitted to inspect any walnuts so held by such handler and any and all records of the handler with respect to the holding or disposition of all walnuts which may have been disposed of by such handler, including records with respect to acquirements, packing, shelling, and shipment of both inshell and shelled walnuts, as applicable. Each handler shall furnish all labor necessary to facilitate such inspections as the Board may make of such handler's holdings of any walnuts. Each handler shall store all restricted and surplus walnuts held by him in such manner as to facilitate inspection and shall maintain adequate storage records which will permit accurate identification with respect to inspection certificates of respective lots and of all such walnuts held or disposed of theretofore.

§ 984.78 Certification of reports.

All reports submitted to the Board as required in this part shall be certified to the Secretary and the Board as to the completeness and correctness of the information contained therein.

§ 984.79 Confidential information.

All reports and records submitted by handlers to the Board, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler shall be kept in custody of one or more employees of the Board and shall be disclosed to no person except the Secretary.

§ 984.80 Books and other records.

Each handler shall maintain such records of walnuts received, held and disposed of by him as may be prescribed by the Board for the purpose of performing its functions under this subpart. Such books and records shall be retained and be available for examination by authorized representatives of the Board and the Secretary for a period of two years after the end of the marketing year in which the recorded transactions are completed.

MISCELLANEOUS PROVISIONS

§ 984.83 Rights of the Secretary.

The members and alternates of the Board and any agent or employee appointed or employed by the Board, shall be subject to removal or suspension by the Secretary, at his discretion, at any time. Each and every decision, determination, or other act of the Board 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.

§ 984.84 **Personal liability.**

No member or alternate of the Board 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 any person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty.

§ 984.85 **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 hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 984.86 **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.

§ 984.87 **Duration of immunities.**

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

§ 984.88 **Agents.**

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

§ 984.89 **Effective time and termination.**

(a) *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 hereinafter specified.

(b) *Termination.* (1) 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.

(2) 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.

(3) The Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers of walnuts who during the preceding marketing year have been engaged in the production for market of walnuts in the States of California, Oregon, and Washington: *Provided,* That such majority have during such period produced for market more than 50 percent of the volume of such walnuts produced for market within said States, but such termination shall be effected only if announced on or before July 1 of the then current marketing year.

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

(c) *Proceedings after termination.* (1) Upon the termination of the provisions of this subpart, the members of the Board then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Board, of all funds and property then in the possession or under the control of the Board, 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.

(2) 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 Board and the joint trustees to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant hereto.

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

§ 984.90 **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 provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person, with respect to any such violation.

Dated, September 10, 1962, to become effective upon publication in the FEDERAL REGISTER.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62-9163; Filed, Sept. 12, 1962; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1365; Amdt. 483]

PART 507—AIRWORTHINESS DIRECTIVES

Vertol Model 107–II Helicopters

Pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), an airworthiness directive was adopted on August 24, 1962, and made effective immediately because of the safety emergency involved as to all known United States operators of Vertol Model 107–II helicopters. The directive requires inspection of all blade sockets and rotor pitch housing and replacement of any cracked parts, as well as retirement from service parts which have accumulated 350 or more hours' time in service.

Since it was found that immediate corrective action was required in the interest of safety, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Vertol Model 107–II helicopters by individual telegrams dated August 24, 1962. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 507.10(a) of Part 507 (14 CFR Part 507), to make it effective as to all persons:

VERTOL. Applies to all Model 107–II helicopters.

Compliance required as indicated.

As a result of a fatigue failure in service of the rotor pitch housing accomplish the following:

(a) Unless already accomplished within the last 30 hours' time in service, prior to further flight inspect all blade socket P/N's 42R1043–7 and –8 in the eight lug areas and rotor pitch housing P/N's 107R2553–1, –2, –3, –4, –5, and –6, in the four lug areas which have accumulated 260 or more hours' time in service using magnetic particle inspection method or FAA approved equivalent. To accomplish the inspection, remove rotor blades and rotor hub pitch bearing assemblies. This inspection shall be repeated at intervals not to exceed 30 hours' time in service since the last inspection.

(b) Parts which have accumulated less that 260 hours' time in service shall be inspected in accordance with (a) upon the accumulation of 260 hours' time in service.

(c) A daily visual inspection for cracks in the lug areas shall be conducted. This may be accomplished without disassembly from the helicopter.

(d) If any cracks are found, the parts must be replaced prior to further flight.