

Rules and Regulations

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Private Secretary to the Assistant to the Secretary and Deputy Secretary of Defense for Resource Utilization is excepted under Schedule C.

Effective on October 29, 1973, § 213.3306(a) (55) is added as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *
(55) One Private Secretary to the Assistant to the Secretary and Deputy Secretary of Defense for Resource Utilization.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22948 Filed 10-26-73; 8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to reflect the following title changes: from two Confidential Assistants to the Director, Bureau of Domestic Commerce, to two Confidential Assistants to the Director, Bureau of Competitive Assessment and Business Policy.

Effective on October 29, 1973, § 213.3314 (m) (10) is amended as set out below.

§ 213.3314 Department of Commerce

(m) *Office of the Assistant Secretary for Domestic and International Business.* * * *

(10) Two Confidential Assistants to the Director, Bureau of Competitive Assessment and Business Policy.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22845 Filed 10-26-73; 8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Private Secretary to the Deputy Under Secretary for Legislative Affairs is excepted under Schedule C.

Effective on October 29, 1973, § 213.3314(a) (30) is added as set out below.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *
(30) One Private Secretary to the Deputy Under Secretary for Legislative Affairs.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22947 Filed 10-26-73; 8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to reflect the following title change: from one Information Assistant to the Director, Office of Public Affairs, to one Information Assistant to the Administrator.

Effective on October 29, 1973, § 213.3318(a) (41) is added and § 213.3318(c) (1) is revoked as set out below.

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* * * *
(41) One Information Assistant to the Administrator.

(c) *Office of Public Affairs.* * * *
(1) [Revoked]

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22949 Filed 10-26-73; 8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that one position of Special Assistant to

the Administrator is excepted under Schedule C.

Effective on October 29, 1973, § 213.3318(a) (1) is amended as set out below.

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Five Special Assistants to the Administrator.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22950 Filed 10-26-73; 8:45 am]

Title 7—Department of Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 900—GENERAL REGULATIONS

Amendments to Rules of Practice

On August 19, 1972, the Civil Service Commission published in the FEDERAL REGISTER (37 FR 16787) a rule changing the title of hearing examiner, as used in 5 CFR Part 930, Subpart B, to administrative law judge. By designation to the Office of Administrative Law Judges dated December 20, 1972 (37 FR 28475), as amended April 27, 1973 (38 FR 10795), the Secretary of Agriculture has provided for the issuance by the administrative law judges of initial decisions in adjudication proceedings subject to sections 556 and 557 of Title 5, United States Code, such decisions to become final without further proceedings unless there is an appeal to the Secretary by a party to the proceeding in accordance with applicable rules of practice: *Provided, however*, That no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal. To incorporate these and other technical changes in the Rules of Practice (7 CFR Part 900) under the Agricultural Marketing Agreement Act of 1937, as amended; (7 U.S.C. 601 et seq.), and pursuant to the authority contained in section 10, 48 Stat. 37, as amended; 7 U.S.C. 610, and section 5, 49 Stat. 753 as amended, 7 U.S.C. 608c, said Rules of Practice are hereby amended as follows:

Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate Marketing Agreements and Marketing Orders (7 U.S.C. 900.1-18)

1. In § 900.2 paragraph (m) deleted and paragraph (d) is revised to read as follows:

§ 900.2 Definitions.

(d) The terms Administrative Law Judge or Judge means any administrative law judge appointed pursuant to 5 U.S.C. 3105, and assigned to conduct the proceeding.

2. In the following sections the words "examiner(s)" and "presiding officer(s)" are deleted and in lieu thereof the words "judge(s)" are substituted:

Sec.	
900.4	Institution of proceeding.
900.6	Presiding officers.
900.7	Motions and requests.
900.8	Conduct of hearing.
900.9	Oral and written arguments.
900.10	Certification of the transcript.
900.15	Filing; extensions of time; effective date of filing; and computation of time.
900.18	Hearing before Secretary.

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders (7 CFR 900.50-71)

1. Section 900.51 is amended as follows: Paragraph (d) is revised, paragraph (n) is revoked and reserved and paragraph (o) is revised.

§ 900.51 Definitions.

(d) The terms "administrative law judge" or "judge" means any Administrative Law Judge, appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved;

(n) [Reserved]

(o) The term "decision" means the judge's initial decision in proceedings subject to 5 U.S.C. 556 and 557, and includes the judge's (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion as well as the reasons or basis thereof, (2) order, and (3) rules on findings, conclusions and orders submitted by the parties;

2. In § 900.52, paragraph (b) (1), delete the words "and directors" in the second sentence and revise paragraph (c) to read as follows:

§ 900.52 Institution of proceeding.

(c) *Motion to dismiss petition.*—(1) *Filing, contents, and responses thereto.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the act or with the requirements of paragraph (b) of this section, or is not filed in good faith, or is

filed for purposes of delay, he may, within thirty days after the filing of the petition, file with the Hearing Clerk a motion to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this paragraph. Such motion shall specify the grounds of objection to the petition and if based, in whole or in part, on an allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The motion may be accompanied by a memorandum of law. Upon receipt of such motion, the Hearing Clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such motion including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the motion to the Judge for his consideration.

(2) *Decision by Administrative Law Judge.* The Judge, after due consideration, shall render a decision upon the motion stating the reasons for his action. Such decision shall be in the form of an order and shall be filed with the hearing clerk who shall cause a copy thereof to be served upon the petitioner and a copy thereof to be transmitted to the Administrator. Any such order shall be final unless appealed pursuant to § 900.65: *Provided*, That within 20 days following the service upon the petitioner of a copy of the order of the Judge dismissing the petition, or any portion thereof, on the ground that it does not substantially comply in form and content with the act or with paragraph (b) of this section, the petitioner shall be permitted to file an amended petition.

(3) *Oral argument.* Unless a written application for oral argument is filed by a party with the hearing clerk not later than the time fixed for filing papers in opposition to the motion, it shall be considered that the party does not desire oral argument. The granting of a request to make oral argument shall rest in the discretion of the Judge.

§ 900.52a [Amended]

4. In § 900.52a the words "an application" and "Secretary" are deleted and in lieu thereof the words "a motion" and "administrative law Judge" are substituted.

§ 900.53 [Amended]

5. In § 900.53, the words "presiding officer" and "Secretary" are deleted and the word "judge" is substituted in lieu thereof.

6. In the following sections the words "presiding officer(s)," "reports(s)" and "exception(s)" are deleted and in lieu thereof the words "judge(s)" "deci-

sion(s)" and "appeal(s)" are respectively substituted:

Sec.	
900.52b	Amended pleadings.
900.55	Presiding officers.
900.56	Consolidated hearings.
900.57	Intervention.
900.58	Prehearing conferences.
900.59	Motions and requests.
900.61	Depositions.
900.62	Subpoenas.
900.69	Filing; service; extensions of time; effective date of filing and computation of time.
900.71	Hearing before Secretary.

§ 900.59 [Amended]

7. Section 900.59, paragraph (b) is further revised by deleting the words prior to the transmittal of this record to the Secretary, as provided in this subpart.

§ 900.60 [Amended]

8. Section 900.60 is amended as follows:
a. The words "presiding officer(s)" wherever those terms appear, are deleted and in lieu thereof, substitute the words "judge(s)".

b. Paragraph (d) (8) is further amended by inserting the words "on appeal" after the word "if" in the last sentence.

c. Paragraph (f) (1) is amended by deleting the words "in the Department, a copy of" after the word "status."

9. Section 900.60 is further amended as follows:

§ 900.60 Oral hearing before administrative law judge.

(b) Appearances.

(3) *Failure to appear.* If the petitioner, after being duly notified, fails to appear at the hearing, he shall be deemed to have authorized the dismissal of the proceeding, without further procedure, and with or without prejudice as the judge may determine. In the event that the petitioner appears at the hearing and no representative of the Department appears, the judge shall proceed ex parte to hear the evidence of the petitioner. *Provided*, That failure on the part of such representative of the Department to appear at a hearing shall not be deemed to be waiver of the Department's right to file suggested findings of fact, conclusions and order; to be served with a copy of the judge's initial decision and to appeal to the Secretary with respect thereto.

(c) Evidence.

(d) Evidence.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, or any other ruling of the judge, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow which may be pursued in an appeal pursuant to § 900.65 by the party adversely affected by the judge's ruling.

(e) [Reserved]

9. Section 900.64 is amended as follows:

a. The words "presiding officer" are deleted where they appear in paragraph (b) and in lieu thereof substitute the word "judge".

b. Section 900.64 is further amended to read as follows:

§ 900.64 The Administrative Law Judge's Decision.

(a) *Corrections to and certification of transcript.*—(1) At such time as the judge may specify, but not later than the time fixed for filing proposed findings of fact, conclusions and order, or briefs, as the case may be, the parties may file with the judge proposed corrections to the transcript. (2) As soon as practicable after the filing of proposed findings of fact, conclusions and order, or briefs, as the case may be, the judge shall file with the hearing clerk his certificate indicating any corrections to be made in the transcript, and stating that, to the best of his knowledge and belief, the transcript, as corrected, is a true, correct, and complete transcript of the testimony given at the hearing, and that the exhibits are all the exhibits properly a part of the hearing record. The original of such certificate shall be attached to the original transcript and a copy of such certificate shall be served upon each of the parties by the hearing clerk who shall also enter onto the transcript (without obscuring the text) any correction noted in the certification.

(c) *Administrative Law Judge's Decision.*—The judge, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare upon the basis of the record, and shall file with the hearing clerk, his initial decision, a copy of which shall be served by the hearing clerk, upon each of the parties. Such decision shall become final without further proceedings 35 days after the date of service thereof, unless there is an appeal to the Secretary by a party to the proceeding: *Provided, however,* That no decision shall be final for the purpose of judicial review except a final decision issued by the Secretary pursuant to an appeal by a party to the proceeding.

(d) [Deleted]

(e) [Deleted]

10. Section 900.65 is revised to read as follows:

§ 900.65 Appeals to Secretary: transmittal of record.

(a) *Filing of appeal.* Any party who disagrees with a judge's decision or any part thereof, may appeal the decision to the Secretary by transmitting an appeal petition to the hearing clerk within 30 days after service of said decision upon said party. Each issue set forth in the appeal, and the arguments thereon, shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations of the record,

statutes, regulations and authorities being relied upon in support thereof. The appeal petition shall be served upon the other party to the proceeding by the hearing clerk.

(b) *Argument before Secretary.*—(1) *Oral argument.* A party bringing an appeal may request within the prescribed time period for filing such appeal, an opportunity for oral argument before the Secretary. Failure to make such request in writing, within the prescribed time period, shall be deemed a waiver of oral argument. The Secretary, in his discretion, may grant, refuse or limit any request for oral argument on appeal.

(2) *Scope of argument.* Argument to be heard on appeal, whether oral or in a written brief, shall be limited to the issues raised by the appeal, except that if the Secretary determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all the issues to be argued.

(c) *Response.* Within 20 days after service of an appeal brought by a party to the proceeding, any other party may file a response in support of or in opposition to such appeal.

(d) *Transmittal of record.* Whenever an appeal is filed by a party to the proceeding, the hearing clerk shall transmit to the Secretary the record of the proceeding. Such record shall include: the pleadings; any motions and requests filed, and the rulings thereon; the transcript of the testimony taken at the hearing, as well as the exhibits filed in connection therewith; any statements filed under the shortened procedure; any documents or papers filed in connection with pre-hearing conferences; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the judge's initial decision; and the appeal petition; briefs in support thereof, and responses thereto as may have been filed in the proceeding.

11. Section 900.66 is revised to read as follows:

§ 900.66 Consideration of appeal by the Secretary and issuance of final order.

As soon as practicable after the receipt of the record from the hearing clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall rule on the appeal. If the Secretary decides that no change or modification of the judge's decision is warranted, he may adopt the Judge's decision as the final order of the Secretary, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative or an investigative capacity, or with any representative of such person: *Provided, however,* That the Secretary may discuss

the merits of the proceeding with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. If, notwithstanding the foregoing provisions of this section, a memorandum or other communication from any party, or from any person acting on behalf of any party, which relates to the merits of the proceeding, receives the personal attention of the Secretary (or, if an official other than the Secretary is to issue the order, then of such other official) during the pendency of the proceeding, such memorandum or communication shall be regarded as argument made in the proceeding and shall be filed with the hearing clerk, who shall serve a copy thereof upon the opposite party to file a reply thereto.

(b) *Issuance of final order.* A final order issued by the Secretary shall be filed with the hearing clerk, who shall serve it upon the parties: *Provided,* That, if the terms of the order differ substantially from those proposed in the decision of the judge, the Secretary shall, if he deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if exceptions are filed within a period of time (to be fixed by the Secretary but not to exceed 20 days) following the service of the tentative order, the Secretary shall give consideration, to and shall make such changes in the tentative order as he deems to be appropriate; otherwise, the tentative order shall become final, as of the day following the date of expiration of the period fixed for the filing of exceptions.

§ 900.67 [Reserved]

12. Section 900.67 is deleted and reserved.

Effective date. The foregoing amendments and revisions shall become effective on October 29, 1973.

(Sec. 10, 48 Stat. 37, as amended; 7 U.S.C. 610 and Sec. 5, 49 Stat. 753 As Amended; 7 U.S.C. 608c.)

J. PHIL CAMPBELL,
Under Secretary.

OCTOBER 24, 1973.

[FR Doc.73-22966 Filed 10-26-73;8:45 am]

PART 929—HANDLING OF CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Order Amending the Amended Order Regulating Handling

§ 929.0 Findings and determination.

The findings and determinations hereinafter set forth are supplementary and

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

(a) *Findings upon the basis of the hearing record.*—Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Wareham, Massachusetts, on February 14, in Wisconsin Rapids, Wisconsin, on February 22, and in Long Beach, Washington, on February 27, 1973, upon proposed amendment of the amended marketing agreement and Order No. 929 (7 CFR Part 929) regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Upon the basis of the evidence adduced at such hearing and the record thereof, it is found that:

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

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

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

(4) There are no differences in the production and marketing of cranberries grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of cranberries grown in the production area, as defined in the order, as amended and as hereby further amended, 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 amendment effective not later than November 1, 1973; and that it would be contrary to the public interest to postpone the effective time of such provisions until 30 days after publication (5 U.S.C. 553). This amendment includes certain provisions making available to handlers this season, pur-

suant to said effective date, liberalized requirements as to reporting of inter-handler transfers. The amendment also affords the Cranberry Marketing Committee a timely opportunity to promulgate administrative rules and regulations setting late-payment and interest charges as incentives, to handlers, to make timely payment of assessments due.

The provisions of the order are well known to handlers of cranberries since the public hearing thereon was completed on February 27, 1973, and the recommended decision and the final decision were published on May 31, 1973 (38 FR 14290), and August 22, 1973 (38 FR 22554), respectively. Copies of this order were made available to all known interested parties, and the provisions being made effective upon publication hereof do not place any obligations on handlers until such time as may subsequently be prescribed in accordance therewith.

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

(1) The agreement amending the marketing agreement, as amended, regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the cranberries covered by this order) who, during the period September 1, 1972, through July 31, 1973, handled more than 50 percent of the volume of cranberries covered by the order, as hereby amended;

(2) The issuance of this order, amending the aforesaid 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 determined representative period (September 1, 1972, through July 31, 1973), were engaged in the production area specified in the order, in the production of cranberries for market; such producers having also produced for market at least two-thirds of the volume of cranberries represented in such referendum.

(3) The issuance of this order, amending the aforesaid order, is favored or approved by processors who canned or froze, within the production area, more than 50 percent of the volume of cranberries that was canned or frozen.

It is therefore ordered, That, on and after the effective date hereof, all handling of cranberries grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended and as hereby further amended, as follows:

1. Section 929.21 *Term of office* is revised to read as follows:

§ 929.21 Term of office.

The term of office of each member and alternate member of the committee shall

be for 2 years beginning August 1 and ending on the second succeeding July 31. Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

2. Section 929.22 *Nominations* is amended by revising subparagraphs (1), (2), and (3) of paragraph (b) thereof. As amended paragraph (b) reads as follows:

§ 929.22 Nominations.

(b) *Successor members.*—(1) Any cooperative marketing organization that handled more than two-thirds of the total volume of cranberries produced during the fiscal period during which nominations for membership on the committee are made, or the growers affiliated therewith, shall nominate four or more qualified persons for members and four or more qualified persons for alternate members of the committee. At least one such nominee for member and one such nominee for an alternate member shall represent growers in the State of Oregon and the State of Washington. The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year.

(2) The committee shall hold or cause to be held, not later than July 1, of each even-numbered year, meetings of growers in Districts 1, 2, and 3, other than those affiliated with the cooperative marketing organization designated in paragraph (b)(1) of this section, to elect nominees for member and alternate member positions on the committee.

(i) With respect to such meeting in District 3, eligible growers in District 4 shall be permitted to attend the meeting and participate in the selection of nominees. Such growers shall be eligible to be nominated for and serve as member or alternate member. Eligible growers in District 4 who do not attend the nomination meeting shall be afforded an opportunity to participate in the selection of nominees by mail. Selection of the nominee for member and the nominee for alternate member from Districts 3 and 4 shall be on the basis of the total vote of the eligible growers who attended the meeting plus any mail ballots cast by District 4 growers.

(ii) Except as hereinbefore provided, the growers in each such district who are present at the meeting, including District 4 growers who are present at the District 3 meeting, shall nominate one or more qualified persons for member and one or more qualified persons for alternate member of the committee. The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year. The committee shall prescribe such procedure for the conduct of nomination meetings and for the submission of names of candidates and voting by mail by District 4 growers as shall be fair and equitable to all persons concerned.

(3) Except as set forth in subparagraph (2) of this paragraph, growers

shall only participate in the nomination of members and alternate members to represent the district in which they produced cranberries.

(4) When voting for nominees, each grower shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives for each position to be filled.

3. Section 929.23 *Selection* is amended by revising paragraph (b) thereof to read as follows:

§ 929.23 *Selection.*

(b) *Successor members.*—From the nominations made pursuant to § 929.22(b)(1), or from other qualified persons, the Secretary shall select four members of the committee and an alternate for each such member. From the nomination made pursuant to § 929.22(b)(2), or from other qualified persons, the Secretary shall select three members of the committee and an alternate for each such member.

4. Section 929.41 *Assessments* is amended by adding a new paragraph (c) reading as follows:

§ 929.41 *Assessments.*

(c) If a handler does not pay his assessment within the period of time prescribed by the committee, the assessment may be increased by either or both a late payment charge and an interest charge at rates prescribed by the committee, with the approval of the Secretary.

5. Section 929.46 *Marketing policy* is amended by revising paragraph (b) thereof to read as follows:

§ 929.46 *Marketing policy.*

(b) As soon as practicable after August 1 of each crop-year and prior to making any recommendations pursuant to paragraphs (b)(7) and (8) of this section or to § 929.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the crop-year. Such marketing policy shall contain the basis therefor and information relating to:

(1) The estimated total production of cranberries;

(2) The expected general quality of such cranberry production;

(3) The estimated carryover, as of September 1, of frozen cranberries and other cranberry products;

(4) The expected demand conditions for cranberries in different market outlets;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) The recommended desirable total marketable quantity of cranberries including a recommended adequate carryover into the following crop year of frozen cranberries and other cranberry products;

(8) Regulation pursuant to § 929.52 expected to be recommended by the com-

mittee during the crop year together with its recommendation of the free and restricted percentages and beginning with 1974-75 crop year, the recommended allotment percentages, if any, for the crop year; and

(9) Other factors having a bearing on the marketing of cranberries.

6. Section 929.54 *Withholding* is amended by revising paragraph (a) thereof to read as follows:

§ 929.54 *Withholding.*

(a) Whenever the Secretary has fixed the free and restricted percentages for any fiscal period, as provided for in § 929.52(a), each handler shall withhold from handling a portion of the cranberries he acquires during such period: *Provided*, That such withholding requirements shall not apply to any lot of cranberries for which such withholding requirement previously has been met by another handler in accordance with § 929.55. The withheld portion shall be equal to the sum of the products obtained by multiplying each of the following quantities, as applicable, by the restricted percentage:

(1) The quantity of screened cranberries acquired;

(2) The quantity of screened cranberries obtained at the time unscreened lots of cranberries are screened: *Provided*, That, if the cranberries have not been screened by a date specified by the committee, with the approval of the Secretary, as the date by which each handler shall have met the withholding requirement, the quantity of screened cranberries shall be determined as set forth in paragraph (a)(3) of this section; and

(3) The quantity of screened cranberries contained in unscreened lots of cranberries acquired (i) which are destined for disposition without screening, or (ii) but which have not been screened prior to the date referred to in paragraph (a)(2) of this section. The committee, with the approval of the Secretary, shall prescribe uniform rules to be followed in determining the quantity of screened cranberries in each lot of unscreened cranberries.

7. Section 929.55 *Interhandler transfer* is revised to read as follows:

§ 929.55 *Interhandler transfer.*

(a) Transfer of cranberries from one handler to another may be made without prior notice to the committee. If such transfer is made between handlers who have packing or processing facilities located within the production area, the assessment and withholding obligations provided under this part shall be assumed by the handler who agrees to meet such obligation. If such transfer is to a handler whose packing or processing facilities are outside the production area, such assessment and withholding obligations shall be met by the handler within the production area.

(b) All handlers shall report all such transfers to the committee, on a form provided by the committee, twice a year

each at a time specified by the committee.

8. Section 929.56 *Special provisions relating to withheld (restricted) cranberries* is amended by adding new paragraphs (e) and (f) reading as follows:

§ 929.56 *Special provisions relating to withheld (restricted) cranberries.*

(e) Cranberries purchased by the committee to replace released cranberries shall be inspected and shall meet such standards as are prescribed for withheld cranberries.

(f) Inspection of withheld cranberries released to a handler is not required.

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

Dated October 23, 1973, to become effective November 1, 1973.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.73-22891 Filed 10-26-73;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 50]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

It is hereby found and determined that for the months of October through December 1973, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1050.61(a) the term "route disposition" as it first appears, and the term "route" as it subsequently appears twice therein.

STATEMENT OF CONSIDERATION

This suspension action removes the limit on the categories of Class I disposition in Federal order marketing areas to be counted in the determination of whether a distributing plant has a greater volume of Class I sales in the Central Illinois marketing area than in any other Federal order marketing area. For distributing plants that meet the minimum pooling provisions of more than one order, full regulation is provided under the order for the market where the greatest volume of Class I sales is made. Under the Central Illinois order, only Class I route disposition is now counted in such determination. This suspension would provide for counting, additionally, Class I disposition to order plants in the respective marketing areas, as is provided under the Quad Cities-Dubuque order.

Mississippi Valley Milk Producers Association, Inc., requests the suspension action to facilitate continued pooling of the Borden, Inc., Pekin, Illinois, distributing plant under the Central Illinois